

Bureau of Regulatory Operations

Certificate of Need Program

October 15, 2019

Clarification of Am. Sub. H.B. No. 166 Uncodified Law - §737.60 and §737.70

Am. Sub. H.B. No. 166 enacted provisions revising the Certificate of Need review and application process. Following is a summary of changes that are being adopted by the Certificate of Need program to comply with provisions set forth in the law, effective October 17, 2019.

Applications Accepted between October 17, 2019 and June 30, 2021

Between October 17, 2019, and June 30, 2021, the Department shall accept for review, only the following certificate of need applications. To be accepted for review, applications are required to meet additional requirements noted below and are required to otherwise comply with §§3702.51 to 3702.62 of the Ohio Revised Code.

- Applications proposing the following reviewable activities in Athens, Clermont, Fairfield, Geauga, Paulding, Pickaway, or Portage county:
 - Renovation of or addition to an existing long-term care facility that involves a capital expenditure of \$2 million dollars or more, not including expenditures for equipment, staffing, or operational costs; or
 - Replacement of an existing long-term care facility. Such applications shall not be accepted for review unless the applicant submits the following with the application:
 - The name of the owner and operator of the existing long-term care facility being replaced on October 17, 2019;
 - A copy of the operator's nursing home license in effect on October 17, 2019, for the existing long-term care facility being replaced;
 - If the operator is not the owner of the facility, copies of the lease between the owner and the operator in effect on October 17, 2019; and
 - A signed attestation that the owner and operator of the replacement facility will be the same as the owner and operator of the facility to be replaced on October 17, 2019.
- §3702.594 applications.
- §3702.526 applications proposing replacement of an approved application.
- §3702.593 applications that meet the additional requirements set forth below (§737.60 of Am. Sub. H.B. No. 166).

Bed Need Calculation for §3702.593 Review Period

The county long-term care bed supply and bed need used in the January 2020, §3702.593 review process shall be the long-term care bed supply and bed need calculated in 2016 except that the Director shall not apply §3702.593(C) in the calculation for Delaware, Greene, Lake, Licking, and Medina counties.

The following counties were identified as having the following bed need under the county bed need determination calculated in 2016:

- Athens -15
- Clermont -369
- Fairfield - 259
- Geauga - 135
- Paulding - 105
- Pickaway – 44
- Portage - 280

Using the 2016 bed need calculation without applying §3702.593(C) results in the following county bed need determination for Delaware, Greene, Lake, Licking, and Medina counties:

- Delaware – 846;
- Greene – 99;
- Lake – 262;
- Licking – 185;
- Medina – 395

Additional Application Requirements for §3702.593 Applications

- Applications may be submitted between January 1, 2020, and January 31, 2020. In addition to application submission requirements of Chapter 3702., to be accepted for review, applications to relocate beds into Delaware, Lake, Licking, Medina, or Greene county shall:
 - Include all dated and signed bed purchase agreements;
 - Include evidence that each source facility has an “Overall” star rating of three or less under the nursing home quality rating system established by the U.S. Centers for Medicare and Medicaid services on the date the beds are under contract for purchase or transfer unless the source facility is voluntarily closing. (A printout of the Medicare.gov Nursing Home Compare website as of the date of the signed contract for purchase or transfer shall be submitted as evidence of a facility’s overall star rating). If a source facility is voluntarily closing, the application shall include the voluntary closure letter submitted to the Department of Health; and
 - If an application proposes to relocate beds into Delaware, Lake, Licking, or Medina county, shall include:
 - An attestation that the applicant is either an owner of or operator of a skilled nursing facility in the county to which the beds are proposed to be relocated;
 - A list of the skilled nursing facilities and addresses owned or operated by the applicant in the county to which the beds are proposed to be relocated;
 - If the applicant is the operator of a skilled nursing facility in the county to which the beds are proposed to be relocated, a copy of the current operator’s nursing home license. If the applicant and the operator name are not the same, the application shall not be accepted; and
 - If the applicant is the owner of a skilled nursing facility in the county to which the beds are proposed to be relocated and not the operator, a copy of the current lease between the owner and the operator. If the applicant and the owner name are not the same, the application shall not be accepted.

- Failure to submit the additional information required for applications proposing to relocate long-term care beds into Delaware, Lake, Licking, Medina, or Greene county shall result in refusal to accept the application.

Additional Review Requirements for §3702.593 Applications

- Applications shall only be accepted between January 1, 2020, and January 31, 2020.
- For applications submitted to relocate beds to Delaware, Lake, Licking, Greene, or Medina counties, the Director shall not take into consideration during the review process:
 - Whether after the relocation, the number of beds in the facility's service area is at least equal to the state bed need rate as set forth in §3702.593(E)(4) of the Ohio Revised Code; and
 - If an application is subject to comparative review, whether the applications propose to relocate beds from the same service area and whether the number of beds left in the service area from which the beds are being relocated would be less than the state bed need rate as set forth in §3702.593(F)(3) of the Ohio Revised Code. The Director shall limit the increase in beds in the specified counties in accordance with the following:
 - Delaware - 200 beds;
 - Lake – 200 beds;
 - Licking – 185 beds;
 - Medina - 200 beds;
 - Greene – 99 beds.