



Am. S.B. 124*

124th General Assembly

(As Reported by S. Health, Human Services and Aging)

Sens. Jordan, Amstutz, Austria, DiDonato, Randy Gardner, Harris, Hottinger, Jacobson, Spada, Wachtmann

BILL SUMMARY

- Requires the imposition of one or more sanctions, including civil penalties, for operating without a license a health care facility that is required to have a license.
- Authorizes the Director to impose one or more sanctions against a licensed health care facility for failure to comply with statutory requirements or administrative rules establishing quality standards.
- Requires an ambulatory surgical facility to require each physician who practices at the facility to comply with all statutes related to obtaining informed consent from a patient.

CONTENT AND OPERATION

Sanctions for operating a health care facility without a license

(secs. 3702.30 and 3702.32)

Current law requires the Director of Health to adopt rules establishing quality standards for use in licensing the following health care facilities: ambulatory surgical facilities, freestanding dialysis centers, freestanding inpatient rehabilitation facilities, freestanding birthing centers, freestanding radiation therapy centers, and freestanding mobile diagnostic imaging centers. Although current law prohibits a health care facility subject to licensure from operating without a license, penalties for violating the prohibition are not specified.

* *This analysis was prepared before the report of the Senate Health, Human Services and Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Under the bill, if the Director determines that one of these health care facilities is operating without a license, the Director is required to do one or more of the following:

- (1) Issue an order requiring that the facility cease its operations;
- (2) Issue an order prohibiting the facility from performing certain types of services;
- (3) Impose a civil penalty of not less than \$1,000 and not more than \$250,000;
- (4) Impose an additional civil penalty of not less than \$1,000 and not more than \$10,000 for each day the facility operates without a license.

The bill requires the Director to adopt rules governing the issuance of orders and the imposition of civil penalties, including a scale for determining the amount of the penalties. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Sanctions for violations by a licensed health care facility

(sec. 3702.32)

The bill authorizes the Director to impose sanctions against a health care facility for violations other than operating without a license. The sanctions may be imposed for violating any provision of the quality standards established in rules adopted by the Director and for violating any of the statutes under which the facility is licensed. If the Director determines that a violation has occurred, the Director may do any or all of the following:

- (1) Revoke, suspend, or refuse to renew the facility's license;
- (2) Prior to or during the pendency of an administrative hearing, issue an order that prohibits the facility from performing certain types of services;
- (3) Provide an opportunity for the facility to correct the violation;
- (4) Impose a civil penalty of not less than \$1,000 and not more than \$250,000;
- (5) Impose an additional civil penalty of not less than \$500 and not more than \$10,000 for each day the facility fails to correct the violation.

Ambulatory surgical facilities

(sec. 3702.30(C) and (D))

Under the bill, every ambulatory surgical facility must require each physician who practices at the facility to comply with all relevant provisions in the Revised Code that relate to the obtaining of informed consent from a patient. While the Revised Code does not contain a general provision requiring informed consent for all types of medical procedures, there are provisions that apply to specific procedures. For example, criminal penalties can be imposed against a person who performs or induces an abortion without the patient's informed consent.

As a condition of receiving a license to operate an ambulatory surgical facility, the bill requires the facility to demonstrate to the Director that it satisfies the bill's informed consent compliance requirements. After an ambulatory surgical facility is licensed, failure to comply with the requirements results in a violation of statute for which the Director may impose any or all of the sanctions specified above.

Use of funds from civil penalties

(sec. 3702.31)

The bill requires that moneys collected from imposition of civil penalties be used by the Director in administering and enforcing the health care facility licensing program. The money may also be used in administering and enforcing provisions of current law that require health care providers of certain specialized services to meet safety and quality-of-care standards established in rules adopted by the Director.¹

Injunctions

(sec. 3702.32(B) and (D))

If a health care facility does not comply with an order issued by the Director requiring the facility to cease its operations or prohibiting the facility from performing certain types of services, the bill authorizes the Director to seek

¹ *The health care services that must meet safety and quality-of-care standards are solid organ and bone marrow transplantation, stem cell harvesting and reinfusion, cardiac catheterization, open-heart surgery, obstetric and newborn care, pediatric intensive care, operation of linear accelerators, operation of cobalt radiation therapy units, and operation of gamma knives.*

an injunction enjoining the facility from not complying with the order. The petition for the injunction must be filed in the court of common pleas of the county in which the health care facility is located. The bill requires the court to grant an injunction on a showing that the facility is operating without a license or is providing the types of services prohibited by the Director's order.

References to original rules

(sec. 3702.30)

The bill eliminates provisions that refer to the deadlines that applied to the original adoption of rules establishing quality standards for health care facilities.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-06-01	p. 626
Reported, S. Health, Human Services & Aging	---	---

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