



## Ohio Revised Code

### Section 3702.593 Certificate of need for long-term care facility beds; Replacement or relocation to county with fewer long-term care beds than needed.

Effective: October 24, 2024

Legislation: Senate Bill 144

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(A) At the times specified in this section, the director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to relocation of existing beds from an existing long-term care facility in a county with excess beds to a long-term care facility in a county in which there are fewer long-term care beds than the county's bed need:

(1) Approval of beds in a new long-term care facility or an increase of beds in an existing long-term care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds reported in an application submitted under section 3722.03 of the Revised Code as long-term care beds.

(B) For the purpose of implementing this section, the director shall do all of the following:

(1) Not later than October 1, 2023, and every two years thereafter, determine the long-term care bed supply for each county, which shall consist of all of the following:

(a) Nursing home beds licensed under Chapter 3721. of the Revised Code;



(b) Beds certified as skilled nursing facility beds under the medicare program or nursing facility beds under the medicaid program;

(c) Beds in any portion of a hospital that are properly reported in an application submitted under section 3722.03 of the Revised Code as skilled nursing beds, long-term care beds, or special skilled nursing beds;

(d) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and are eligible for licensure as nursing home beds;

(e) Beds described in division (O)(5) of section 3702.51 of the Revised Code.

(2) Determine the long-term care bed occupancy rate for the state at the time the determination is made;

(3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent.

In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. A determination shall be made not later than October 1, 2023, and every two years thereafter. After each determination is made, the director shall publish the county's bed need on the web site maintained by the department of health.

(C) The director's consideration of an application for a certificate of need that would increase the number of beds in a county shall be consistent with the county's bed need determined under division (B) of this section, except as follows:

(1)(a) Except as provided in division (C)(1)(b) of this section, if a county's occupancy rate is less than eighty-five per cent, the county shall be considered to have no need for additional beds.

(b) Division (C)(1)(a) of this section does not apply, such that a county shall be considered to have a



need for additional beds regardless of its occupancy rate, if all of the following conditions are satisfied:

- (i) The county has at least sixty fewer long-term care beds than the county's bed need.
- (ii) The application for a certificate of need is for the approval of beds in a new long-term care facility or an increase of beds in an existing long-term care facility, and the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.
- (iii) The additional beds will be located in category one private rooms, as that term is defined in section 5165.158 of the Revised Code.

(2) Even if a county is determined not to need any additional long-term care beds, the director may approve an increase in beds equal to up to ten per cent of the county's bed supply if the county's occupancy rate is greater than ninety per cent.

(D)(1) For the review process used in considering certificate of need applications, the director shall establish a review period that begins January 1, 2020, and ends December 31, 2023. Thereafter, the review period for each review process shall begin on the first day of January following the end of the previous review period and shall be two years.

(2) Certificate of need applications shall be accepted during the first month of the review period and reviewed through the thirtieth day of September of the year in which the review period begins.

(E) The director shall consider certificate of need applications in accordance with all of the following:

- (1) The number of beds approved for a county shall include only beds available for relocation from another county and shall not exceed the bed need of the receiving county.
- (2) The director shall consider the existence of community resources serving persons who are age sixty-five or older or disabled that are demonstrably effective in providing alternatives to long-term care facility placement.



(3) The director shall approve relocation of beds from a county only if, after the relocation, the number of beds remaining in the county will exceed the county's bed need by at least fifty beds.

(F) Applications made under this section are subject to comparative review if two or more applications are submitted during the same review period and any of the following applies:

(1) The applications propose to relocate beds from the same county and the number of beds for which certificates of need are being requested totals more than the number of beds available in the county from which the beds are to be relocated.

(2) The applications propose to relocate beds to the same county and the number of beds for which certificates of need are being requested totals more than the number of beds needed in the county to which the beds are to be relocated.

(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities:

(1) Whether the beds will be part of a continuing care retirement community;

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups;

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services;

(4) Whether the long-term care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care;

(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds;



- (6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys;
- (7) Whether the facility in which the beds will be placed has fewer than fifty long-term care beds;
- (8) Whether the long-term care facility in which the beds will be placed is located within the area served by a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay;
- (9) Whether the long-term care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site;
- (10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the long-term care facility in which the beds will be placed.
- (H) A person who has submitted an application under this section that is not subject to comparative review may revise the site of the proposed project pursuant to section 3702.522 of the Revised Code.