

Summary of Senate Bill (SB) 144 Provisions Affecting SNFs and RCFs

Changes of operator (CHOPs). These amendments correct a variety of technical errors in the CHOP language in House Bill (HB) 33, the biennial budget bill. The amendments do not alter the intended restrictions on CHOPs under HB 33 such as temporary loss of the quality incentive, transparency of ownership and operating arrangements, operator experience requirements, and disqualifying circumstances involving other facilities owned or operated by the same person. These provisions apply only to SNFs. The SB 144 changes include:

- Aligning the definitions of terms relating to CHOPs in both Department of Health (ODH) licensure and Medicaid statutes so the same transactions trigger both a new license and a new provider agreement.
- Ensuring that the same entity holds the license and the provider agreement and giving a transition period for currently non-aligned situations.
- Introducing a new term, “operational control,” as the key indicator of who should be licensed and hold the provider agreement and establishing change of operational control as the key indicator that a CHOP is taking place. Operational control is the ability to direct the overall operations and cash flow of a SNF and can be exercised by one or more persons or government entities. The statute lists circumstances that reflect operational control.
- Correcting language that deemed change of building ownership of 5% or more to be a CHOP. Instead, the bill subjects a change of ownership to loss of the quality incentive only when it results in a change in lease terms within one year after the transaction.
- Adding clarifications to the surety bond section to give sureties greater comfort in issuing bonds.
- Clarifying the timeframes for CHOP license notifications and applications and introducing a new concept, a notice of intent to issue a CHOP license, to be issued by ODH after the entering operator supplies all required material other than the document evidencing completion of the transaction.
- Clarifying when certain disclosures are required in the CHOP license application and when a surety bond is required.
- Broadening the previous language requiring an individual who owns 50% or more of the entering operator to have specified experience to apply to the entering operator or a person or governmental entity that has operational control of the facility.
- Changing the requirement for a post-CHOP survey to make it discretionary with ODH.
- Clarifying when the disqualifying circumstances apply to a party involved in a CHOP, including to a person with a 25% or more interest in the operator or 25% or more ownership interest.
- Clarifying the requirements for entering operators to provide required materials and notices and the applicability of civil penalties for failure to do so.
- Prohibiting completing the CHOP or executing a provider agreement before ODH issues the notice of intent and requiring submission of the closing document within 5 days.

- Requiring notification of changes of ownership to the Department of Medicaid.

Certificate of need (CON). These provisions are primarily intended to rectify the current scenario where no SNF beds can be moved from an over-bedded county to an under-bedded county during the statutory review period. SB 144 also streamlines the CON law in a few other ways. The changes include:

- Creating an exception to the 85% county occupancy requirement, which is currently stymying bed movement, for counties that need at least 60 additional beds.
- Requiring any beds moved under this exception to be placed in category 1 private rooms (with private baths).
- Prescribing temporary provisions to allow the exception to apply to the current review period.
- Eliminating the requirement to delicense 10% of the beds moved.
- Removing archaic references to a SNF's service area.
- Requiring calculation of bed need and establishing a CON review period every two years instead of every 4 years.

Medication aides. This portion of SB 144 is intended to make it easier to become a certified medication aide and to expand medication aides' scope of practice with the goal of growing the number of medication aides employed in Ohio's SNFs and RCFs. The changes include:

- Reducing the required number of training hours from 70 to 30.
- Removing the entrance requirements of being a nurse aide or having a year of experience working in a RCF, which also creates portability between SNFs and RCFs.
- Allowing training programs to administer the certification examination.
- Expanding medication aide scope of practice to include administering Schedule II drugs, pre-metered insulin, and PRN medications.
- Eliminating the requirement that a nurse delegate medication administration to a medication aide and instead requiring nurse supervision of the aide.
- Allowing certified medication aides to use the acronym "CMA."
- Eliminating Board of Nursing (OBN) disciplinary procedures for CMAs, instead requiring continuing education and no findings of abuse, neglect, or misappropriation.
- Requiring OBN to maintain an online registry of CMAs.
- Removing ICFs/IID from the medication aide statutes because the Department of Developmental Disabilities has its own medication administration program.
- Specifying fees, renewal procedures, and other requirements in statute and constraining OBN's rulemaking authority.
- Streamlining requirements for operating a medication aide training program.

Nurse aides. These amendments are intended to facilitate more nurse aide training programs and greater access to training and testing to assist with staffing in Ohio's SNFs and RCFs. The provisions include:

- Allowing nurse aides who are in good standing on the registry to use the designations “certified nurse aide” and “CNA” that are in general use across the country.
- Permitting educational institutions that offer nurse aide training programs also to administer examinations if they are approved by ODH as being substantially similar to the state test.
- Eliminating the requirement that nurse aide instructors have at least two years of experience in a SNF if the program is under the general supervision of a registered nurse who meets that standard.
- Allowing SNFs to proctor nurse aide testing.
- Allowing a licensed nurse to be included on the nurse aide registry.
- Recognizing federal waivers of certain requirements for nurse aide training programs.
- Replacing the current requirement for a Social Security number with other forms of identification.

Background checks:

SB 144 extends the 30-day conditional hiring period while waiting for background check results to 60 days. This change aligns the SNF/RCF provisions with other background check requirements.

SNF quality improvement projects:

The bill makes using Department of Aging-listed projects voluntary for SNFs and encourages pursuing projects that focus on workforce development.