



Sub. S.B. 126
126th General Assembly
(As Passed by the General Assembly)

Sens. Wachtmann, Stivers

Reps. Cassell, Combs, Daniels, DeBose, C. Evans, Luckie, Seaver, G. Smith, J. Stewart

Effective date: *

ACT SUMMARY

County hospitals

- Permits vacancies on a board of county hospital trustees to be filled by seeking nominations from a selection committee consisting of the board's chair, the county hospital administrator, and one county commissioner.
- Requires the appointing authority to fill each vacancy within six months, and if the vacancy remains unfilled, provides for the vacancy to be filled by the remaining members of the board of county hospital trustees.
- Permits up to two physicians at a time to serve as members of a board of county hospital trustees.
- Authorizes the removal of a board member for neglect of duty, misconduct, or malfeasance in office.
- Modifies the November and December deadlines for submission and approval of a budget for the county hospital by (1) requiring the board of county hospital trustees to submit its proposed budget at least 60 days before the beginning of the fiscal year used by the hospital and (2)

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

requiring the board of county commissioners to review and approve the budget by the first day of that fiscal year.

- Provides for the "deemed" approval of a county hospital's proposed budget if the board of county commissioners has not approved the budget by the first day of the fiscal year used by the hospital.
- Eliminates the duty of the board of county hospital trustees to file an annual report of revenues and expenditures with the board of county commissioners, and instead, requires the board of county hospital trustees to provide for an annual financial audit of the county hospital and to submit a copy of the audit to the board of county commissioners.
- Specifies that the authority of the board of county hospital trustees to make capital improvements includes the purchase of vehicles.
- Eliminates the requirement that a county election be held to approve a resolution adopted by the board of county commissioners authorizing an initial agreement for acquisition, operation, or lease of a county hospital.
- Specifies that the authority of the board of county hospital trustees to provide health, liability, and other insurance for the board's employees also applies with regard to the county hospital's employees.
- Makes technical and clarifying changes to the laws governing county hospitals.

Nurses

- Modifies the duties of licensed practical nurses and registered nurses.

Disclosure of personal information

- Exempts persons, entities, state agencies, and agencies of political subdivisions that are "covered entities" under the federal Health Insurance Portability and Accountability Act (HIPAA), from the disclosure requirement related to unauthorized access to personal information.

CONTENT AND OPERATION

COUNTY HOSPITALS

Boards of county hospital trustees

(R.C. 339.02 and 339.03(D))

Continuing law unchanged by the act provides for the establishment of a board of county hospital trustees to govern the operation of a county hospital. Appointments to the board are made by the board of county commissioners, together with the county's probate judge senior in point of service and the county's judge of the court of common pleas senior in point of service. Members serve for six-year terms, which expire on a staggered schedule. Vacancies must be filled each year on the first Monday in March.

The act, in summary, (1) authorizes the use of a selection committee to nominate individuals for board appointment, (2) establishes a deadline for filling vacancies, (3) permits the appointment of physicians, (4) specifies different reasons for which a member may be removed from office, and (5) clarifies the length of a member's term when filling an unexpired term.

Selection committee

(R.C. 339.02(F)(3))

The act permits the appointing authority to fill a vacancy on a board of county hospital trustees by seeking nomination from a selection committee. The selection committee must consist of the following:

- (1) One county commissioner designated by the board of county commissioners;
- (2) The chair of the board of county hospital trustees;
- (3) The county hospital administrator.

If nominations for filling a vacancy are sought from a selection committee, the committee must nominate at least three individuals. The appointing authority is permitted to fill the vacancy by appointing one of the nominees or by appointing another individual selected by the appointing authority.

Deadline for filling vacancies

(R.C. 339.02(F)(2))

The act requires the appointing authority to fill a vacancy on a board of county hospital trustees not later than six months after the vacancy occurs. If the vacancy remains unfilled on that date, the remaining members of the board, by majority vote, must appoint an individual to fill the vacancy.

Appointment of physicians

(R.C. 339.02(C)(3))

The act authorizes the appointment of a physician to serve as a member of a board of county hospital trustees, including a physician who is authorized to admit and treat patients at the hospital. The authority to appoint a physician is limited, however, by the following conditions: (1) not more than two physicians may serve as members at the same time and (2) no physician who is employed by the hospital may serve as a member.

