



Ohio Revised Code

Section 3727.22 Request for approval of agreement to undertake cooperative action.

Effective: October 8, 1992

Legislation: House Bill 714 - 119th General Assembly

(A) If directors or trustees who participated in discussions or negotiations authorized by section 3727.21 of the Revised Code wish to have the hospitals they represent undertake a cooperative action proposed as a result of the discussions or negotiations, they may submit a request to the director of health on behalf of the hospitals for approval of an agreement to undertake the cooperative action. The request shall include all of the following:

- (1) A copy of the proposed agreement;
- (2) An implementation plan that states how and when the cooperative action identified in the agreement will meet one or more of the goals specified in division (A) of section 3727.21 of the Revised Code;
- (3) Any additional information the boards of directors or boards of trustees wish to present to the director;
- (4) Any additional information the director of health considers necessary to make the determination required by division (B) of this section.

(B) If the director of health determines, on the basis of the information submitted by the directors or trustees, that one or more of the goals set forth in division (A) of section 3727.21 of the Revised Code is likely to be met through the implementation of a cooperative agreement and that the benefits resulting from the cooperative agreement are likely to outweigh the disadvantages attributable to any reduction in competition, the director shall submit the request for approval of an agreement to undertake cooperative action to the attorney general for review. The attorney general shall review the request not later than thirty days after he receives it. The attorney general may advise the director, in writing, to approve or deny the request. Failure by the attorney general to advise the director regarding his review within thirty days of his receipt of the request shall constitute his approval of



the request.

If the attorney general advises the director to deny a request, he shall state the reasons for such denial. Reasons for advising the director to deny a request include a determination that the implementation of the agreement will result in price-fixing or predatory pricing.

On receipt of the advice of the attorney general, or at the end of the thirty-day period, the director of health shall issue an order in accordance with Chapter 119. of the Revised Code approving or denying the cooperative agreement. The director's order to approve or deny a cooperative agreement is not subject to appeal.

(C) A group of hospitals that is the subject of an order approving a cooperative agreement issued under division (B) of this section is immune from civil enforcement action and criminal prosecution for actions that might otherwise violate Chapter 1331. of the Revised Code taken in furtherance of the cooperative agreement. Directors and trustees who participate in the implementation of an approved cooperative agreement also are immune from civil enforcement action and criminal prosecution for actions that might otherwise violate Chapter 1331. of the Revised Code taken in furtherance of the cooperative agreement.

(D) The director of health may request periodic written updates of the progress of the approved cooperative agreement. If updates are requested, the director shall specify the intervals at which they must be submitted, which shall be not less than every ninety days. The attorney general may request the director to provide copies of any updates the director receives.

(E) The director of health may rescind an order approving a cooperative agreement by issuing a rescission order in accordance with Chapter 119. of the Revised Code if updates of the progress of the approved cooperative agreement are not provided to him as requested, if he determines that the approved cooperative agreement is not meeting one or more of the goals specified in division (A) of section 3727.21 of the Revised Code, or if he determines that the benefits resulting from the cooperative agreement do not outweigh the disadvantages attributable to any reduction in competition. A rescission order may be appealed in accordance with Chapter 119. of the Revised Code by any of the hospitals that are parties to the cooperative agreement. Any affected person may intervene in the appeal.



(F) Nothing in this section shall limit the authority of the attorney general to initiate civil enforcement action or criminal prosecution if he determines that the hospitals or their directors or trustees have exceeded the scope of the cooperative agreement approved under division (B) of this section.

(G) Nothing in sections 3727.21 to 3727.23 of the Revised Code shall obligate the boards of directors or boards of trustees of a group of hospitals to submit a request for approval under this section. Any person who implements any cooperative action or agreement without securing the approval of the director of health under this section is subject to any civil or criminal enforcement action for violations of Chapter 1331. of the Revised Code that may result from such action.