



Ohio Revised Code

Section 5165.81 Qualifications of temporary manager of nursing facility.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) A temporary manager of a nursing facility appointed by the department of medicaid or a contracting agency under sections 5165.60 to 5165.89 of the Revised Code shall meet all of the following qualifications:

- (1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;
- (2) Have demonstrated competence as a nursing home administrator;
- (3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility and set by the department of medicaid or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medicaid program. The extent to which this compensation is allowable under the medicaid program is subject to and limited by this chapter and rules adopted under section 5165.02 of the Revised Code.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility. The allowability of these costs under the medicaid program shall be subject to and governed by this chapter and rules adopted under section 5165.02 of the Revised Code. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under the rules.

(C) No temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any



capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section 5165.72 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section 5165.77 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section 5165.80 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code to appoint a temporary manager or apply for a special master, the department of medicaid or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section 5165.75 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of medicaid or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of medicaid or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section 5165.75 of the Revised Code is



actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 or division (A)(1)(d) of section 5165.77 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of medicaid or contracting agency finds that the deficiency or deficiencies that prompted the appointment under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section 5165.77 of the Revised Code cannot be eliminated, prior to the expiration of the appointment, it may take one of the following actions:

- (1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;
- (2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section 5165.77 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may



order the special master to close the facility and transfer all residents to other nursing facilities or other appropriate care settings.

(H) This section does not apply to temporary resident safety assurance managers appointed under section 5165.78 of the Revised Code.