



Ohio Revised Code

Section 5165.66 Citations for failure to comply with one or more certification requirements.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) Except as provided in section 3721.17 of the Revised Code, a finding shall be cited only on the basis of a survey and a determination that one or more actions, practices, situations, or incidents at a nursing facility caused or resulted from the facility's failure to comply with one or more certification requirements. The department of health shall determine whether the actions, practices, situations, or incidents can be justified by either of the following:

(1) The actions, practices, situations, or incidents resulted from a resident exercising the resident's rights guaranteed under the laws of the United States or of this state;

(2) The actions, practices, situations, or incidents resulted from a facility following the orders of a person licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(B) If the department of health determines both that the actions, practices, situations, or incidents cannot be justified by the factors identified in division (A) of this section and that one or more of the following are applicable, the department shall declare that the actions, practices, situations, or incidents constitute a finding:

(1) The actions, practices, situations, or incidents could have been prevented by one or more persons involved in the facility's operation;

(2) No person involved in the facility's operation identified the actions, practices, situations, or incidents prior to the survey;

(3) Prior to the survey, no person involved in the facility's operation initiated action to correct the noncompliance caused by or resulting in the actions, practices, situations, or incidents;



(4) The facility does not have in effect, if needed, a contingency plan that is reasonably calculated to prevent physical, mental, or emotional harm to residents while permanent corrective action is being taken.

(C) The department of health shall determine the severity level and scope level of each finding.

(D) A deficiency that is substantially corrected within the time limits specified in sections 5165.79 to 5165.83 of the Revised Code and for which no remedy is imposed, shall be counted as a deficiency for the purpose of determining whether a deficiency is a repeat deficiency.

(E) Whenever the department of health determines that during the period between two surveys a finding existed at the facility, but the facility substantially corrected it prior to the second survey, the department shall cite it. However, the department of medicaid or a contracting agency shall impose a remedy only as provided in division (C) of section 5165.72 of the Revised Code.

(F) Immediately upon determining the severity and scope of a finding at a nursing facility, the department of health shall notify the department of medicaid and any contracting agency of the finding, the severity and scope of the finding, and whether the finding creates immediate jeopardy. Immediately upon determining that an emergency exists at a facility that does not result from a deficiency that creates immediate jeopardy, the department of health shall notify the department of medicaid and any contracting agency.