



Ohio Revised Code

Section 5119.33 Inspecting and licensing of hospitals for mentally ill persons.

Effective: October 3, 2023

Legislation: House Bill 33

(A)(1) The department of mental health and addiction services shall inspect and license all hospitals that receive persons with mental illnesses, except those hospitals managed by the department. No hospital may receive for care or treatment, either at public or private expense, any person who is or appears to have a mental illness, whether or not so adjudicated, unless the hospital has received a license from the department authorizing it to receive for care or treatment persons with mental illnesses or the hospital is managed by the department.

(2) No such license shall be granted to a hospital for the treatment of persons with mental illnesses unless both of the following are the case:

(a) The department is satisfied, after investigation, that the hospital is managed and operated by qualified persons, is adequately staffed and equipped to operate, and has on its staff one or more qualified physicians responsible for the medical care of the patients confined there. At least one such physician shall be a psychiatrist.

(b) The department has not been notified under section 5119.334 of the Revised Code or is not otherwise aware that the hospital, or any owner, sponsor, medical director, administrator, or principal of the hospital, has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of application.

(B) The department shall adopt rules under Chapter 119. of the Revised Code prescribing minimum standards for the operation of hospitals for the care and treatment of persons with mental illnesses and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses. No license shall be granted to any hospital established or used for the care of persons with mental illnesses unless such hospital is operating in accordance with this section and rules adopted pursuant to this section. A full license shall expire one year after the date of issuance, a probationary license shall expire at the time prescribed by rule adopted pursuant to Chapter 119. of the Revised Code by the director of mental health and addiction services, and an



interim license shall expire ninety days after the date of issuance. A full, probationary, or interim license may be renewed, except that an interim license may be renewed only twice. The department may fix reasonable fees for licenses and for license renewals. Such hospitals are subject to inspection and on-site review by the department.

(C) Except as otherwise provided in Chapter 5122. of the Revised Code, neither the director of mental health and addiction services; an employee of the department; a board of alcohol, drug addiction, and mental health services or employee of a community mental health services provider; nor any other public official shall hospitalize any person with a mental illness for care or treatment in any hospital that is not licensed in accordance with this section.

(D)(1) The department may issue an order suspending the admission of patients with mental illnesses to a hospital for care or treatment if it finds either of the following:

(a) The hospital is not in compliance with rules adopted by the director pursuant to this section.

(b) The hospital has been cited for more than one violation of statutes or rules during any previous period of time during which the hospital is licensed pursuant to this section.

(2)(a) Except as provided in division (D)(2)(b) of this section, proceedings initiated to suspend the admission of patients are governed by Chapter 119. of the Revised Code.

(b) If a suspension of admissions is proposed because the director has determined that the licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients, the director may issue an order imposing the suspension of admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(3) Appeals from proceedings initiated to order the suspension of admissions shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:



- (a) The licensee may request a hearing not later than ten days after being served in accordance with sections 119.05 and 119.07 of the Revised Code.
- (b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.
- (c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.
- (d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:
- (i) The close of the hearing;
 - (ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;
 - (iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.
- (e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the licensee, or the licensee's attorney, if applicable, not later than five days after the report is filed with the department.
- (f) Not later than five days after receiving the report and recommendations, the licensee may file objections with the department.
- (g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.
- (h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.



(E)(1) Any license issued by the department under this section may be revoked or not renewed by the department for any of the following reasons:

(a) The hospital is no longer a suitable place for the care or treatment of persons with mental illnesses.

(b) The hospital refuses to be subject to inspection or on-site review by the department.

(c) The hospital has failed to furnish humane, kind, and adequate treatment and care.

(d) The hospital fails to comply with the licensure rules of the department.

(2) Proceedings initiated to deny applications for full or probationary licenses, to refuse to renew full or probationary licenses, or to revoke full or probationary licenses are governed by Chapter 119. of the Revised Code. If an order has been issued suspending the admission of patients, the order remains in effect during the pendency of those proceedings.

(F)(1) In a proceeding initiated to suspend the admission of patients, to deny an application for a full or probationary license, to refuse to renew a full or probationary license, or to revoke a full or probationary license, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(2) When the department issues an order suspending the admission of patients, denies an application for a full or probationary license, refuses to renew a full or probationary license, or revokes a full or probationary license, the department shall not grant an opportunity for submitting a plan of correction.

(G) The department may inspect, conduct an on-site review, and review the records of any hospital that the department has reason to believe is operating without a license.