



Ohio Revised Code

Section 3702.54 Civil penalty.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

Except as provided in section 3702.541 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

(1) Three thousand dollars;

(2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;

(3) If a certificate of need was granted, two per cent of the total approved capital cost associated with implementation of the activity for which the certificate of need was granted.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after the director mails the notice of the director's determination under section 3702.532 of the Revised Code or, if the determination is appealed under section 3702.60 of the Revised Code, the issuance of the order upholding the determination that is not subject to further appeal. In determining the length of time during which applications will not be accepted, the director may consider any of the following:

(a) The nature and magnitude of the violation;



- (b) The ability of the person to have averted the violation;
 - (c) Whether the person disclosed the violation to the director before the director commenced his investigation ;
 - (d) The person's history of compliance with sections 3702.51 to 3702.62 and the rules adopted under section 3702.57 of the Revised Code;
 - (e) Any community hardship that may result from refusing to accept future applications from the person.
- (2) Notwithstanding the one-year minimum imposed by division (B)(1) of this section, the director may establish a period of less than one year during which the director will refuse to accept certificate of need applications if, after reviewing all information available to the director, the director determines and expressly indicates in the notice mailed under section 3702.532 of the Revised Code that refusing to accept applications for a longer period would result in hardship to the community in which the person provides long-term care services. The director's finding of community hardship shall not affect the granting or denial of any future certificate of need application filed by the person.