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2023-2024 ASHRAE President

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Office of the General Counsel [Hospital Licensure]
Ohio Department of Health
246 N. High St.
Columbus, Ohio 43215

Submitted via email to:
ODHRules@ODH.Ohio.gov

Re: Draft hospital licensing rules; 3701-22-07 Basic hospital functions, Section K.3

To Whom It May Concern:

ASHRAE is an international professional organization founded in 1894. Our global society advances human well-being through sustainable technology for the built environment. The Society and its more than 53,000 members, including over 1,400 in Ohio, focus on building systems, energy efficiency, indoor air quality, water system safety, refrigeration, and sustainability. Through research, standards writing, publishing, certification and continuing education, ASHRAE shapes tomorrow's built environment today.

We are writing to you regarding the draft hospital licensing rules that intend to help reduce the risk of legionellosis from hospital water systems. We commend this initiative and the objective to protect public health to reduce disease cases. **ASHRAE offers the following suggestions to strengthen these proposed regulations by leveraging existing best practices and focus its intent to prevent disease. We also request a meeting with you to discuss an improved path to prevent Legionnaires' disease as well as other water system hazards.**

1. **Edit proposed regulation text as follows** where double underlined text is new and ~~strikethrough text~~ is removed:

(3) Establish and implement an effective water management program to identify hazardous conditions, and take steps to manage the risk of occurrence and transmission of waterborne pathogens, including but not limited to legionella, in building water systems in accordance with guidance from the United States centers for disease control and prevention (available at https://www.cdc.gov/legionella/wmp/toolkit/index.html) and recommendations of the United States centers for disease control and prevention healthcare infection control practices advisory committee, "Environmental Infection Control Guidelines" (2019) or its successors, or the ANSI/ASHRAE Standard 188-2021: Legionellosis: Risk Management for Building Water Systems as informed by Guideline 12-2023: *Minimizing the Risk of Legionellosis Associated with Building Water Systems* and ANSI/ASHRAE Standard 514-2023: *Risk Management for Building Water*

Systems: Physical, Chemical, and Microbial Hazards, all available on the ASHRAE website at https://www.ashrae.org/technical-resources/standards-and-guidelines/guidance-for-water-system-risk-management.

~~An effective water management program includes:~~
~~(a) Establishing a water management program team that includes representatives from the facility or engaged by the facility necessary to ensure comprehensive and complete actions are implemented to reduce and manage the risk of legionella and other waterborne pathogens in the building water systems;~~
~~(b) A written water management program, updated annually and when changes are made to the potable water system, which includes all components as identified by the United States centers for disease control and prevention; and~~
~~(c) Within the first twelve months, two sets of validation testing in the building water system, taken no fewer than four months apart and more than six months apart, is to occur. Each set of water samples will be representative of all hot potable water loops and water sources based upon the risk assessment and conditions identified in the water management program, including but not limited to cooling towers, therapy spas, decorative fountains or water features where exposure to aerosols may occur in order to evaluate the performance of the water management program in controlling legionella risk or other waterborne pathogens. A hospital that has demonstrated detections of less than one cfu/ml of legionella through at least two prior validation test sets collected over a one year period may conduct annual validation testing in lieu of twice-yearly testing. Validation testing includes all of the following:~~
~~(i) At least one cold water sample obtained from the incoming water mains from the public water system or the water source;~~
~~(ii) At minimum, representative samples obtained from distal and proximal locations on each hot water loop on the hot water distribution system; and~~
~~(iii) Measurement of total or free chlorine residual, as appropriate, at the time of sample collection, and the observed sustained maximum temperatures for cold and hot water samples;~~

~~Collection of water samples under this paragraph will conform to the United States centers for disease control and prevention's guidelines for water testing for legionella available at https://www.cdc.gov/legionella/wmp/control-toolkit/routine-testing.html. Samples collected may be less than one liter in volume. Collected samples are to be analyzed at a laboratory that has been accredited by a national or international accrediting body according to national or international recognized standards, that has legionella culture testing included in the laboratory's scope of accreditation.~~

Rationale for this request:

Referencing the ASHRAE 514 and 188 standards, as informed by use of ASHRAE Guideline 12, in these rules will ensure continuity with the previous requirements put forth by the Centers for Medicare and Medicaid Services (CMS). The 2017 CMS memo[1] states that certain healthcare systems that participate in CMS programs must have a water management program based on ASHRAE Standard 188-2015. Standard 514, first issued in 2023, covers other water system risks,

1. [1] Centers for Medicare and Medicaid Services memo (2017): https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/downloads/survey-and-cert-letter-17-30.pdf

including physical, chemical, and microbial hazards other than Legionella. Using these ASHRAE consensus-based standards will simplify and bring clarity to these rules, especially for systems that have already implemented ASHRAE under the CMS requirements.

The ASHRAE Standards are the only ANSI-accredited standards to help prevent the risk of exposure to Legionella and other bacteria, as well as address physical and chemical hazards in the built environment. We commend the Department for addressing this important topic, and we strongly advise that the proposed language should be consistent with the totality of ASHRAE Standard 188, as taking only certain portions from the standard, or adding to it, could impair its effectiveness and potentially put building occupants at risk. ASHRAE Standard 188 and ASHRAE Guideline 12 contain extensive input from industry, academia, and healthcare and from city, state, and national public health departments and regulatory authorities. As a society with over 125 years of experience and representing some of the sharpest minds in the industry, we respectfully urge you to rely on the technical materials prepared by ASHRAE. It would be of great value to ensure the future compliance community can leverage the vast knowledge represented in ASHRAE Standard 188, Guideline 12, and Standard 514.

Lastly, with the adoption of ASHRAE Standard 188-2021 in full, the detailed language in the proposed rule that we recommend omitting would no longer be necessary in the rule, as Standard 188, Section 6.2.8 specifically covers validation of a water management program.

We appreciate your consideration of the suggested changes to the Ohio hospital licensing rules presented here and look forward to speaking with you on any questions that may arise.

Please do not hesitate to contact me or have your staff contact GovAffairs@ashrae.org. Thank you for your consideration of this important matter and for working to ensure the health and well-being of building occupants in Ohio.

Sincerely,

Ginger Scoggins
ASHRAE President