

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 753

Representatives Seitz, Ray

A BILL

To amend sections 3702.511, 3702.59, and 3721.03 of 1
the Revised Code regarding regulatory 2
proceedings against certain long-term care 3
facilities. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3702.511, 3702.59, and 3721.03 of 5
the Revised Code be amended to read as follows: 6

Sec. 3702.511. (A) Except as provided in division (B) of 7
this section and section 3702.512 of the Revised Code, the 8
following activities are reviewable under sections 3702.51 to 9
3702.62 of the Revised Code: 10

(1) Establishment, development, or construction of a new 11
long-term care facility; 12

(2) Replacement of an existing long-term care facility; 13

(3) Renovation of or addition to a long-term care facility 14
that involves a capital expenditure of four million dollars or 15
more, not including expenditures for equipment, staffing, or 16
operational costs; 17

(4) An increase in long-term care bed capacity; 18

(5) A relocation of long-term care beds from one physical facility or site to another, excluding relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

(6) A transfer of ownership of long-term care beds while retaining the beds at the same site, as a result of an action permitted by division (F) of section 3721.03 of the Revised Code;

(7) Expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;

~~(7)~~ (8) Any failure to conduct a reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, including a change in the site, if the failure occurs within five years after implementation of the reviewable activity for which the certificate was granted.

(B) The following activities are not subject to review under sections 3702.51 to 3702.62 of the Revised Code:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that constitute an imminent threat to public health or safety and are in violation of federal, state, or local fire, building, or safety statutes, ordinances, rules, or regulations;

(5) Acquisition of an existing long-term care facility that does not involve a change in the number of the beds;

(6) Mergers, consolidations, or other corporate reorganizations of long-term care facilities that do not involve a change in the number of beds;

(7) Construction, repair, or renovation of bathroom facilities;

(8) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;

(9) Removal of asbestos from a health care facility.

Only that portion of a project that is described in this division is not reviewable.

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B) (1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing long-term care facility or for the development of a new long-term care facility if any of the following apply:

(a) The existing long-term care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing long-term care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of 75
the application, a notice of proposed license revocation was 76
issued under section 3721.03 of the Revised Code for the 77
existing long-term care facility in which the beds are being 78
placed or a nursing home owned or operated by the applicant or a 79
principal participant, unless, in the case of such a nursing 80
home, either of the following applies: 81

(i) The notice was issued solely because the nursing home 82
had already closed or ceased operations. 83

(ii) An application is submitted as described in division 84
(H) (3) of section 3721.03 of the Revised Code. 85

(c) During the period that precedes the filing of the 86
application and is encompassed by the three most recent standard 87
surveys of the existing long-term care facility in which the 88
beds are being placed, any of the following occurred: 89

(i) The facility was cited on three or more separate 90
occasions for final, nonappealable actual harm but not immediate 91
jeopardy deficiencies. 92

(ii) The facility was cited on two or more separate 93
occasions for final, nonappealable immediate jeopardy 94
deficiencies. 95

(iii) The facility was cited on two separate occasions for 96
final, nonappealable actual harm but not immediate jeopardy 97
deficiencies and on one occasion for a final, nonappealable 98
immediate jeopardy deficiency. 99

(d) More than two nursing homes owned or operated in this 100
state by the applicant or a principal participant or, if the 101
applicant or a principal participant owns or operates more than 102
twenty nursing homes in this state, more than ten per cent of 103

those nursing homes, were each cited during the period that 104
precedes the filing of the application for the certificate of 105
need and is encompassed by the three most recent standard 106
surveys of the nursing homes that were so cited in any of the 107
following manners: 108

(i) On three or more separate occasions for final, 109
nonappealable actual harm but not immediate jeopardy 110
deficiencies; 111

(ii) On two or more separate occasions for final, 112
nonappealable immediate jeopardy deficiencies; 113

(iii) On two separate occasions for final, nonappealable 114
actual harm but not immediate jeopardy deficiencies and on one 115
occasion for a final, nonappealable immediate jeopardy 116
deficiency. 117

