

**As Introduced**

**127th General Assembly  
Regular Session  
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**H. B. No. 571**

**Representative Yates**

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**A B I L L**

To amend sections 3702.51, 3702.511, and 3702.52 of 1  
the Revised Code to restore the Certificate of 2  
Need Program for the construction of new hospitals 3  
and the conduct of other health-related 4  
activities. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3702.51, 3702.511, and 3702.52 of 6  
the Revised Code be amended to read as follows: 7

**Sec. 3702.51.** As used in sections 3702.51 to 3702.62 of the 8  
Revised Code: 9

(A) "Applicant" means any person that submits an application 10  
for a certificate of need and who is designated in the application 11  
as the applicant. 12

(B) "Person" means any individual, corporation, business 13  
trust, estate, firm, partnership, association, joint stock 14  
company, insurance company, government unit, or other entity. 15

(C) "Certificate of need" means a written approval granted by 16  
the director of health to an applicant to authorize conducting a 17  
reviewable activity. 18

(D) "Health service area" means a geographic region 19

designated by the director of health under section 3702.58 of the Revised Code. 20  
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(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service. 22  
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(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code. 24  
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(G) "Health care facility" means: 27

(1) A hospital registered under section 3701.07 of the Revised Code; 28  
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~~(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;~~ 30  
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~~(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended long-term care facility;~~ 33  
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~~(4)~~(3) A freestanding dialysis center; 37

~~(5)~~(4) A freestanding inpatient rehabilitation facility; 38

~~(6)~~(5) An ambulatory surgical facility; 39

~~(7)~~(6) A freestanding cardiac catheterization facility; 40

~~(8)~~(7) A freestanding birthing center; 41

~~(9)~~(8) A freestanding or mobile diagnostic imaging center; 42

~~(10)~~(9) A freestanding radiation therapy center. 43

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and 44  
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for whom the acceptance of medical care is inconsistent with their 49  
religious beliefs, accredited by a national accrediting 50  
organization, exempt from federal income taxation under section 51  
501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 52  
U.S.C.A. 1, as amended, and providing twenty-four hour nursing 53  
care pursuant to the exemption in division (E) of section 4723.32 54  
of the Revised Code from the licensing requirements of Chapter 55  
4723. of the Revised Code. 56

(H) "Medical equipment" means a single unit of medical 57  
equipment or a single system of components with related functions 58  
that is used to provide health services. 59

(I) "Third-party payer" means a health insuring corporation 60  
licensed under Chapter 1751. of the Revised Code, a health 61  
maintenance organization as defined in division (K) of this 62  
section, an insurance company that issues sickness and accident 63  
insurance in conformity with Chapter 3923. of the Revised Code, a 64  
state-financed health insurance program under Chapter 3701., 65  
4123., or 5111. of the Revised Code, or any self-insurance plan. 66

(J) "Government unit" means the state and any county, 67  
municipal corporation, township, or other political subdivision of 68  
the state, or any department, division, board, or other agency of 69  
the state or a political subdivision. 70

(K) "Health maintenance organization" means a public or 71  
private organization organized under the law of any state that is 72  
qualified under section 1310(d) of Title XIII of the "Public 73  
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 74

(L) "Existing health care facility" means either of the 75  
following: 76

(1) A health care facility that is licensed or otherwise 77  
authorized to operate in this state in accordance with applicable 78  
law, is staffed and equipped to provide health care services, and 79

is actively providing health services;	80
(2) A health care facility that is licensed or has beds	81
registered under section 3701.07 of the Revised Code as skilled	82
nursing beds or long-term care beds and has provided services for	83
at least three hundred sixty-five consecutive days within the	84
twenty-four months immediately preceding the date a certificate of	85
need application is filed with the director of health.	86
(M) "State" means the state of Ohio, including, but not	87
limited to, the general assembly, the supreme court, the offices	88
of all elected state officers, and all departments, boards,	89
offices, commissions, agencies, institutions, and other	90
instrumentalities of the state of Ohio. "State" does not include	91
political subdivisions.	92
(N) "Political subdivision" means a municipal corporation,	93
township, county, school district, and all other bodies corporate	94
and politic responsible for governmental activities only in	95
geographic areas smaller than that of the state to which the	96
sovereign immunity of the state attaches.	97
(O) "Affected person" means:	98
(1) An applicant for a certificate of need, including an	99
applicant whose application was reviewed comparatively with the	100
application in question;	101
(2) The person that requested the reviewability ruling in	102
question;	103
(3) Any person that resides or regularly uses health care	104
facilities within the geographic area served or to be served by	105
the health care services that would be provided under the	106
certificate of need or reviewability ruling in question;	107
(4) Any health care facility that is located in the health	108
service area where the health care services would be provided	109

