

3701-19-04

**Issuance, denial, transfer, suspension, and revocation of licenses.**

(A) The director shall grant a license for provision of a hospice care program to an applicant that complies with Chapter 3712. of the Revised Code and this chapter.

~~(B) Upon written request, the director may grant a variance from any requirement of this chapter, that is not a statutory requirement, if the person or public agency requesting the variance establishes that because of practical difficulties or other special conditions, strict application of the requirement will cause unusual or unnecessary hardship and that the variance will not jeopardize the health, safety, or welfare of any hospice patient or hospice patient's family.~~

~~(C)~~(B) The director shall mail written notice to the applicant either granting or proposing to deny a license within thirty days after receiving all information necessary to determine compliance with Chapter 3712. of the Revised Code and this chapter, including the reports of the inspection conducted pursuant to paragraph (A) of rule 3701-19-05 of the Administrative Code. This thirty-day period shall be extended if the director has received a complaint concerning an applicant. In such a case, the director shall conduct a complaint investigation within thirty days after receipt of the complaint and shall mail written notice of the determination regarding the license application within thirty days after completion of the complaint investigation.

~~(D)~~(C) If the applicant meets the requirements for licensure prescribed in paragraph (A) of this rule, the director shall issue a license to the applicant which shall:

- (1) Indicate the name and address of the hospice care program location to which the applicant requested the license be issued. The names and addresses of additional locations operating under the same license shall be maintained on file;
- (2) Be valid for three years only for the hospice care program at the address and additional locations indicated in the application except as provided for in paragraph (F) of this rule; and
- (3) Be posted in a conspicuous place in the hospice care program location issued the license.

~~(E)~~(D) Subject to Chapter 119. of the Revised Code, the director may deny, suspend, or revoke a license if the licensee:

- (1) Made any material misrepresentation in the application for licensure; or
- (2) No longer meets the requirements of Chapter 3712. of the Revised Code or this chapter.

~~(3) If, after a review of an application for license renewal in accordance with paragraph (H) of rule 3701-19-03 of the Administrative Code, the department determines that the program is not in compliance with section 3712.062 of the Revised Code, the department may suspend the hospice care program's license for not more than six months and impose a fine not to exceed twenty thousand dollars.~~

(E) If, after a review of an application for license renewal in accordance with paragraph (H) of rule 3701-19-03 of the Administrative Code, the department determines that the program is not in compliance with section 3712.062 of the Revised Code, the department may suspend the hospice care program's license for not more than six months and impose a fine not to exceed twenty thousand dollars.

(F) A hospice care program that seeks to transfer its license to another or new location shall submit a written request to the director of health to transfer its license. The request shall indicate the name and address of the hospice care location issued the license and the address to which the hospice seeks to transfer the license. The request must be received by the director no later than ninety days prior to the current license expiration date or thirty days prior to the proposed transfer or relocation, whichever occurs sooner.

(1) When reviewing a request for transfer of a license, the director may request any additional written information he or she determines necessary to assess whether the criteria in paragraph (F)(2) of this rule are met.

(2) The director shall allow a license to be transferred if the following criteria are met:

(a) The hospice care program currently meets all of the licensing requirements and there are no pending complaints under investigation. Any pending complaints shall be investigated within thirty days of the request for transfer;

(b) The hospice care program is not undergoing any enforcement action at the time of the transfer or relocation or proposed transfer or relocation;

(c) The transfer or relocation is not due to a change in ownership or control;

(d) The transfer or relocation does not diminish the current geographic area being served by the hospice care program;

(e) The hospice care program continues to provide the same full range of services at the new location that was required of the hospice care program location that was issued the license;

- (f) All hospice patients' clinical records are available, upon request of the director, at the new location to which the hospice license is to be transferred;
  - (g) If the hospice care program provides inpatient care directly, the transfer of the license does not involve either the establishment of an inpatient facility, or relocation of an existing inpatient facility, where the hospice care program provides inpatient care directly;
  - (h) The approval to transfer the license may be granted with no less than sixty-one days remaining prior to the expiration of the current license; and
  - (i) If the hospice care program obtained its license pursuant to paragraph (J) of rule 3701-19-03 of the Administrative Code, the hospice care program is currently in compliance with the applicable accreditation or certification standards
- (3) The director shall notify the hospice care program of whether or not the license may be transferred. If the director determines that the license is not transferable, the director shall provide the hospice care program with an opportunity for a reconsideration:
- (a) The hospice care program shall request a reconsideration in writing within thirty days of the mailing of the notice of determination~~;~~;
  - (b) The request shall include any written documentation or other information not previously submitted to the director that the hospice care program wishes to refute the determination~~;~~;
  - (c) The director's final determination is not appealable under Chapter 119. of the Revised Code~~;~~ and
  - (d) The hospice care program shall obtain a license for the new location prior to commencing services at the new location.

Effective: 1/23/2020

Five Year Review (FYR) Dates: 11/6/2019 and 01/13/2025

CERTIFIED ELECTRONICALLY

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Certification

01/13/2020

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Date

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Rule Amplifies: 3712.03, 3712.04, 3712.05, 3712.062

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