



## Ohio Revised Code

### Section 3702.51 Certificate of need definitions.

Effective: March 20, 2019

Legislation: House Bill 286

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As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Service area" means the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "Primary service area" means the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

(F) "Secondary service area" means the geographic region, usually comprised of Ohio zip codes not included in the primary service area, excluding isolated exceptions, from which the facility's remaining residents currently originate or are expected to originate.

(G) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701. or 4123. of the Revised Code, the medicaid program, or any self-insurance plan.



(H) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(J) "Existing long-term care facility" means either of the following:

(1) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide long-term care services, and is actively providing long-term care services;

(2) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided long-term care services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

(K) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(L) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.



(M) "Affected person" means:

- (1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;
- (2) The person that requested the reviewability ruling in question;
- (3) Any person that resides or regularly uses long-term care facilities within the service area served or to be served by the long-term care services that would be provided under the certificate of need or reviewability ruling in question;
- (4) Any long-term care facility that is located in the service area where the long-term care services would be provided under the certificate of need or reviewability ruling in question;
- (5) Third-party payers that reimburse long-term care facilities for services in the service area where the long-term care services would be provided under the certificate of need or reviewability ruling in question.

(N) "Long-term care facility" means, except as provided in section 3702.594 of the Revised Code, any of the following:

- (1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;
- (2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";
- (3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(O) "Long-term care bed" or "bed" means a bed that is categorized as one of the following:



- (1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;
- (2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;
- (3) A bed that is registered under section 3701.07 of the Revised Code as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed;
- (4) A bed in a county home or county nursing home that has been certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed;
- (5) A bed held as an approved bed under a certificate of need approved by the director.

A bed cannot simultaneously be both a bed described in division (O)(1), (2), (3), or (4) of this section and a bed described in division (O)(5) of this section.

(P) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.

(R) "Principal participant" means both of the following:

- (1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility;



(2) An officer, director, trustee, or general partner of an applicant, of a long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility.

(S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy.

(T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or represents widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(U) "Existing bed" or "existing long-term care bed" means a bed from an existing long-term care facility, a bed described in division (O)(5) of this section, or a bed correctly reported as a long-term care bed pursuant to section 5155.38 of the Revised Code.