



## Ohio Revised Code

### Section 5165.08 Nursing facilities' provider agreement terms.

Effective: January 1, 2015

Legislation: Senate Bill 276 - 130th General Assembly

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(A) As used in this section:

"Bed need" means the number of long-term care beds a county needs as determined by the director of health pursuant to division (B)(3) of section 3702.593 of the Revised Code.

"Bed need excess" means that a county's bed need is such that one or more long-term care beds may be relocated from the county according to the director's determination of the county's bed need.

(B) Every provider agreement with a nursing facility provider shall do both of the following:

(1) Permit the provider to exclude one or more parts of the nursing facility from the provider agreement, even though those parts meet federal and state standards for medicaid certification, if all of the following apply:

(a) The nursing facility initially obtained both its nursing home license under Chapter 3721. of the Revised Code and medicaid certification on or after January 1, 2008.

(b) The nursing facility is located in a county that has a bed need excess at the time the provider excludes the parts from the provider agreement.

(c) Federal law permits the provider to exclude the parts from the provider agreement.

(d) The provider gives the department of medicaid written notice of the exclusion not less than forty-five days before the first day of the calendar quarter in which the exclusion is to occur.

(2) Prohibit the provider from doing either of the following:

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;



(b) Subject to division (D) of this section, failing or refusing to do either of the following:

(i) Except as otherwise prohibited under section 5165.82 of the Revised Code, admit as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient unless at least twenty-five per cent of the nursing facility's medicaid-certified beds are occupied by medicaid recipients at the time the person would otherwise be admitted;

(ii) Retain as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient.

(C) For the purpose of division (B)(2)(b)(ii) of this section, a medicaid recipient who is a resident of a nursing facility shall be considered a resident of the nursing facility during any hospital stays totaling less than twenty-five days during any twelve-month period.

(D) Nothing in this section shall bar a provider from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational nursing facility from giving preference to persons of the same religion or denomination;

(2) Giving preference to persons with whom the provider has contracted to provide continuing care;

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code, admitting residents exclusively from the county in which the county home is located;

(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a resident any person who is, or may (as a resident of the nursing facility) become a medicaid recipient, if all of the following apply:

(a) The provider does not refuse to retain any resident who has resided in the provider's nursing facility for not less than one year as a private pay resident because the resident becomes a medicaid



recipient, except as necessary to comply with division (D)(4)(b) of this section;

(b) The number of medicaid recipients retained under division (D)(4) of this section does not at any time exceed ten per cent of all the residents in the nursing facility;

(c) On July 1, 1980, all the residents in the nursing facility were private pay residents.

(E) No provider shall violate the provider agreement obligations imposed by this section.

(F) A nursing facility provider who excludes one or more parts of the nursing facility from a provider agreement pursuant to division (B)(1) of this section does not violate division (C) of section 3702.53 of the Revised Code.