

Methodology to Indicate Changes to DPH-11-017 – Temporary Management

The proposed changes for comment that are the subject of this 15-day public comment period are indicated as follows:

- Deleted text is indicated by double strike-through (~~double strike-through~~).
- Additions to the regulation text are indicated by double underline (double underline).

Regulation text not subject to this 15-day notice of public availability for comment are presented for the reader's convenience and are indicated as follows:

- Added text as initially proposed is indicated by single underline (underline).

Title 22. Social Security
Division 5. Licensing and Certification of Health Facilities, Home Health Agencies,
Clinics, and Referral Agencies
Chapter 3.6. Temporary Management of Long-Term Health Care Facilities

Adopt Section 72901 as follows:

Section 72901. Definitions.

(a) through (c) No change to text.

~~(d) "Financial ownership interest" means any ownership interest through the possession of equity in the capital, stock, or profits of the facility, or through the possession of such an interest in other entities that directly or indirectly hold a financial interest in the facility.~~

(e) renumbered to (d)

(f) renumbered to (e)

(g) renumbered to (f)

Note: Authority cited: Sections 1275, 1325.5, and 1335, Health and Safety Code.

Reference: Section 1325.5, Health and Safety Code.

Adopt Section 72903 as follows:

Section 72903. Qualifications of a Temporary Manager.

~~(a) The Department must maintain a list of persons, corporations, or other entities that qualify for potential appointment as a temporary manager. Placement on the list is determined in the Department's sole discretion, but each applicant must submit an application to the Department demonstrating the following minimum qualifications:~~

(a) Each applicant must submit an application to the Department demonstrating the applicant meets the minimum qualifications to serve as a temporary manager. Applicants must provide evidence showing:

(a)(1) through (a)(4)(C) No change to text.

(5) An attestation that the ~~The~~ applicant currently employs or contracts with, or has the ability to ~~promptly~~ employ or contract with, all staff necessary and legally required for the operation of a long-term health care facility within 48 hours from the time the temporary manager is appointed;

(6) An attestation that the ~~The~~ applicant currently employs or contracts with, or has the ability to ~~promptly~~ employ or contract with, the legal and accounting professionals necessary for the operation of a long-term health care facility within 48 hours from the time the temporary manager is appointed; and

(7) An attestation that the ~~The~~ applicant has one or more business lines of credit ~~intended~~ for use upon the appointment of temporary manager. The applicant must disclose the available amount of each line of credit for the operation of the assigned long-term health care facility.

(b) Examples of documents to be submitted as evidence with the application include, but are not limited to, a resume with the applicant's background and experience demonstrating the ability to temporarily manage a long-term health care facility, documentation showing the applicant's compliance with State of California and Federal rules and regulations for long-term health care facilities, and any health care related licenses, certifications or diplomas of the applicant, or staff of the applicant.

~~(b)~~ (c) In addition to providing proof of the qualifications in subdivision (a) of this section, the applicant must provide to the Department:

(1) The names of all persons with a ~~financial~~ beneficial ownership interest, as defined in Health and Safety Code section 1253.2(c) and (j), in the applicant and all officers and directors of the applicant, if the applicant is not an individual; and

(2) The applicant's business contact information, including primary telephone number and email address.

(c) renumbered to (d)

(de) If the Department places an applicant on the list of potential temporary managers, that applicant may remain on the list for one year from the date of notification that the applicant has been placed on the list. To be renewed for qualification and remain on the list, an applicant must submit an attestation to the Department that the applicant continues to meet the criteria for appointment as a temporary manager. The renewal attestation must be submitted no later than 30 days prior to the expiration of the one-year term. If there are any changes in the information previously reported to the Department, the applicant must submit a new application.

Note: Authority cited: Sections 1275, 1325.5, and 1335, Health and Safety Code.

Reference: Section 1325.5, Health and Safety Code.

Adopt Section 72905 as follows:

Section 72905. Choosing A Temporary Manager.

(a) When the Department determines that appointment of a temporary manager to manage a facility may be required pursuant to Health and Safety Code section 1325.5(c), the Department may send a notice to applicants on the list of potential temporary managers based on a case by case determination of the needs of the facility, the capability of applicants, and the availability of a prospective temporary manager. Interested applicants must respond to the notice with an attestation that the applicant meets all of the qualifications for appointment as a temporary manager at the identified facility, as required by this chapter and by the Health and Safety Code.

(b) The selected applicant must provide the following to the Department, upon request, prior to appointment:

(1) through (3) No change to text.

(4) Written confirmation that the applicant, ~~or~~ principals of the applicant, or any parent company or subsidiary of the applicant have no ~~financial~~ beneficial ownership interest, as defined in Health and Safety Code section 1253.3(c), in the identified facility or its licensee, and that no immediate family member of the applicant or principals of the applicant or any parent company or subsidiaries of the applicant has a ~~financial~~ beneficial ownership interest, as defined in Health and Safety Code section 1253.3(c), in the identified facility or its licensee;

(5) A proposed salary or fee for the temporary manager if appointed pursuant to Health and Safety Code section 1325.5(k); and

(6) The amount of available credit on all business lines of credit.

~~(c) The Department has the discretion to appoint a temporary manager pursuant to Health and Safety Code section 1325.5(c).~~

~~(cd) If the applicant selected by the Department to serve as a temporary manager is not acceptable to the licensee, the Department may consult with the licensee to provide or appoint the licensee with an alternative temporary manager from the Department's list of potential temporary managers. The Department will determine whether appointment of an alternate temporary manager is appropriate, in the Department's sole discretion.~~

Note: Authority cited: Sections 1275, 1325.5, and 1335, Health and Safety Code.

Reference: Section 1325.5, Health and Safety Code.

Adopt Section 72907 as follows:

Section 72907. Licensee's Duties.

No change to text.

Adopt Section 72909 as follows:

Section 72909. Temporary Manager's Authority ~~Powers, Duties~~ and Limitations.

(a) The temporary manager must operate and manage the facility, under the supervision and guidance of the Department, to ensure the health and safety of the residents and the delivery of services to them. The temporary manager ~~will~~ ~~must~~, at a minimum, have the ability to perform the following duties authority to take actions including, but not limited to:

(1) to (5) No change in text.

(6) Make repairs or improvements to the structure or furnishings of the facility if there is ~~a~~ an immediate danger to the health or safety of residents. Pursuant to Health and Safety Code section 1325.5(e)(2), repairs or improvements that are not intended to address an immediate danger to the health or safety of residents require the Department's prior written approval. ~~For capital investments, the Department's prior written approval is required.~~

(b) through (d) No change in text.

Note: Authority cited: Sections 1275, 1325.5, and 1335, Health and Safety Code.

Reference: Section 1325.5, Health and Safety Code.

Adopt Section 72911 as follows:

Section 72911. Temporary Manager's Financial Documentation for Use of Facility and State Funds.

No change to text.

Adopt Section 72913 as follows:

Section 72913. Temporary Manager's Final Accounting.

(a) Within 60 calendar days of the termination of the temporary manager's appointment, the temporary manager must file a written final accounting with the Department and the licensee of the facility using generally ~~approved~~ accepted accounting principles. The final accounting must include an accounting of the following:

(1) through (4) No change to text.

Note: Authority cited: Sections 1275, 1325.5, and 1335, Health and Safety Code.

Reference: Section 1325.5, Health and Safety Code.