CLIENT ALERTS & INSIGHTS

# Change of Operator (CHOP) and H.B. 166

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The Ohio Fiscal Year 2020-2021 Operating Budget (the "Budget") was recently signed by Governor DeWine and includes new, more stringent requirements and processes associated with the Change of Operator ("CHOP") licensure process for Ohio long term care facilities (the "Facility").

These changes go into effect in October 2019, and supplement the existing licensure requirements to operate such facilities in the State of Ohio. At this point, no further guidance has been made available by the State of Ohio and no new forms or application materials have been issued. However, key changes specified in the Budget are outlined below.

If the operation of a Facility is assigned or transferred to a new operator (the "Applicant"), they must submit the following documentation before the Director of Health will issue a new license:

1. **Documentation that the Applicant has financial resources** that the director determines are sufficient to cover any reasonably anticipated revenue shortfall for at least twelve months after the CHOP (unless the CHOP is accomplished via a lease).
    - i.e., projected financial statements for the nursing home for the twelve-month period after the CHOP.

2. **Documentation that the Applicant has at least 5 years of experience** as an operator, manager, or administrator of a Facility.
    - i.e., a list of each currently or previously Facility located in this or another state in which the person has or previously had any percentage of ownership. The percentage of ownership may have been in the operation, real property, or both of the Facility.

3. **Documentation that the Applicant has plans for quality assurance and risk management** for the Facility.
4. **Documentation that the Applicant has general and professional liability insurance** coverage that provides coverage of at least one million dollars per occurrence and three million dollars in the aggregate.

If the CHOP is in the form of a lease of the Facility, either of the following apply as financial resource documentation:

1. Documentation that the Applicant has **obtained a bond that has a term of at least twelve months, has an annual renewal, and is for an amount not less than one million dollars**.
    - If the person is unable to obtain a bond that meets the requirements of this section at a cost the Director determines to be reasonable or operates other Facilities in this state, there must be documentation that **the person has financial resources that the Director determines are sufficient to cover any reasonably anticipated revenue shortfall for at least twelve months after the assignment or transfer.**

*These changes are per the current version of the Legislative Text, which can be found at this link, the relevant provision, §3721.026 is on page 967.*

**Benesch will continue to stay up to date with respect to these changes, for more information, please contact a member of Benesch's Health Care & Life Sciences Practice Group.**