

TO BE RESCINDED

3701-12-08

Application and completeness review process; public notice.

- (A) Applications for certificate of need for any of the purposes described in paragraph (A)(1), (A)(2), or (A)(3) of this rule shall be subject to the comparative review process if the proposed increase in beds is attributable solely to relocation of existing beds from an existing health care facility in a county with excess beds to a health care facility in a county in which there are fewer long-term care beds than the county's bed need; or the proposed increase in beds is attributable solely to the redistribution of surrendered beds pursuant to paragraph (M)(4) of rule 3701-12-23 of the Administrative Code.
- (1) Approval of beds in a new health care facility or an increase of beds in an existing health 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 registered pursuant to section 3701.07 of the Revised Code as long-term care beds.
- (B) The review period for the first comparative review process is the period beginning July 1, 2010 and ending June 30, 2012. Thereafter, the review period for each comparative review process shall be every four years beginning July 1, 2012.
- (1) A four year comparative review process shall consist of two phases:
 - (a) The first phase of a four year comparative review process shall begin July first of the first year.
 - (b) The second phase of a four year comparative review process shall begin July first of the third year.
 - (2) Applications for certificates of need made under the first comparative review process that propose an increase in beds that is attributable solely to relocation of existing beds from an existing health care facility in a county with excess beds to a health care facility in a county in which there are fewer

long-term care beds than the county's bed need, as published on the department of health's web site, shall be submitted from July 1, 2010 through July 31, 2010.

- (3) Applications for certificates of need made under the first phase of a four year comparative review process that propose an increase in beds that is attributable solely to relocation of existing beds from an existing health care facility in a county with excess beds to a health care facility in a county in which there are fewer long-term care beds than the county's bed need, shall be submitted from July 1, 2012 through July 31, 2012, and every four years thereafter.
 - (4) If a remaining bed need is published on the department of health's web site for a county, applications for certificates of need made under the second phase of a four year comparative review process that propose the re-distribution of beds made available pursuant to paragraph (M)(4) of rule 3701-12-23 of the Administrative Code, shall be submitted from July 1, 2014 through July 31, 2014 and every four years thereafter.
- (C) To be considered timely, the director must receive an application made under a comparative review process from July first through July thirty-first in the first year of the first comparative review process and in the first and third years of a four year comparative review process that includes the information that complies with paragraph (H) of this rule and is accompanied by the appropriate fee prescribed in paragraph (I) of this rule. If an application made under a comparative review process is not timely received, the director shall not review it and shall return the fee specified in paragraph (I) of this rule, minus a one hundred dollar application processing fee.
- (D) Applications for certificate of need that propose an increase in beds that is attributable to a replacement or relocation of existing beds from an existing health care facility within the same county for any of the following purposes may be submitted at any time:
- (1) Approval of beds in a new health care facility or an increase of beds in an existing health 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 registered pursuant to section 3701.07 of the Revised Code as long-term care beds; or
 - (4) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as special skilled nursing beds that were originally authorized by and are operated in accordance with section 3702.522 of the Revised Code.
- (E) Applications for certificate of need that propose an increase in beds that is attributable to a relocation of existing beds from an existing nursing home to another existing nursing home located within a county that is contiguous to the county from which the beds are to be relocated that meet all of the following conditions may be submitted at any time:
- (1) Not more than thirty nursing home beds are proposed for relocation from a contiguous county;
 - (2) After the proposed relocation, there will be existing nursing home beds remaining in the county from which the beds are relocated; and
 - (3) The beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised code.
- (F) Applications for certificate of need that propose the conversion of infirmiry beds to long-term care beds that meet all of the following conditions may be submitted at any time:
- (1) The infirmiry is operated exclusively by a religious order;
 - (2) The infirmiry provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related; and
 - (3) The infirmiry was providing care exclusively to members of such a religious order on January 1, 1994.

The only individuals who may be admitted to a facility to use beds for which a certificate of need is approved under this paragraph are members of the religious order that operates the facility and the mothers, fathers, brothers,

sisters, brothers-in-law, sisters-in-law and children of members of that religious order. The infirmary beds that are converted to long-term care beds in accordance with this paragraph may not be relocated pursuant to paragraph (A), (D) or (E) of this rule.

- (G) Each applicant shall submit one original and one copy of the application forms and attachments prescribed by the director. The applicant also shall submit a timetable for implementing the project and identify a specific site for the project designated by a street address or, if there is no street address, a plot or parcel number. In addition, the applicant shall designate an authorized representative in the application. The authorized representative shall sign an affidavit that, to the best of his or her knowledge, the information in the application and any accompanying material is true and accurate. The applicant shall submit a copy of the written notice that the applicant has provided to:
- (1) The chief executive officer of the municipality in which the reviewable activity will be conducted or the township trustees of the township in which the activity will be conducted, if it will not be conducted in a municipality; and
 - (2) The state senator and state representative for the area in which the activity will be conducted.
- (H) The application shall be accompanied by a nonrefundable fee in the form of a check or a postal money order, payable to the treasurer state of Ohio, in the following amount:
- (1) For a project not involving a capital expenditure, three thousand dollars; or
 - (2) For a project involving a capital expenditure, the greater of three thousand dollars or nine-tenths of one per cent of the capital expenditure proposed, with a maximum fee of twenty thousand dollars.
- (I) Upon receipt of an application and the appropriate fee, the director shall review the application for completeness of information. The director shall consider an application complete when the applicant:
- (1) Furnishes the information specified in paragraph (G) of this rule;
 - (2) Pays the fee specified in paragraph (H) of this rule; and
 - (3) If required to, adequately and completely responds to the director's requests for

additional information.