Removal from office

(R.C. 339.02(H))

Under former law, a member of a board of county hospital trustees could be removed from office by the appointing authority for either of the following reasons: (1) causes that impaired faithful, efficient, and intelligent administration, or (2) conduct unbecoming to the office. Written charges were required to be initiated by the appointing authority or the board of county hospital trustees. The member had to be given an opportunity to be heard before the appointing authority. Members were not to be removed for political reasons.

The act permits the appointing authority to remove a member from office for neglect of duty, misconduct, or malfeasance in office. As under former law, the member must be informed in writing of the charges and afforded an opportunity for a hearing before the appointing authority; however, the act does not limit the entities that may initiate the charges to the appointing authority or the board of county hospital trustees. The act maintains the prohibition against removing a member for political reasons.

Unexpired terms

(R.C. 339.02(F)(4))

Prior law required the appointing authority of a board of county hospital trustees to fill all vacancies that resulted from the death, resignation, or removal of a board member from office.

The act eliminates the reasons that may result in an unexpired term, but clarifies that a member who is appointed to fill an unexpired term is to hold office for the remainder of that term.

Budget approval

(R.C. 339.06(D)(3) and (4))

Annually, by the first day of November, the board of county hospital trustees was required by former law to submit its proposed budget for the ensuing fiscal year to the board of county commissioners for approval. The board of county commissioners was required to approve a budget for the county hospital by the first day of December. The board of county commissioners was permitted to require the board of county hospital trustees to revise the proposed budget.

The act eliminates the November and December deadlines for submission and approval of the county hospital's budget. Instead, it requires the board of county hospital trustees to submit its proposed budget not later than 60 days before the end of the fiscal year used by the county hospital. The board of county commissioners must review and approve the proposed budget. The act requires the board of county commissioners to approve the proposed budget by the first day of the fiscal year to which the budget applies. If the board has not approved the budget by the first day of the applicable fiscal year, the act provides that the budget is "deemed" to have been approved by the board on that date. However the act provides that at any time the amount received from a tax levy or appropriation of the board of county commissioners differs from the amount shown in the approved budget, the board of county commissions may require the board of county hospital trustees to revise the county hospital budget accordingly.

Financial reports

(R.C. 339.06(D)(8))

Prior law required the board of county hospital trustees to file an annual report of revenues and expenditures for the fiscal year. The report was required to be filed with the board of county commissioners within 90 days after the fiscal year's end.

The act, instead, requires the board of county hospital trustees to provide for the conduct of an annual financial audit of the county hospital. Not later than 30 days after it receives the final report of the audit, the board must file a copy of the report with the board of county commissioners.

Purchase of vehicles

(R.C. 339.03)

Continuing law unchanged by the act permits a board of county hospital trustees to make capital improvements, including the purchase of equipment. The improvements can be financed through hospital revenues and other hospital funds.

The act specifies that the board's authority to make capital improvements includes the purchase of vehicles.

Agreements for acquisition, operation, or lease of a county hospital

(R.C. 339.091 and 339.092 (repealed); 140.03, 140.05, 339.09, 339.14, and 339.17)

Unless there was another general hospital operating in the county, former law required an initial agreement for the acquisition, operation, or lease of a county hospital to be approved by the board of county commissioners and the electors of the county. Specifically, before the agreement could be entered into, the board of county commissioners had to review the agreement. If the board found that the agreement met the needs of the county's residents for hospital service, it could adopt a resolution authorizing the agreement. The authorization became effective only if it is approved by the electors of the county. Procedures for providing public notice and conducting the election had to be followed.

The act eliminates the requirement that a county election be held to approve the board's resolution authorizing an initial agreement for acquisition, operation, or lease of a county hospital. It retains the board's duty to review the agreement, but specifies the documents that must be submitted to the board for its review and expressly provides that the agreement may be entered into only if the board adopts a resolution authorizing the agreement.

Health and liability insurance

(R.C. 339.16)

Law unchanged by the act permits a board of county hospital trustees to provide health and other insurance as fringe benefits for any or all of its employees

and their immediate dependents. Similarly, it permits the board to provide liability insurance for its trustees and employees.

The act specifies that the board's authority to provide these fringe benefits also applies to the employees of the county hospital.

Technical and clarifying provisions

The act includes provisions for purposes of making technical and clarifying modifications to the laws governing county hospitals. In addition to making technical and clarifying changes in the provisions described above, the act does the following:

(1) Clarifies the duty to provide notice to the board of county commissioners when adding an out-of-county outpatient facility (R.C. 339.01);

(2) Clarifies that provisions of continuing law describing the organization of a board of county hospital trustees are ongoing requirements, and are not limited to the original appointment of the board (R.C. 339.02);

(3) Relocates provisions of continuing law describing the membership and powers of a board of county hospital trustees (R.C. 339.02(C)(1) to (3) and (I), 339.03, and 339.06(L));

(4) Coordinates statutory cross-references to correspond with other changes in the act (R.C. 133.07 and 325.19).