(2) In applying divisions (B) (1) (a) to (d) of this 118
section, the director shall not consider deficiencies or 119
violations cited before the applicant or a principal participant 120
acquired or began to own or operate the long-term care facility 121
at which the deficiencies or violations were cited. The director 122
may disregard deficiencies and violations cited after the long- 123
term care facility was acquired or began to be operated by the 124
applicant or a principal participant if the deficiencies or 125
violations were attributable to circumstances that arose under 126
the previous owner or operator and the applicant or principal 127
participant has implemented measures to alleviate the 128
circumstances. In the case of an application proposing 129
development of a new long-term care facility by relocation of 130
beds, the director shall not consider deficiencies or violations 131
that were solely attributable to the physical plant of the 132
existing long-term care facility from which the beds are being 133

relocated.	134
(C) The director also shall accept for review any	135
application for the conversion of infirmary beds to long-term	136
care beds if the infirmary meets all of the following	137
conditions:	138
(1) Is operated exclusively by a religious order;	139
(2) Provides care exclusively to members of religious	140
orders who take vows of celibacy and live by virtue of their	141
vows within the orders as if related;	142
(3) Was providing care exclusively to members of such a	143
religious order on January 1, 1994.	144
(D) Notwithstanding division (C) (2) of this section, a	145
facility that has been granted a certificate of need under	146
division (C) of this section may provide care to any of the	147
following family members of the individuals described in	148
division (C) (2) of this section: mothers, fathers, brothers,	149
sisters, brothers-in-law, sisters-in-law, or children. Such a	150
facility may also provide care to any individual who has been	151
designated an associate member by the religious order that	152
operates the facility.	153
The long-term care beds in a facility that have been	154
granted a certificate of need under division (C) of this section	155
may not be relocated pursuant to sections 3702.592 to 3702.594	156
of the Revised Code.	157
Sec. 3721.03. (A) As used in this section, "person" has	158
the same meaning as in section 1.59 of the Revised Code.	159
(B) The director of health shall enforce the provisions of	160
sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and	161

may issue orders to secure compliance with the provisions of 162
these sections and the rules adopted under them. The director 163
may hold hearings, issue subpoenas, compel testimony, and make 164
adjudications. 165

The director may issue an order revoking a license in the 166
event the director finds, upon hearing or opportunity afforded 167
~~pursuant to Chapter 119. of the Revised Code~~as provided in 168
division (D) of this section, that any of the following apply to 169
a person, county home, or district home licensed under section 170
3721.07 of the Revised Code: 171

(1) Has violated any of the provisions of Chapter 3721. of 172
the Revised Code or rules adopted by the director under it; 173

(2) Has violated any order issued by the director; 174

(3) Is not, or any of its principals are not suitable, 175
morally or financially to operate such an institution; 176

(4) Is not furnishing humane, kind, and adequate treatment 177
and care; 178

(5) Has had a long-standing pattern of violations of this 179
chapter or the rules adopted under it that has caused physical, 180
emotional, mental, or psychosocial harm to one or more 181
residents. 182

~~Upon the issuance of any order of revocation, the person~~ 183
~~whose license is revoked, or the county home or district home~~ 184
~~that has its license revoked, may appeal in accordance with~~ 185
~~Chapter 119. of the Revised Code.~~ 186

(C) ~~Once~~If the director notifies a home's license holder 187
that the license may be revoked or that an order to secure 188
compliance is being issued, the director also shall notify both 189

