



Ohio Revised Code Section 3702.60 Appeals.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

(A) Any affected person may appeal a reviewability ruling to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director to grant or deny a certificate of need application, and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or other affected person that appeals the director's decision to grant or deny a certificate of need application must prove by a preponderance of the evidence that the director's decision is not in accordance with sections 3702.52 to 3702.62 of the Revised Code or rules adopted under those sections. The certificate of need applicant or an affected person that was a party to and participated in an adjudication hearing conducted under this division may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing.

(C) The certificate of need holder may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director under section 3702.52 or 3702.525 of the Revised Code to withdraw a certificate of need, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54 or 3702.541 of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.



(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters, irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals



under this section.

(H) No person may intervene in an appeal brought under this section.