

TO BE RESCINDED

3701-12-01 **Definitions.**

As used in Chapter 3701-12 of the Administrative Code:

- (A) "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.
- (B) Except as otherwise provided in sections 3702.51 to 3702.62 of the Revised Code, "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) Any person that resides or regularly uses health care facilities within the geographic area served or to be served by the health care services that would be provided under the certificate of need or reviewability ruling in question;
 - (3) Any health care facility that is located in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;
 - (4) The person that requested the reviewability ruling in question;
 - (5) Third-party payers that reimburse health care facilities for services in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;
 - (6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code and rule 3701-12-11 of the Administrative Code in the course of review of the application in question or who submitted written comments on the application in question.
- (C) "Affiliated person" means a corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity that:
- (1) Has an ownership or beneficial ownership interest, either direct or indirect, of five per cent or more of the voting stock of the person transferring a certificate of need (PTCN);

- (2) Participates as a general, junior, or limited partner in a partnership with the PTCN;
 - (3) Shares a common officer, director, member, trustee, or partner with the PTCN;
 - (4) Shares twenty-five per cent or more of its employees with the PTCN;
 - (5) Loans twenty-five per cent or more of the total capital needed to implement the activity, either directly or through a loan guarantee or similar arrangement, to the PTCN;
 - (6) Locates the site or allows the location of the site of the activity on its campus or on its property; or
 - (7) Enters an agreement with the PTCN to use its name as part of the name of the health care facility or service:
 - (a) As part of the implementation of the activity; or
 - (b) In advertising or promotional material that holds the facility or service out as being operated or offered by it or on behalf of it.
- (D) "Ambulatory surgical facility" or "ASF" has the same meaning as in paragraph (A) of rule 3701-83-15 of the Administrative Code.
- (E) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.
- (F) "Bed capacity" means:
- (1) The number of hospital beds registered by service under section 3701.07 of the Revised Code;
 - (2) The number of nursing home beds licensed under Chapter 3721. of the Revised Code;
 - (3) The number of beds in county homes or county nursing homes, as defined in section 5155.31 of the Revised Code, which are certified as skilled nursing facilities or intermediate care facilities under Title XVIII or XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981);

- (G) "Cardiac catheterization" has the same meaning as in paragraph (BBB) of rule 3701-84-01 of the Administrative Code.
- (H) "Certificate of need" means a written approval granted by the director to an applicant to authorize conducting a reviewable activity.
- (I) "Children's hospital" means any of the following:
- (1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;
 - (2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age; or
 - (3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of paragraph (H)(1) of this rule.
- (J) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.
- (K) "Director" means the director of health or an authorized designee of the director.
- (L) "Existing health care facility" means either of the following:
- (1) A health 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 as of February 1, 2008, under Title XVIII or Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, that is staffed and equipped to provide health care services, and is actively providing health care services; or
 - (2) A health 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 as of February 1, 2008, under Title XVIII or

Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided 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.

- (M) "Freestanding birthing center" has the same meaning as in division (X) of section 3702.51 of the Revised Code.
- (N) "Freestanding cardiac catheterization facility" is a facility that performs cardiac catheterization and which:
- (1) Is physically separated from a hospital, requiring use of an ambulance or other vehicle for emergency transportation of patients;
 - (2) Is organizationally separate from a hospital; or
 - (3) Is not subject to the hospital's credentialing procedures.
- (O) "Freestanding diagnostic imaging center" has the same meaning as in paragraph (F) of rule 3701-83-51 of the Administrative Code.
- (P) "Freestanding dialysis center" or "dialysis center" has the same meaning as in paragraph (D) of rule 3701-83-23 of the Administrative Code.
- (Q) "Freestanding inpatient rehabilitation facility" or "inpatient rehabilitation facility" has the same meaning as in paragraph (A) of rule 3701-83-25 of the Administrative Code.
- (R) "Freestanding radiation therapy center" has the same meaning as in paragraph (D) of rule 3701-83-43 of the Administrative Code.
- (S) "Government unit" means the state of Ohio and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of any of the foregoing.
- (T) "Health care facility" or "HCF" means:
- (1) A hospital registered under section 3701.07 of the Revised Code;