under the certificate of need or reviewability ruling in question;	110
(5) Third-party payers that reimburse health care facilities	111
for services in the health service area where the health care	112
services would be provided under the certificate of need or	113
reviewability ruling in question;	114
(6) Any other person who testified at a public hearing held	115
under division (B) of section 3702.52 of the Revised Code or	116
submitted written comments in the course of review of the	117
certificate of need application in question.	118
(P) "Osteopathic hospital" means a hospital registered under	119
section 3701.07 of the Revised Code that advocates osteopathic	120
principles and the practice and perpetuation of osteopathic	121
medicine by doing any of the following:	122
(1) Maintaining a department or service of osteopathic	123
medicine or a committee on the utilization of osteopathic	124
principles and methods, under the supervision of an osteopathic	125
physician;	126
(2) Maintaining an active medical staff, the majority of	127
which is comprised of osteopathic physicians;	128
(3) Maintaining a medical staff executive committee that has	129
osteopathic physicians as a majority of its members.	130
(Q) "Ambulatory surgical facility" has the same meaning as in	131
section 3702.30 of the Revised Code.	132
(R) Except as otherwise provided in division (T) of this	133
section, <del>and until the termination date specified in <u>division (B)</u></del>	134
<del>of</del> section 3702.511 of the Revised Code, "reviewable activity"	135
means any of the following:	136
(1) The addition by any person of any of the following health	137
services, regardless of the amount of operating costs or capital	138
expenditures:	139

(a) A heart, heart-lung, lung, liver, kidney, bowel,	140
pancreas, or bone marrow transplantation service, a stem cell	141
harvesting and reinfusion service, or a service for	142
transplantation of any other organ unless transplantation of the	143
organ is designated by public health council rule not to be a	144
reviewable activity;	145
(b) A cardiac catheterization service;	146
(c) An open-heart surgery service;	147
(d) Any new, experimental medical technology that is	148
designated by rule of the public health council.	149
(2) The acceptance of high-risk patients, as defined in rules	150
adopted under section 3702.57 of the Revised Code, by any cardiac	151
catheterization service that was initiated without a certificate	152
of need pursuant to division (R)(3)(b) of the version of this	153
section in effect immediately prior to April 20, 1995;	154
(3)(a) The establishment, development, or construction of a	155
new health care facility other than a new long-term care facility	156
or a new hospital;	157
(b) The establishment, development, or construction of a new	158
hospital or the relocation of an existing hospital;	159
(c) The relocation of hospital beds, other than long-term	160
care, perinatal, or pediatric intensive care beds, into or out of	161
a rural area.	162
(4)(a) The replacement of an existing hospital;	163
(b) The replacement of an existing hospital obstetric or	164
newborn care unit or freestanding birthing center.	165
(5)(a) The renovation of a hospital that involves a capital	166
expenditure, obligated on or after June 30, 1995, of five million	167
dollars or more, not including expenditures for equipment,	168
staffing, or operational costs. For purposes of division (R)(5)(a)	169

of this section, a capital expenditure is obligated:	170
(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;	171 172 173
(ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor;	174 175 176
(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.	177 178
(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.	179 180 181 182
(6) Any change in the health care services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, <del>if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;</del>	183 184 185 186 187 188
(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:	189 190
(a) An increase in bed capacity;	191
(b) A change in service or service-level designation of newborn care beds or obstetric beds in a hospital or freestanding birthing center, other than a change of service that is provided within the service-level designation of newborn care or obstetric beds as registered by the department of health;	192 193 194 195 196
(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing	197 198 199

center or the relocation of beds among buildings of a hospital or 200  
freestanding birthing center at the same site. 201

