

HOUSE BILL NO. HB0063

Health Care Facility Receivership Act.

Sponsored by: Joint Labor, Health & Social Services Interim Committee

A BILL

for

1 AN ACT relating to hospitals and health care facilities;
2 creating a Health Care Facility Receivership Act; providing
3 definitions; providing procedures and standards for
4 establishing and terminating a receivership; establishing
5 powers and duties of a receiver; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 35-2-1101 through 35-2-1109 are
11 created to read:

12

13

ARTICLE 11

14

HEALTH CARE FACILITY RECEIVERSHIP

15

1 **35-2-1101. Short title.**

2

3 This act may be cited as the "Health Care Facility
4 Receivership Act."

5

6 **35-2-1102. Definitions.**

7

8 (a) As used in this act:

9

10 (i) "Department" means the department of health;

11

12 (ii) "Health care facility" means any facility
13 licensed or certified by the department that is a hospital
14 or that normally provides twenty-four (24) hour per day
15 care for individuals, including the facility's owner,
16 operator or licensee;

17

18 (iii) "This act" means W.S. 35-2-1101 through
19 35-2-1109.

20

21 **35-2-1103. Petition for receivership; hearing;**
22 **parties; emergency order.**

23

1 (a) The department may file a petition in the
2 district court to appoint a receiver for a health care
3 facility, if the facility:

4

5 (i) Is operating without a license or the
6 facility's license has been suspended, revoked or not
7 timely renewed; or

8

9 (ii) Presents a situation, physical condition,
10 practice or method of operation that causes an imminent
11 danger of death or significant mental or physical harm to
12 its residents or patients.

13

14 (b) Service of process shall be made in any manner as
15 provided by the Rules of Civil Procedure. If personal
16 service cannot practicably or promptly be made as provided
17 in the Rules of Civil Procedure, service may be made by
18 delivery of the summons with the petition attached to any
19 person in charge of the health care facility at the time
20 service is made.

21

1 (c) The court shall hold a hearing on the merits of
2 the petition not later than ten (10) days after the date
3 the petition is filed.

4

5 (d) Following a hearing, the district court shall
6 appoint the director of the department as the receiver if
7 it finds by a preponderance of the evidence that any of the
8 conditions in subsection (a) of this section exist.

9

10 (e) The court may appoint a receiver upon an ex parte
11 motion when affidavits, testimony or any other evidence
12 presented indicates there is a reasonable likelihood that
13 any of the conditions in paragraph (a)(ii) of this section
14 exist. Notice of the petition and ex parte order appointing
15 the receiver shall be served in any manner as provided by
16 the Rules of Civil Procedure and shall be posted in a
17 conspicuous place inside the facility not later than
18 twenty-four (24) hours after issuance of the order. A
19 hearing on the original petition shall be held not later
20 than five (5) days after the issuance of the ex parte order
21 unless the health care facility consents to a later date or
22 waives the hearing.

23

1 (f) Following any regular or ex parte hearing, the
2 director of the department may designate a qualified
3 person, experienced in health facility management, to act
4 as the receiver. The designated person shall be free of
5 conflict of interest with the health care facility that is
6 in receivership.

7

8 (g) After the appointment of a receiver, the court
9 shall conduct a hearing on the status of the receivership
10 every six (6) months.

11

12 **35-2-1104. Effect of appointment.**

13

14 When a receiver is appointed under this act, the health
15 care facility shall be divested of possession and control
16 in favor of the receiver. The appointment of the receiver
17 shall not affect the rights of the health care facility to
18 defend against any claim, suit or action against the
19 facility, including, but not limited to, any licensure,
20 certification or injunctive action taken by the department.

21

22 **35-2-1105. Powers and duties of a receiver.**

23

1 (a) A receiver appointed under this act shall:

2

3 (i) Have the same powers as a receiver under
4 W.S. 1-33-104 and shall exercise those powers necessary to
5 remedy the conditions that constituted grounds for the
6 imposition of the receivership, assure adequate health care
7 for the residents or patients and preserve the assets and
8 property of the health care facility;

9

10 (ii) Notify each resident or patient and each
11 resident or patient's guardian or conservator, if any, or
12 other responsible party, if known, of the receivership;

13

14 (iii) Collect incoming payments from all
15 sources;

16

17 (iv) Apply the current revenue and current
18 assets of the health care facility to current operating
19 expenses of the facility;

20

21 (v) Pay taxes against the health care facility
22 which become due during the receivership;

23

1 (vi) Be entitled to take possession of all
2 property, assets and records of residents or patients which
3 are in the possession of the health care facility. The
4 receiver shall preserve all property, assets and records of
5 residents or patients of which the receiver takes
6 possession.