- (J) To determine completeness, the director may request additional information from the applicant but shall not request any information that is not necessary to review the application in relation to the criteria established by this chapter, as the chapter is in effect at the time the request is made. The director may make two requests for the additional information needed to complete an application under this paragraph and paragraph (L) of this rule. Except when paragraph (L) of this rule applies, the applicant shall have ninety days to respond to a request for additional information. If a revision to an application is filed under paragraph (K) of this rule, the director may make an additional request for information even if two requests have already been made. The applicant shall have ninety days to respond to a request for additional information after a revised application has been filed under paragraph (K) of this rule.

The director shall deem an application incomplete if the applicant does not timely respond to the director's request for additional information or if the director does not receive the information necessary to complete the application within the appropriate time frame specified in this rule.

Except when paragraph (L) of this rule applies, no later than thirty days after the director receives the application and the appropriate fee or thirty days after the director receives additional information submitted in response to the first request, the director shall mail to the applicant by certified mail notice of completeness or a second request for additional information. Except when paragraph (L) of this rule applies, no later than thirty days after the director receives additional information submitted in response to the second request, the director shall mail to the applicant by certified mail notice of completeness or shall deem the application incomplete. If a third request for additional information is made after a revision to an application is filed, no later than thirty days after the director receives additional information submitted in response to the third request, the director shall mail to the applicant by certified mail notice of completeness or shall deem the application incomplete.

When responding to requests for additional information, applicants shall submit two copies of responses to the director.

- (K) For applications made under paragraph (D) or (E) of this rule, applicants may revise an application any time prior to the director mailing the applicant a written notice of completion. An applicant may not revise an application made under paragraph (A) of this rule.
- (1) The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original

application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site specified in the original application is located. Minor changes in the project are not considered to be revisions of the application.

- (2) A revised application shall be accompanied by an additional, non-refundable fee equal to twenty-five per cent of the fee charged for the initial application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the Revised Code.
- (L) For applications made under a comparative review process, no later than August thirty-first of the same year in which the application is received, the director shall mail to the applicant by certified mail notice that additional information is not necessary or a first request for additional information. No later than October thirty-first of the same year in which the application is received, the applicant shall respond to a first request for additional information. If a first request for additional information is mailed, no later than November thirtieth of the same year in which the application is received, the director shall mail to the applicant by certified mail notice that additional information is not necessary, a second request for additional information, or deem the application incomplete. No later than January thirty-first of the year following the year in which the application is received, the applicant shall respond to a second request for additional information. No later than the last day of February of the year following the year in which the application is received, the director shall mail to the applicant by certified mail notice of completeness or shall deem the application incomplete. If the dates specified in this paragraph are a weekend or a day when state offices are closed, the deadlines shall be moved to the next business day.
- (M) After notice of an application's completeness is mailed under paragraph (J) or (L) of this rule, the applicant may supply and the director may request additional information pertinent to review of the application in relation to the criteria established by this chapter, as this chapter is in effect at that time. Except as specified in paragraph (K) of this rule, the applicant shall not make any amendment of the application that alters the site of the reviewable activity specified in accordance with paragraph (G) of this rule, the activity's scope, or its cost. Except during a public hearing, no person shall make revisions to information that was submitted to the director before the director mailed notice of completeness for an application. A person may supplement an application after a notice of completeness has been received by submitting clarifying information.
- (N) The director may deny an application for any false statement knowingly made in the application or in supplemental information submitted pursuant to this rule.

- (O) The director shall include the information specified in paragraphs (O)(1) to (O)(3) of this rule with the notice of completeness. The applicant shall provide notice of all the information set forth in this rule, by notice in a newspaper of general circulation published in the municipal corporation, county, or other political subdivision where the reviewable activity (project) will take place. The applicant shall provide the notice within seven business days after the notice of completeness specified in paragraph (J) or (L) of this rule is received. If the newspaper notice is not provided within the time frame specified by this paragraph, the applicant shall document in writing why the time frame was not met. The applicant shall provide a copy of the published notice and, if applicable, written documentation of why the time frame for the newspaper notice was not met to the director by certified mail within five business days after the day the notice is first published. The notice shall include the following information:
- (1) The date that the review period began;
 - (2) The date that the decision on the application is due;
 - (3) The deadline and procedure for requesting a public informational hearing during the course of review and the deadline and procedure for filing objections to an application, as set forth in paragraphs (A) and (B) of rule 3701-12-11 of the Administrative Code;
 - (4) A general description of the nature of the project, which shall include its cost, the facilities involved in the project; and
 - (5) The street address or plot or parcel number that the project will take place.
- (P) The director shall deny an application if the applicant fails to provide timely newspaper notice as required in paragraph (O) of this rule, or the director determines that the applicant failed to document in writing that timely notice was not provided for reasons beyond the applicant's control.
- (Q) If the director deems an application incomplete as authorized by this rule, the director shall notify the applicant by certified mail, not process the application, and keep the fee specified in paragraphs (H) and (K) of this rule. The director's act of deeming an application incomplete and any of the other actions specified in this paragraph shall not be subject to appeal.

Effective: 09/02/2013

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

CERTIFIED ELECTRONICALLY

Certification

08/23/2013

Date

Promulgated Under: 119.03
Statutory Authority: 3702.51, 3702.57
Rule Amplifies: 3702.52, 3702.57
Prior Effective Dates: 12/21/1982 (Emer.), 3/19/83, 7/27/84 (Emer.),
10/28/84, 7/1/85, 7/1/86, 7/23/87 (Emer.), 10/15/87
(Emer.), 11/30/87, 5/16/88, 11/28/88, 12/22/88
(Emer.), 2/8/90, (Emer.), 8/3/90, 5/20/91, 12/28/92
(Emer.), 3/19/93, 5/28/93 (Emer.), 9/6/99, 9/27/07,
9/1/08, 3/25/10, 2/25/12