

Publications

Long-Awaited Ohio Law to Require Hospital Licensure Signed into Law

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With Governor DeWine's recent signing of the FY 2022-23 budget bill (H.B. 110) into law, Ohio will no longer be the only state not licensing hospitals. The new hospital licensure law, which will be codified at Ohio Revised Code Sections 3722.01 et seq., will require all hospitals in Ohio to obtain licensure from the Ohio Department of Health (ODH) by September 30, 2024, three (3) years after the bill's September 30, 2021 effective date. While Ohio licenses other types of health care facilities, hospitals have thus far only been subject to registration requirements.

ODH has until September 30, 2022 to adopt rules that establish the health, safety, welfare and quality standards required to be met by hospitals to qualify for licensure; and to supplement various aspects of the law, such as the licensure application process and procedures for inspections following complaints, correcting violations, and imposing penalties. In addition to the general hospital standards, ODH is required to adopt rules establishing standards for maternity units, newborn care nurseries, and health care services.

Below are some summary highlights of the new hospital licensure law:

Facilities Requiring Licensure

For purposes of hospital licensure requirements, the term "hospital" includes any institution or facility (including a children's hospital) that provides inpatient medical or surgical services for a continuous period longer than 24 hours. Certain facilities are exempt from the new hospital licensure requirements, such as hospitals operated by the federal government, ambulatory surgical facilities, hospitals or inpatient units licensed to receive mentally ill persons, facilities used exclusively for the care of hospice patients, and clinics provided ambulatory patient services where patients are not regularly admitted as inpatients.

Licensure Process

To be eligible to apply for a license, a hospital must: (1) submit a complete application identifying the main hospital location and all off-campus provider-based locations as defined by 42 C.F.R. 413.65; (2) be certified by the Centers for Medicare and Medicaid Services (CMS) or accredited by an accrediting organization approved by CMS; (3) demonstrate the ability to comply with standards established for hospitals by ODH; and (4) specify the number of beds for the hospital. The license will be valid for a three-year period unless otherwise revoked. Initial applications may be accepted starting September 30, 2022, one year from the effective date of the bill.

Licensure Transfer

When a hospital is assigned, sold or transferred to a new owner, an application for license transfer must be submitted to ODH within 30 days of the assignment, sale or transfer.

Inspection

ODH may inspect the hospital in the course of processing initial and renewal applications. However, a hospital may avoid such inspection if the hospital submits a copy of its most recent on-site survey report from CMS or an accrediting organization. ODH may inspect a hospital at any time in order to: (1) address an incident that may impact public health; (2) respond to a complaint; or (3) ensure the safety of hospital patients. Additionally, at least once every thirty-six months, ODH will inspect each licensed hospital's maternity unit, newborn care nursery, and any unit providing health care services.

Reporting Requirements

Licensed hospitals will be required to report to ODH contagious, environmental or infectious diseases, illnesses or health conditions, as well as unusual infectious agents or biological toxins for which it provides treatments to patients. Additionally, licensed hospitals operating a maternity unit or newborn nursery are required to report to ODH the number of newborns that were diagnosed as opioid dependent at birth. A third-party organization may report on behalf of the hospital.

Penalties

If ODH determines that a hospital has violated any requirement under the new law or related regulations, ODH may: (1) impose a civil monetary penalty in an amount ranging from \$1,000 to \$250,000; (2) require the hospital to submit a plan of correction; or (3) suspend the hospital license or the specific health care service if the violation rises to the level of substantial non-compliance. In the event ODH determines an "imminent threat of harm" to one or more hospital patients exists, ODH may either (1) notify the hospital and require corrective action; or (2) petition a court for injunctive relief to close the hospital, suspend a specific health care service or transfer patients to address the imminent threat of harm.