



## Ohio Revised Code

### Section 5168.40 Franchise permit fee definitions.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

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As used in sections 5168.40 to 5168.56 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes and makes it impossible for the bed to ever be a part of any nursing home's licensed capacity;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds and makes it impossible for the bed to ever be registered as a skilled nursing facility bed or long-term care bed.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;



- (d) If the exiting operator is a partnership, dissolution of the partnership;
- (e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:
  - (i) The change in composition does not cause the partnership's dissolution under state law.
  - (ii) The partners agree that the change in composition does not constitute a change in operator.
- (f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.
- (2) The following, alone, do not constitute a change of operator:
  - (a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;
  - (b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;
  - (c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.
- (C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.
- (D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.



(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the rate determined in accordance with section 5168.41 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in the "Social Security Act," section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "Medicaid days" and "nursing facility" have the same meanings as in section 5165.01 of the Revised Code.

(K)(1) "Nursing home" means all of the following:



(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code.

(L) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

(M) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

(N) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.