- (2) 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;
 - (3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981);
 - (4) A freestanding dialysis center;
 - (5) A freestanding inpatient rehabilitation facility;
 - (6) An ambulatory surgical facility;
 - (7) A freestanding cardiac catheterization facility;
 - (8) A freestanding birthing center;
 - (9) A freestanding or mobile diagnostic imaging center; or
 - (10) A freestanding radiation therapy center.
- (U) "Health maintenance organization" or "HMO" 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. section 300e-9.
- (V) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative or preventive service.
- (W) "Health service agency" or "HSA" means an agency that has been designated by the director to serve a health service area in accordance with section 3702.58 of the Revised Code.
- (X) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.
- (Y) "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.

(Z) "Long-term care bed" means a bed in a long-term care facility.

(AA) "Long-term care facility" means 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 a 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; or
- (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.

(BB) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(CC) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments..

(DD) "Mobile diagnostic imaging center" has the same meaning as in paragraph (J) of rule 3701-83-51 of the Administrative Code.

(EE) "New health care facility" means any proposed health care facility defined in paragraph (T) of this rule that is not an existing health care facility as defined in paragraph (L) of this rule.

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

(GG) "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state of Ohio.

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

(II) "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 health 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; or
- (2) An officer, director, trustee, or general partner of an applicant, of a health 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.

(JJ) "PTCN" is an acronym for "person transferring a certificate of need" and refers to a person holding a certificate of need issued on or after April 20, 1995, that transfers the certificate to another person before the reviewable activity is completed, or that enters into an agreement that contemplates the transfer of the certificate of need on the completion of the reviewable activity.

(KK) "Related person" means an affiliated person or an individual who, by virtue of blood or adoption, is the spouse, father, mother, sister, brother, half-sister, half-brother, grandmother, grandfather, or first cousin of a PTCN.

(LL) "Reviewability ruling" means either of the following determinations 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:

- (1) "Reviewability determination" means a ruling issued under that division that a particular proposed project is a reviewable activity.
- (2) "Non-reviewability determination" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

(MM) "Rural area" or "rural community" means any area of the state not located within a metropolitan statistical area.

(NN) "Small rural hospital" means a hospital located in a rural area that has fewer than one hundred beds and to which fewer than four thousand persons were admitted during the most recent calendar year.

(OO) "State agency" means the director.

(PP) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of section 3702.51 of the Revised Code, 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., 4123., or 5101. of the Revised Code, or any self-insurance plan.

(QQ) "To offer" means, with respect to a health service, that a health care facility holds itself out as capable of providing, or as having the means for the provision of, a specified health service. Referral to another provider of health services does not constitute offering of the health service.

(RR) "Ultimate controlling interest" means a person who holds a majority of the voting power within a corporation, business trust, firm, partnership, association, joint stock company, or insurance company and is:

(1) The applicant for a certificate of need; or

(2) Represented by the applicant for a certificate of need.

Effective:

R.C. 119.032 review dates: 06/18/2013

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3702.51, 3702.57
Rule Amplifies: 3702.51, 3702.52, 37002.521, 3702.522, 3702.523, 3702.524, 3702.525, 3702.526, 3702.5212, 3702.53, 3702.57, 3702.59, 3702.592, 3702.593, 3702.60
Prior Effective Dates: 12/21/1982 (Emer.), 3/19/83, 7/21/83 (Emer.), 10/18/83 (Emer.), 6/22/84 (Emer.), 9/28/84, 12/2/85, 12/25/86, 7/23/87 (Emer.), 10/12/87, 3/3/88, 11/28/88, 6/18/90, 9/6/99, 3/17/08, 9/1/08, 3/25/10, 2/1/11