(8) The expenditure of more than one hundred ten per cent of 202  
the maximum expenditure specified in a certificate of need; 203

(9) Any transfer of a certificate of need issued prior to 204  
April 20, 1995, from the person to whom it was issued to another 205  
person before the project that constitutes a reviewable activity 206  
is completed, any agreement that contemplates the transfer of a 207  
certificate of need issued prior to that date upon completion of 208  
the project, and any transfer of the controlling interest in an 209  
entity that holds a certificate of need issued prior to that date. 210  
However, the transfer of a certificate of need issued prior to 211  
that date or agreement to transfer such a certificate of need from 212  
the person to whom the certificate of need was issued to an 213  
affiliated or related person does not constitute a reviewable 214  
transfer of a certificate of need for the purposes of this 215  
division, unless the transfer results in a change in the person 216  
that holds the ultimate controlling interest in the certificate of 217  
need. 218

(10)(a) The acquisition by any person of any of the following 219  
medical equipment, regardless of the amount of operating costs or 220  
capital expenditure: 221

(i) A cobalt radiation therapy unit; 222

(ii) A linear accelerator; 223

(iii) A gamma knife unit. 224

(b) The acquisition by any person of medical equipment with a 225  
cost of two million dollars or more. The cost of acquiring medical 226  
equipment includes the sum of the following: 227

(i) The greater of its fair market value or the cost of its 228  
lease or purchase; 229



(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	230 231 232
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	233 234
(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, <del>none of which are subject to a termination date:</del>	235 236 237
(1) The establishment, development, or construction of a new long-term care facility;	238 239
(2) The replacement of an existing long-term care facility;	240
(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;	241 242 243 244
(4) Any of the following changes in long-term care bed capacity:	245 246
(a) An increase in bed capacity;	247
(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;	248 249 250 251
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	252 253 254
(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of	255 256 257 258 259

the reviewable activity for which the certificate was granted;	260
(6) The expenditure of more than one hundred ten per cent of	261
the maximum expenditure specified in a certificate of need	262
concerning long-term care beds;	263
(7) Any transfer of a certificate of need that concerns	264
long-term care beds and was issued prior to April 20, 1995, from	265
the person to whom it was issued to another person before the	266
project that constitutes a reviewable activity is completed, any	267
agreement that contemplates the transfer of such a certificate of	268
need upon completion of the project, and any transfer of the	269
controlling interest in an entity that holds such a certificate of	270
need. However, the transfer of a certificate of need that concerns	271
long-term care beds and was issued prior to April 20, 1995, or	272
agreement to transfer such a certificate of need from the person	273
to whom the certificate was issued to an affiliated or related	274
person does not constitute a reviewable transfer of a certificate	275
of need for purposes of this division, unless the transfer results	276
in a change in the person that holds the ultimate controlling	277
interest in the certificate of need.	278
(T) "Reviewable activity" does not include any of the	279
following activities:	280
(1) Acquisition of computer hardware or software;	281
(2) Acquisition of a telephone system;	282
(3) Construction or acquisition of parking facilities;	283
(4) Correction of cited deficiencies that are in violation of	284
federal, state, or local fire, building, or safety laws and rules	285
and that constitute an imminent threat to public health or safety;	286
(5) Acquisition of an existing health care facility that does	287
not involve a change in the number of the beds, by service, or in	288
the number or type of health services;	289

(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;	290 291 292 293
(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;	294 295 296
(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;	297 298 299 300
(9) Construction, repair, or renovation of bathroom facilities;	301 302
(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;	303 304 305 306
(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.	307 308 309 310 311 312 313 314 315
(12) Removal of asbestos from a health care facility.	316
Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.	317 318
(U) "Small rural hospital" means a hospital that is located	319

within a rural area, has fewer than one hundred beds, and to which 320  
fewer than four thousand persons were admitted during the most 321  
recent calendar year. 322

(V) "Children's hospital" means any of the following: 323

(1) A hospital registered under section 3701.07 of the 324  
Revised Code that provides general pediatric medical and surgical 325  
care, and in which at least seventy-five per cent of annual 326  
inpatient discharges for the preceding two calendar years were 327  
individuals less than eighteen years of age; 328

(2) A distinct portion of a hospital registered under section 329  
3701.07 of the Revised Code that provides general pediatric 330  
medical and surgical care, has a total of at least one hundred 331  
fifty registered pediatric special care and pediatric acute care 332  
beds, and in which at least seventy-five per cent of annual 333  
inpatient discharges for the preceding two calendar years were 334  
individuals less than eighteen years of age; 335

(3) A distinct portion of a hospital, if the hospital is 336  
registered under section 3701.07 of the Revised Code as a 337  
children's hospital and the children's hospital meets all the 338  
requirements of division (V)(1) of this section. 339

(W) "Long-term care facility" means any of the following: 340

(1) A nursing home licensed under section 3721.02 of the 341  
Revised Code or by a political subdivision certified under section 342  
3721.09 of the Revised Code; 343

(2) The portion of any facility, including a county home or 344  
county nursing home, that is certified as a skilled nursing 345  
facility or a nursing facility under Title XVIII or XIX of the 346  
"Social Security Act"; 347

(3) The portion of any hospital that contains beds registered 348  
under section 3701.07 of the Revised Code as skilled nursing beds 349

or long-term care beds. 350

(X) "Long-term care bed" means a bed in a long-term care 351  
facility. 352

(Y) "Perinatal bed" means a bed in a hospital that is 353  
registered under section 3701.07 of the Revised Code as a newborn 354  
care bed or obstetric bed, or a bed in a freestanding birthing 355  
center. 356

(Z) "Freestanding birthing center" means any facility in 357  
which deliveries routinely occur, regardless of whether the 358  
facility is located on the campus of another health care facility, 359  
and which is not licensed under Chapter 3711. of the Revised Code 360  
as a level one, two, or three maternity unit or a limited 361  
maternity unit. 362

(AA)(1) "Reviewability ruling" means a ruling issued by the 363  
director of health under division (A) of section 3702.52 of the 364  
Revised Code as to whether a particular proposed project is or is 365  
not a reviewable activity. 366

(2) "Nonreviewability ruling" means a ruling issued under 367  
that division that a particular proposed project is not a 368  
reviewable activity. 369

(BB)(1) "Metropolitan statistical area" means an area of this 370  
state designated a metropolitan statistical area or primary 371  
metropolitan statistical area in United States office of 372  
management and budget bulletin ~~no.~~ no. 93-17, June 30, 1993, and 373  
its attachments. 374

(2) "Rural area" means any area of this state not located 375  
within a metropolitan statistical area. 376

**Sec. 3702.511. ~~Activities~~ (A) Except as provided in division 377  
(B) of this section, activities specified in division (R) of 378  
section 3702.51 of the Revised Code ~~shall cease~~ that ceased to be 379**

reviewable activities in accordance with this section- 380

~~(A) The activities specified in divisions (R)(1)(a) to (c), 381  
(2), (4)(b), (5)(b), (7), (10)(a), and (11) of section 3702.51 of 382  
the Revised Code cease to be reviewable activities as follows: 383~~

~~(1) Except as provided in division (A)(2) of this section, if 384  
initial rules adopted under section 3702.11 of the Revised Code 385  
take effect prior to May 1, 1997, for any service specified in 386  
that section, all activities related to that service cease to be 387  
reviewable activities one year after the effective date of the 388  
rules; 389~~

~~(2) If the director of health fails to file proposed initial 390  
rules in accordance with section 119.03 of the Revised Code prior 391  
to May 1, 1996, for any service specified in section 3702.11 of 392  
the Revised Code, all activities related to that service cease to 393  
be reviewable activities May 1, 1997; 394~~

~~(3) If initial rules for any service specified in section 395  
3702.11 of the Revised Code do not take effect prior to May 1, 396  
1997, all activities related to that service cease to be 397  
reviewable activities May 1, 1997. 398~~

~~(B) The activities specified in divisions (R)(1)(d), (3)(b), 399  
(3)(c), (4)(a), (5)(a), and (10)(b) of section 3702.51 of the 400  
Revised Code cease to be reviewable activities May 1, 1997. 401~~

~~(C) The activity specified in division (R)(3)(a) of section 402  
3702.51 of the Revised Code ceases to be a reviewable activity 403  
March 31, 1996, if conducted within a metropolitan statistical 404  
area, and May 1, 1997, if conducted within a rural area. 405~~

~~(D) The activities specified in divisions (R)(6), (8), and 406  
(9) of section 3702.51 of the Revised Code pertain to 407  
implementation of reviewable activities for which a certificate of 408  
need has been granted. When an activity described in division 409  
(R)(1), (2), (3), (4), (5), (7), (10), or (11) of that section 410~~

~~ceases to be a reviewable activity, divisions (R)(6), (8), and (9)~~ 411  
~~cease to pertain to that activity as it existed immediately prior~~ 412  
~~to the effective date of this amendment are reviewable activities~~ 413  
~~on and after the effective date of this amendment.~~ 414

(B) An activity specified in division (R) of section 3702.51 415  
of the Revised Code that ceased to be a reviewable activity in 416  
accordance with this section as it existed immediately prior to 417  
the effective date of this amendment remains not reviewable if 418  
either of the following applies: 419

(1) The activity was completed prior to the effective date of 420  
this amendment and retains the character it had at the time it was 421  
completed. 422

(2) The activity was commenced but not completed prior to the 423  
effective date of this amendment, as long as the entity conducting 424  
the activity meets the same requirements that would apply under 425  
section 3702.525 of the Revised Code if a certificate of need had 426  
been granted for the activity on the effective date of this 427  
amendment. 428

**Sec. 3702.52.** The director of health shall administer a state 429  
certificate of need program in accordance with sections 3702.51 to 430  
3702.62 of the Revised Code and rules adopted under those 431  
sections. 432

(A) The director shall issue rulings on whether a particular 433  
proposed project is a reviewable activity. The director shall 434  
issue a ruling not later than forty-five days after receiving a 435  
request for a ruling accompanied by the information needed to make 436  
the ruling. If the director does not issue a ruling in that time, 437  
the project shall be considered to have been ruled not a 438  
reviewable activity. 439

(B) The director shall review applications for certificates 440

of need. Each application shall be submitted to the director on 441  
forms prescribed by the director, shall include all information 442  
required by rules adopted under division (B) of section 3702.57 of 443  
the Revised Code, and shall be accompanied by the application fee 444  
established in rules adopted under division (G) of that section. 445  
Application fees received by the director under this division 446  
shall be deposited into the state treasury to the credit of the 447  
certificate of need fund, which is hereby created. The director 448  
shall use the fund only to pay the costs of administering sections 449  
3702.51 to 3702.62 of the Revised Code and rules adopted under 450  
those sections. 451

The director shall mail to the applicant a written notice 452  
that the application meets the criteria for a complete application 453  
specified in rules adopted under section 3702.57 of the Revised 454  
Code, or a written request for additional information, not later 455  
than fifteen days after receiving an application or a response to 456  
an earlier request for information. The director shall not make 457  
more than two requests for additional information. 458

The director may conduct a public informational hearing in 459  
the course of reviewing any application for a certificate of need, 460  
and shall conduct one if requested to do so by any affected person 461  
not later than fifteen days after the director mails the notice 462  
that the application is complete. The hearing shall be conducted 463  
in the community in which the activities authorized by the 464  
certificate of need would be carried out. Any affected person may 465  
testify at the hearing. The director may, with the health service 466  
agency's consent, designate a health service agency to conduct the 467  
hearing. 468

Except during a public hearing or as necessary to comply with 469  
a subpoena issued under division (F) of this section, after a 470  
notice of completeness has been received, no person shall 471  
knowingly discuss in person or by telephone the merits of the 472



application with the director. If one or more persons request a 473  
meeting in person or by telephone, the director shall make a 474  
reasonable effort to invite interested parties to the meeting or 475  
conference call. 476

(C) Divisions (C)(1) to (7) of this section apply to 477  
certificate of need applications for which the director had not 478  
issued a written decision prior to April 20, 1995, unless the 479  
director was required, under the version of this section in effect 480  
immediately prior to June 30, 1995, to grant a certificate of need 481  
prior to June 30, 1995, because of a lack of written objections 482  
from any affected person. Divisions (C)(1) to (7) of this section 483  
do not invalidate any certificate of need that the director was 484  
required to grant prior to June 30, 1995, under that circumstance. 485

(1) The director shall grant a certificate of need for the 486  
entire project that is the subject of the application immediately 487  
after both of the following conditions are met: 488

(a) The board of trustees of the health service agency of the 489  
health service area in which the reviewable activity is proposed 490  
to be conducted recommends, prior to the deadline specified in 491  
division (C)(4) of this section or any extension of it under 492  
division (C)(5) of this section, that the certificate of need be 493  
granted; 494

(b) The director receives no written objections to the 495  
application from any affected person by the later of May 20, 1995, 496  
or thirty days after the director mails the notice of 497  
completeness. 498

(2) In the case of applications under comparative review, the 499  
director shall grant certificates of need for the entire projects 500  
that are the subject of the applications immediately after both of 501  
the following conditions are met: 502

(a) The board of trustees of the health service agency of 503

each health service area in which the reviewable activities are 504  
proposed to be conducted recommends, prior to the deadline 505  
specified in division (C)(4) of this section or any extension of 506  
it under division (C)(5) of this section, that certificates of 507  
need be granted for each of the reviewable activities to be 508  
conducted in its health service area; 509

(b) The director receives no written objections to any of the 510  
applications from any affected person by the later of May 20, 511  
1995, or thirty days after the director mails the last notice of 512  
completeness. 513

The director's grant of a certificate of need under division 514  
(C)(1) or (2) of this section does not affect, and sets no 515  
precedent for, the director's decision to grant or deny other 516  
applications for similar reviewable activities proposed to be 517  
conducted in the same or different health service areas. 518

(3) If the director receives written objections to an 519  
application from any affected person by the later of May 20, 1995, 520  
or thirty days after mailing the notice of completeness, 521  
regardless of the health service agency's recommendation, the 522  
director shall notify the applicant and assign a hearing examiner 523  
to conduct an adjudication hearing concerning the application in 524  
accordance with Chapter 119. of the Revised Code. In the case of 525  
applications under comparative review, if the director receives 526  
written objections to any of the applications from any affected 527  
person by the later of May 20, 1995, or thirty days after the 528  
director mails the last notice of completeness, regardless of the 529  
health service agencies' recommendation, the director shall notify 530  
all of the applicants and appoint a hearing examiner to conduct a 531  
consolidated adjudication hearing concerning the applications in 532  
accordance with Chapter 119. of the Revised Code. The hearing 533  
examiner shall be employed by or under contract with the 534  
department of health. 535

The adjudication hearings may be conducted in the health 536  
service area in which the reviewable activity is proposed to be 537  
conducted. Consolidated adjudication hearings for applications in 538  
comparative review may be conducted in the geographic region in 539  
which all of the reviewable activities will be conducted. The 540  
applicant, the director, and the affected persons that filed 541  
objections to the application shall be parties to the hearing. If 542  
none of the affected persons that submitted written objections to 543  
the application appears or prosecutes the hearing, the hearing 544  
examiner shall dismiss the hearing and the director shall grant a 545  
certificate of need for the entire project that is the subject of 546  
the application. The affected persons bear the burden of proving 547  
by a preponderance of evidence that the project is not needed or 548  
that granting the certificate would not be in accordance with 549  
sections 3702.51 to 3702.62 of the Revised Code or the rules 550  
adopted under section 3702.57 of the Revised Code. 551

(4) Except as provided in divisions (C)(1) and (2) of this 552  
section, the director shall grant or deny certificate of need 553  
applications for which an adjudication hearing is not conducted 554  
under division (C)(3) of this section not later than ninety days 555  
after mailing the notice of completeness or, in the case of an 556  
application proposing addition of long-term care beds, not later 557  
than ninety days after such other time as is specified in rules 558  
adopted under section 3702.57 of the Revised Code. The director 559  
shall grant or deny certificate of need applications for which an 560  
adjudication hearing is conducted under division (C)(3) of this 561  
section not later than thirty days after the expiration of the 562  
time for filing objections to the report and recommendation of the 563  
hearing examiner under section 119.09 of the Revised Code. The 564  
director shall base decisions concerning applications for which an 565  
adjudication hearing is conducted under division (C)(3) of this 566  
section on the report and recommendations of the hearing examiner. 567

(5) Except as otherwise provided in division (C)(1), (2), or 568  
(6) of this section, the director or the applicant may extend the 569  
deadline prescribed in division (C)(4) of this section once, for 570  
no longer than thirty days, by written notice before the end of 571  
the original thirty-day period. An extension by the director under 572  
division (C)(5) of this section shall apply to all applications 573  
that are in comparative review. 574

(6) No applicant in a comparative review may extend the 575  
deadline specified in division (C)(4) of this section. 576

(7) Except as provided in divisions (C)(1) and (2) of this 577  
section, the director may grant a certificate of need for all or 578  
part of the project that is the subject of an application. If the 579  
director does not grant or deny the certificate by the applicable 580  
deadline specified in division (C)(4) of this section or any 581  
extension of it under division (C)(5) of this section, the 582  
certificate shall be considered to have been granted. The 583  
director, in reviewing certificate of need applications for solid 584  
organ transplantation services, may ask for assistance from a 585  
statewide transplantation advisory group consisting of qualified 586  
professionals and administrators. Such consultation shall not 587  
cause the review period for any application to be extended beyond 588  
the applicable deadline specified in division (C)(4) of this 589  
section or any extension of it under division (C)(5) of this 590  
section. 591

(D) In granting a certificate of need, the director shall 592  
specify as the maximum capital expenditure the certificate holder 593  
may obligate under the certificate a figure equal to one hundred 594  
ten per cent of the approved project cost. 595

(E) The director shall monitor the activities of persons 596  
granted certificates of need ~~concerning long term care beds~~ during 597  
the period beginning with the granting of the certificate of need 598  
and ending five years after implementation of the activity for 599

which the certificate was granted. 600

~~In the case of any other certificate of need, the director 601  
shall monitor the activities of persons granted certificates of 602  
need during the period beginning with the granting of the 603  
certificate of need and ending when the activity for which the 604  
certificate was granted ceases to be a reviewable activity in 605  
accordance with section 3702.511 of the Revised Code. 606~~

(F) When reviewing applications for certificates of need or 607  
monitoring activities of persons granted certificates of need, the 608  
director may issue and enforce, in the manner provided in section 609  
119.09 of the Revised Code, subpoenas duces tecum to compel the 610  
production of documents relevant to review of the application or 611  
monitoring of the activities. In addition, the director or the 612  
director's designee, which may include a health service agency, 613  
may visit the sites where the activities are or will be conducted. 614

(G) The director may withdraw certificates of need. 615

(H) The director shall conduct, on a regular basis, health 616  
system data collection and analysis activities and prepare 617  
reports. The director shall make recommendations based upon these 618  
activities to the public health council concerning the adoption of 619  
appropriate rules under section 3702.57 of the Revised Code. All 620  
health care facilities and other health care providers shall 621  
submit to the director, upon request, any information that is 622  
necessary to conduct reviews of certificate of need applications 623  
and to develop recommendations for criteria for reviews, and that 624  
is prescribed by rules adopted under division (H) of section 625  
3702.57 of the Revised Code. 626

(I) Any decision to grant or deny a certificate of need shall 627  
consider the special needs and circumstances resulting from moral 628  
and ethical values and the free exercise of religious rights of 629  
health care facilities administered by religious organizations, 630

and the special needs and circumstances of children's hospitals, 631  
inner city hospitals, and small rural hospitals. 632

**Section 2.** That existing sections 3702.51, 3702.511, and 633  
3702.52 of the Revised Code are hereby repealed. 634