7

8 (b) In addition to the powers and duties provided in
9 subsection (a) of this section, a receiver may exercise the
10 following powers:

11

12 (i) Assume the role of administrator and take
13 control of day-to-day operations of the health care
14 facility or name a qualified administrator to conduct the
15 day-to-day operations of the health care facility subject
16 to the supervision and direction of the receiver;

17

18 (ii) Correct or eliminate any deficiency in the
19 structure or furnishings of the health care facility that
20 endangers the safety or health of the residents or patients
21 while they remain in the facility, provided the total cost
22 of correction does not exceed three thousand dollars
23 (\$3,000.00). The court may order expenditures for this

1 purpose in excess of three thousand dollars (\$3,000.00) on
2 application from the receiver;

3

4 (iii) Remedy violations of federal and state
5 laws and regulations governing the operation of the health
6 care facility;

7

8 (iv) Contract for or hire agents and employees
9 to maintain and operate the facility; and

10

11 (v) Hire or discharge any employees including
12 the health care facility's administrator.

13

14 (c) The receiver in its discretion may, but shall not
15 be required to, defend any claim, suit or action against
16 the receiver or the health care facility arising out of
17 conditions, actions or circumstances occurring or
18 continuing at the health care facility after the
19 appointment of the receiver.

20

21 (d) The district court may limit or expand the powers
22 or duties of a receiver.

23

1 **35-2-1106. Termination of receivership.**

2

3 (a) The court, upon a motion by the receiver, the
4 health care facility or the owner of the physical facility,
5 may terminate the receivership if:

6

7 (i) The receivership is no longer necessary
8 because the conditions which gave rise to the receivership
9 no longer exist;

10

11 (ii) All of the residents in the facility have
12 been transferred or discharged and the facility is ready to
13 be closed; or

14

15 (iii) The owner of the physical facility or the
16 health care facility enters into a lease or sale agreement
17 with a prospective operator of the facility who is licensed
18 or can be licensed by the department and who in the
19 judgment of the department will likely remedy the cause of
20 the receivership.

21

1 (b) In its termination order, the court may include
2 terms it deems necessary to prevent the future occurrence
3 of the conditions upon which the receivership was ordered.
4

5 **35-2-1107. Priorities.**
6

7 (a) During a receivership under this act, the
8 following expenses and claims have priority in the
9 following order:
10

11 (i) The costs and expenses of the administration
12 of the health care facility during the term of the
13 receivership;
14

15 (ii) Claims for:
16

17 (A) Wages actually owing to employees,
18 other than officers of the facility, for services rendered
19 within three (3) months prior to the date of commencement
20 of the receivership proceeding against the facility, but
21 not exceeding one thousand dollars (\$1,000.00) to each
22 employee;
23

1 (B) Secured claims, including claims for
2 taxes and debts due the federal or any state or local
3 government, which are secured prior to the appointment of
4 the receiver.

5

6 (iii) Claims by or on behalf of individual
7 patients or clients for the cost of health care services
8 which were to be provided by the facility, but were not
9 received by the patient or client for whom the care was
10 paid;

11

12 (iv) Unless otherwise provided by law, all other
13 claims of general creditors not falling within any other
14 priority under this section, including claims for taxes and
15 debts due to the federal government or any state or local
16 government which are not secured claims;

17

18 (v) Proprietary claims of shareholders, members
19 or officers of the health care facility.

20

21 **35-2-1108. Receiver's liability.**

22

1 (a) The liability of the department shall be limited
2 as set forth in the Wyoming Governmental Claims Act, W.S.
3 1-39-101 through 1-39-121, for the operation of medical
4 facilities and the provision of health care.

5
6 (b) If a person is designated to act as a receiver
7 pursuant to W.S. 35-2-1103(f) and is not covered by the
8 Wyoming Governmental Claims Act, W.S. 1-39-101 through
9 1-39-121, the designated receiver shall only be held liable
10 in a personal capacity for the designated receiver's own
11 gross negligence, intentional acts or breach of fiduciary
12 duty.

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14 **35-2-1109. Applicability.**

15

16 The receivership provisions of W.S. 1-33-101 through
17 1-33-110 shall apply to actions under this act to the
18 extent that they do not conflict with this act.

19

20 **Section 2.** This act is effective July 1, 2016.

21

22

(END)