



Ohio Administrative Code

Rule 3701-22-05 Inspections; compliance actions.

Effective: September 14, 2024

(A) The director of health monitors compliance with Chapter 3722. of the Revised Code and Chapter 3701-22 of the Administrative Code. The director may at any time inspect a licensed hospital in order to address an incident that may impact public health, respond to a complaint submitted to the director, or otherwise ensure the safety of patients cared for by the hospital. Inspections may be scheduled and announced or random and unannounced.

(B) If the director determines the existence of a violation of any provision of Chapter 3722. of the Revised Code or Chapter 3701-59 of the Administrative Code, the director may do any of the following:

(1) Request the licensee to submit an acceptable plan of correction to the director stating the actions being taken or to be taken to correct a violation, the time frame for completion and the means by which continuing compliance will be monitored; and

(2) In accordance with Chapter 119. of the Revised Code:

(a) Impose a civil penalty based on the severity of the violation as follows:

(i) For violations that present an imminent threat of serious physical or life threatening danger, or an immediate serious threat to the health, safety or security of one or more patients, a civil penalty of not less than one hundred thousand dollars and not more than two hundred thousand dollars, not including per day civil penalties for ongoing violations;

(ii) For violations that directly threaten the health, safety, or security of one or more patients, a civil penalty of not less than ten thousand dollars and not more than one hundred thousand dollars, not including per day civil penalties for ongoing violations; or

(iii) For violations that indirectly threaten or potentially threaten the health, safety, or security of one



or more patients, a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, not including per day civil penalties for ongoing violations;

In addition to the civil monetary penalties set forth in this rule, the director may impose a civil penalty of one thousand dollars per day for each day the director determines a violation is ongoing.

(b) Suspend a health care service or revoke the hospital's license, in accordance with paragraph (D)(3) of this rule, if the director believes that there is clear and convincing evidence that the continued operation of the hospital, maternity unit, newborn care nursery, or health care service unit present a danger of immediate and serious harm to patients or residents. The director will provide the hospital with written notice of the proposed action to the hospital that specifies the:

(i) Nature of the conditions giving rise to the director's judgment;

(ii) Measures that the director determines the hospital needs to take to respond to the conditions;

(iii) Date, which will be not later than thirty days after the notice is delivered, on which the director intends to suspend the health care service or revoke the hospital's license if the conditions are not corrected and the director determines that the license holder has not come into substantial compliance;

(C) In determining whether a violation warrants a civil money penalty, the director may consider all of the following:

(1) The danger of serious physical or life-threatening harm to one or more patients or residents, including a determination whether the harm presents an:

(a) Imminent threat of serious physical or life threatening danger, or an immediate serious threat to the emotional health, safety, or security one or more patients;

(b) Direct threat to the physical or emotional health, safety, or security of one or more patients; or

(c) Indirect threat or potential threat to the physical or emotional health, safety, or security of one or



more patients;

(2) The number of patients directly affected by the violation;

(3) The number of hospital staff involved in the violation;

(4) Any actions taken by the hospital to correct or mitigate the violation, including the timeliness and sufficiency of the hospital's response to the violation and the outcome of that response; and

(5) The hospital's history of compliance.

(D) If the director determines the need for a civil money penalty under this rule, the director may enter into settlement negotiations with the affected hospital. Settlements may include any or all of the following:

(1) A lesser civil money penalty than initially proposed;

(2) Allowing the hospital to invest an amount equal to the proposed civil penalty on remedial measures designed to reduce the likelihood of similar violations occurring in the future. Unless authorized by the director, such remedial measures are to be conducted or undertaken by a third party; or

(3) Alternative remedies warranted by the deficient practice and negotiations.

(E) If the director suspends a health care service or revokes the license of a hospital under paragraph (B)(2)(b) of this rule, the director will issue a written order of suspension or a revocation, as applicable, and cause it to be delivered by certified mail or in person in accordance with section 119.07 of the Revised Code. The order is not subject to suspension by the court while an appeal filed under section 119.12 of the Revised Code is pending. If the license holder subject to the suspension or revocation requests an adjudication, the date set for the adjudication will be within seven days after the license holder makes the request, unless another date is agreed to by both the license holder and the director. The suspension of the health care service or revocation of a hospital's license will remain in effect, unless reversed by the director, until a final adjudication order issued by the director



pursuant to this chapter and Chapter 119. of the Revised Code becomes effective. The director will issue a final adjudication order not later than fourteen days after completion of the adjudication. If the director does not issue a final order within the fourteen-day period, the suspension or revocation is void, but any final adjudication order issued subsequent to the fourteen-day period is not affected.

(F) During the period specified in paragraph (B)(2)(b)(iii) of this rule, the hospital may, without staying the proceedings, notify the director that the conditions giving rise to the director's determination have been corrected and that the hospital is in substantial compliance with section 3722. of the Revised Code and this chapter, the director shall conduct an inspection. Based on this inspection, if the director determines that the conditions have not been corrected and the license holder has not come into substantial compliance, the director may suspend the health care service or revoke the license.

(G) If the licensed hospital fails to notify the director, within the period of time specified in paragraph (B)(2)(b)(iii) of this rule, that the conditions giving rise to the director's determination have been corrected and that the hospital is in substantial compliance with this chapter and shall not be affected, the director may suspend the health care service or revoke the license.

(H) If the director issues a final adjudication order suspending a health care service or suspending or revoking a license issued under this chapter and the license holder continues to operate a hospital, the director may ask the attorney general to apply to the court of common pleas of the county in which the hospital is located for an order enjoining the license holder from operating the hospital.