

ENROLLED ACT NO. 20, HOUSE OF REPRESENTATIVES

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING  
2016 BUDGET SESSION

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

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

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

ARTICLE 11  
HEALTH CARE FACILITY RECEIVERSHIP

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

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

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

(a) As used in this act:

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

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

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

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

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

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

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

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

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

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

(e) The court may appoint a receiver upon an ex parte motion when affidavits, testimony or any other evidence

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presented indicates there is a reasonable likelihood that any of the conditions in paragraph (a)(ii) of this section exist. Notice of the petition and ex parte order appointing the receiver shall be served in any manner as provided by the Rules of Civil Procedure and shall be posted in a conspicuous place inside the facility not later than twenty-four (24) hours after issuance of the order. A hearing on the original petition shall be held not later than five (5) days after the issuance of the ex parte order unless the health care facility consents to a later date or waives the hearing.

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

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

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

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

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

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(a) A receiver appointed under this act shall:

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

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

(iii) Collect incoming payments from all sources;

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

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

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

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

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

(ii) Correct or eliminate any deficiency in the structure or furnishings of the health care facility that endangers the safety or health of the residents or patients while they remain in the facility, provided the total cost of correction does not exceed three thousand dollars (\$3,000.00). The court may order expenditures for this purpose in excess of three thousand dollars (\$3,000.00) on application from the receiver;

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

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

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

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

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

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

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

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

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

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

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

**35-2-1107. Priorities.**

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

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

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(ii) Claims for:

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

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

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

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

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

(b) Upon motion by a claimant or by one (1) of the parties to a receivership action under this act, the district court may amend the priorities listed in subsection (a) of this section and order payment of claims as may be necessary in the interest of justice.

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

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

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

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

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



ORIGINAL HOUSE  
BILL NO. HB0063

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk