

3701-7-05

Inspections; compliance.

(A) The director of health shall monitor compliance with Chapter 3711. of the Revised Code and Chapter 3701-7 of the Administrative Code. The director may conduct inspections of a maternity unit, newborn care nursery, or maternity home as often as deemed necessary based upon the compliance history of the maternity unit, newborn care nursery, or maternity home, but at least once every three years, to adequately monitor compliance. The inspections may be scheduled and announced or random and unannounced as follows:

(1) The triennial inspection shall be scheduled and announced; and

(2) All other inspections may be random and unannounced.

(B) The director may conduct an inspection to investigate alleged violations of Chapter 3711. of the Revised Code and Chapter 3701-7 of the Administrative Code. The director shall inform the complainant and the facility of the results of the inspection.

(C) The fee for inspections conducted by the director pursuant to Chapter 3711. of the Revised Code shall be as follows:

(1) Inspection fee:

(a) Level I service, one thousand seven hundred fifty dollars;

(b) Level II service, two thousand seven hundred fifty dollars;

(c) Level III service, three thousand seven hundred fifty dollars;

(d) Level IV service, three thousand seven hundred fifty dollars;

~~(d)~~(e) Freestanding children's hospital with a level III or level IV neonatal care service, three thousand seven hundred fifty dollars; or

~~(e)~~(f) Maternity home, seven hundred fifty dollars;

(2) On-site follow-up inspection fee of seven hundred fifty dollars;

~~(2)~~(3) Complaint inspection fee of seven hundred fifty dollars;-

(4) Environmental inspection fee of seven hundred fifty dollars;

[\(5\) Monitoring inspection fee of seven hundred fifty dollars; or](#)

[\(6\) Desk review fee of three hundred twenty five dollars.](#)

(D) If the director determines the existence of a violation of any provision of Chapter 3711. of the Revised Code or Chapter 3701-7 of the Administrative Code, the director may request the licensee to submit an acceptable plan of correction to the director stating the actions being taken or to be taken to correct a violation, the time frame for completion and the means by which continuing compliance will be monitored; and may:

(1) In accordance with Chapter 119. of the Revised Code, impose a civil penalty based on the severity of the violation as follows:

(a) For violations that present an imminent threat of serious physical or life threatening danger, or an immediate serious threat to the emotional health, safety or security of one or more patients or residents, a civil penalty of not less than one hundred thousand dollars and not more than two hundred and fifty thousand dollars;

(b) For violations that directly threaten physical or emotional health, safety, or security of one or more patients or residents, a civil penalty of not less than ten thousand dollars and not more than one hundred thousand dollars; or

(c) For violations that indirectly threaten or potentially threaten the physical or emotional health, safety, or security of one or more patients or residents, a civil penalty of not less than one thousand dollars and not more than ten thousand dollars.

(2) Summarily suspend, in accordance with paragraph (D)(3) of this rule, a license issued under this chapter if the director believes that there is clear and convincing evidence that the continued operation of the maternity unit, newborn care nursery, or maternity home present a danger of immediate and serious harm to patients or residents.

(3) If the director suspends a license under paragraph (D)(2) of this rule, the director shall issue a written order of suspension and cause it to be delivered by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court while an appeal filed under section 119.12 of the Revised Code is pending. If the license holder subject to the suspension requests an adjudication, the date set

for the adjudication shall be within fifteen days but not earlier than seven days after the license holder makes the request, unless another date is agreed to by both the license holder and the director. The summary suspension shall remain in effect, unless reversed by the director, until a final adjudication order issued by the director pursuant to this chapter and Chapter 119. of the Revised Code becomes effective. The director shall issue a final adjudication order not later than ninety days after completion of the adjudication. If the director does not issue a final order within the ninety-day period, the summary suspension shall be void, but any final adjudication order issued subsequent to the ninety-day period shall not be affected.

- (4) Revoke a license issued under this chapter if the director determines that a violation of a rule under this chapter has occurred in such a manner as to pose an imminent threat of serious physical or life-threatening danger to one or more patients or residents.
 - (5) In accordance with Chapter 119. of the Revised Code, for a second or subsequent violation of Chapter 3711. of the Revised Code or this chapter, or for an initial violation the director determines has caused or poses an imminent threat of serious physical or life-threatening danger, issue an order that the unit or home cease operation.
- (E) If the director issues an order revoking or suspending a license issued under this rule and the license holder continues to operate a maternity unit, newborn care nursery, or maternity home, the director may ask the attorney general to apply to the court of common pleas of the county in which the ~~person~~ license holder is located for an order enjoining the ~~person~~ license holder from operating the unit, nursery, or home. The court shall grant the order on a showing that the person is operating the maternity unit, newborn care nursery, or maternity home.
- (F) In determining which of the actions to take under paragraph (D) of this rule, the director may consider, but is not limited to, the following factors:
- (1) The danger of serious physical or life-threatening harm to one or more patients or residents ~~utilizing the health care service, including a determination whether the harm presents an;~~
 - (a) Imminent threat of serious physical or life threatening danger, or an immediate serious threat to the emotional health, safety, or security one or more patients or residents;
 - (b) Direct threat to the physical or emotional health, safety, or security of one or more patients or residents; or

(c) Indirect threat or potential threat to the physical or emotional health, safety, or security of one or more patients or residents;

~~(2) The nature, duration, gravity, and extent of the violation;~~

~~(3)~~(2) The number, ~~if any,~~ of patients or residents directly affected by the violation;

~~(4) Whether the violation directly relates to patient or resident care and the extent of the actual or potential harm to patients or residents;~~

~~(5)~~(3) The number of staff involved in the violation;

~~(6)~~(4) ~~The actions taken by~~ Whether the maternity unit, newborn care nursery, or home took appropriate actions to correct the violation; and

~~(7)~~(5) The compliance history of the maternity unit, newborn care nursery, or maternity home.