NURSES

Nurse duties

(R.C. 4723.01 and 4723.32)

The act made two changes to the law governing the practice of nursing by modifying the definition of the phrase, "practice of nursing as a licensed practical nurse," and clarifying who can supervise a nursing student's practice of nursing while the student is enrolled in and actively pursuing completion of a prelicensure nursing education program.

Licensed practical nurses

Current law defines the "practice of nursing as a licensed practical nurse" to include the following:

(1) Observation, patient teaching, and care in a diversity of health care settings;

(2) Contributions to the planning, implementation, and evaluation of nursing;

(3) Administration of medications and treatments under certain circumstances and with appropriate training;

(4) Administration to an adult of intravenous therapy under certain circumstances and with appropriate training.

The act adds the following to the definition of "practice of nursing as a licensed practical nurse":

(1) Delegation of nursing tasks as directed by a registered nurse;

(2) Teaching nursing tasks to licensed practical nurses and individuals to whom the licensed practical nurse is authorized to delegate nursing tasks as directed by a registered nurse.

Nursing students

(R.C. 4723.32)

Under law unchanged by the act, a nursing student who is enrolled in and actively pursuing completion of a prelicensure nursing education program¹ approved by the Board of Nursing may practice nursing if the student's practice is under the auspices of the education program. Former law also required that the student's practice be under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, *or* preceptor.

Administrative rules adopted by the Board define a "preceptor" as a licensed nurse who meets the requirements of the law governing nurses (R.C. Chapter 4723.); who provides supervision of a nursing student's clinical experience at the clinical agency in which the preceptor is employed, to no more than two students at any one time; and who implements the clinical education plan at the direction of a faculty member participating in the course in which the

¹ Rules adopted by the Board of Nursing specify that a "prelicensure nursing education program" can be a practical nursing education program (a program that leads to initial licensure as a practical nurse) or a professional nursing education program (a program that leads to initial licensure as a registered nurse (Ohio Administrative Code 4723-5-01(W), (Y), and (Z))).

student is enrolled.² A "licensed nurse" can be a registered nurse or a licensed practical nurse who holds a current valid license to practice nursing in Ohio.³

The act eliminates the reference to "preceptor" in the law governing who can supervise a nursing student while the student practices nursing, thereby requiring that a nursing student (whether seeking licensure as a registered nurse or a practical nurse) act under the supervision of a registered nurse serving for the prelicensure nursing education program as a faculty member or teaching assistant when the nursing student practices nursing. It also clarifies that a preceptor (who, under rules, can be a registered nurse or a practical nurse) is not a person who can supervise a nursing student while the student practices nursing.

DISCLOSURE OF PERSONAL INFORMATION

Exemption from disclosure requirement

(R.C. 1347.12 and 1349.19)

Law unchanged by the act requires any person that owns or licenses computerized data to notify Ohio residents if personal information about them contained in the data is accessed and acquired by an unauthorized person and the access and acquisition causes or reasonably is believed will cause a material risk of identity fraud or other theft. A similar notification requirement applies to state or local agencies that are the custodians of or store computerized data. Exempted from these requirements are persons or entities that are regulated by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated under this law.

The act modifies the exemption to apply only to persons, entities, state agencies, and local agencies that are "covered entities"⁴ under HIPAA regulations (as opposed to every person or entity regulated by HIPAA). HIPAA regulations already require a covered entity to implement policies and procedures to address security breaches; identify and respond to suspected or known security breaches;

² O.A.C. 4723-5-01(X).

³ O.A.C. 4723-4-01(B)(7).

⁴ Federal regulations define a "covered entity" as a health plan, health care clearinghouse, or health care provider who transmits any information in electronic form in connection with a transaction related to health care (45 Code of Federal Regulations 160.103).

mitigate, to the extent possible, harmful effects of security breaches that are known; and document security breaches and their outcomes.⁵

HISTORY

ACTION	DATE
Introduced	04-19-05
Reported, S. Health, Human Services & Aging	05-18-06
Passed Senate (33-0)	05-24-06
Reported, H. Health	12-13-06
Passed House (93-0)	12-19-06
Senate concurred in House amendments (33-0)	12-19-06

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⁵ 45 C.F.R. 164.308(a)(6)(i) and (ii).