<u>of the following persons, as applicable, who have ownership</u>	190
<u>interests in the home but are not the license holder:</u>	191
<u>(1) The owner of the property rights associated with the</u>	192
<u>home's beds;</u>	193
<u>(2) The owner of the building housing the home, unless</u>	194
<u>that owner is the same person as the owner described in division</u>	195
<u>(C) (1) of this section.</u>	196
<u>(D) On issuance of a notice or order as described in</u>	197
<u>division (C) of this section, the license holder and any of the</u>	198
<u>persons with ownership interests in a home who are notified</u>	199
<u>under that division may appeal in accordance with Chapter 119.</u>	200
<u>of the Revised Code. In an appeal, both of the following apply</u>	201
<u>with respect to a person with ownership interests who was</u>	202
<u>notified:</u>	203
<u>(1) The person with ownership interests may participate in</u>	204
<u>any hearing held as part of an appeal made by the license</u>	205
<u>holder.</u>	206
<u>(2) If the person with ownership interests was the person</u>	207
<u>who requested a hearing, the director shall hold the hearing not</u>	208
<u>later than sixty days after the date the director receives the</u>	209
<u>person's request, notwithstanding any conflicting provision of</u>	210
<u>Chapter 119. of the Revised Code.</u>	211
<u>(E) Except as provided in division (F) of this section,</u>	212
<u>both of the following apply with respect to assigning or</u>	213
<u>transferring the right to operate a home following issuance of a</u>	214
<u>notice or order as described in division (C) of this section:</u>	215
<u>(1) Once the director notifies a person, county home, or</u>	216
<u>district home licensed to operate a home that the license may be</u>	217
<u>revoked or issues any order under this section provides the</u>	218

notice as described in division (C) of this section, the person, 219
county home, or district home license holder shall not assign or 220
transfer to another person or entity the right to operate the 221
home, unless the notice or order is issued solely because the 222
home has already closed or ceased operations. This prohibition 223
shall remain in effect until proceedings under Chapter 119. of 224
the Revised Code concerning the ~~order or~~ license revocation or 225
the order have been concluded or the director notifies the 226
~~person, county home, or district home~~ license holder that the 227
prohibition has been lifted. 228

(2) If a license is revoked under this section, the former 229
license holder shall not assign or transfer or consent to 230
assignment or transfer of the right to operate the home. Any 231
attempted assignment or transfer to another person or entity is 232
void. 233

(F) (1) When a person with ownership interests in a home is 234
notified under division (C) of this section, the person may take 235
any of the following actions, taking into consideration the time 236
limit specified in division (F) (2) of this section: 237

(a) Enter into a lease with a person who will serve as the 238
home's operator under a new license, if that person does not or 239
did not control or manage the license holder and is not or was 240
not related to the license holder; 241

(b) Sell the property rights associated with the home's 242
beds to a person who does not or did not control or manage the 243
license holder and is not or was not related to the license 244
holder; 245

(c) Apply for a license to serve as the home's operator or 246
to operate the home's beds in a different location. 247

(2) Any person seeking a new license resulting from an 248
action taken under division (F) (1) of this section shall apply 249
under section 3721.07 of the Revised Code not later than ninety 250
days after the notice was sent under division (C) of this 251
section. 252

(G) On revocation of a license, the former licensee- 253
license holder shall take all necessary steps to cease the 254
former license holder's operation of the home. 255

~~The~~ (H) With respect to the certificate of need program 256
administered under sections 3702.51 to 3702.62 of the Revised 257
Code, all of the following apply when the license of a home that 258
is a nursing home is revoked under this section: 259

(1) For one year after the license is revoked, the nursing 260
home's beds shall remain in the state and county long-term care 261
bed supply determined by the director of health for purposes of 262
the certificate of need program. 263

(2) Except as provided in division (H) (3) of this section, 264
the director of health shall not accept a certificate of need 265
application under section 3702.52 of the Revised Code regarding 266
a the nursing home if the license to operate the home has been 267
revoked under this section. 268

(3) Not later than one year after the license is revoked, 269
a person seeking a new license to operate the nursing home or to 270
operate the home's beds in a different location, as a result of 271
an action taken under division (F) of this section, may submit a 272
certificate of need application under section 3702.52 of the 273
Revised Code. 274

Section 2. That existing sections 3702.511, 3702.59, and 275
3721.03 of the Revised Code are hereby repealed. 276

Section 3. Sections 3702.511, 3702.59, and 3721.03 of the Revised Code, as amended by this act, are remedial in nature and apply retroactively beginning on the date that is one year before the effective date of the amendments to those sections. As such, the provisions of those amendments apply in the case of any order of license revocation issued by the Director of Health pursuant to section 3702.03 of the Revised Code during that time period.

277
278
279
280
281
282
283
284