

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia
Official Code*

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To amend, on a temporary basis, the Hospital and Medical Services Corporation Regulatory Act of 1996 to authorize the Mayor to utilize in fiscal year 2010 up to \$5.9 million from the Healthy DC Fund to support delivery of acute care services to uninsured and under-insured individuals; to amend the Community Access to Health Care Amendment Act of 2006 and the Community Access to Health Care United Medical Center Amendment Act of 2009 to allow the Mayor to withdraw the loan deferment for United Medical Center; and to provide the authority for the appointment of a receiver of a hospital.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Healthy DC Equal Access Fund and Hospital Stabilization Temporary Amendment Act of 2010”.

Sec. 2. Section 15b of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 31-3514.02.), is amended as follows:

Note,
§ 31-3514.02

(a) Subsection (a) is amended by striking the phrase “without regard” and inserting the phrase “, and any other purpose as set forth in this section, without regard” in its place.

(b) A new subsection (c) is added to read as follows:

“(c)(1) Notwithstanding subsection (a) of this section, the Mayor is authorized to utilize, in fiscal year 2010, up to \$5.9 million from the Fund to support the delivery of acute care services for uninsured or under-insured individuals at United Medical Center; provided, that:

“(A) An amount of \$3 million be distributed by March 2, 2010; and

“(B) Up to \$2.9 million be distributed, in equal monthly installments, beginning by March 15, 2010, and continuing through to September 30, 2010.

“(2) United Medical Center shall submit a quarterly report to the Mayor providing an accounting of any funds received pursuant to this subsection, including a detailed account of the acute care services that were provided.

“(3)(A) The Mayor shall seek to recoup any funds from United Medical Center that the Mayor determines were expended contrary to the authority granted by this subsection.

“(B) The Mayor may conduct an audit of the uncompensated acute care expenditures, if necessary, to verify that the funds were expended in accordance with this subsection.

“(4) The Department of Health Care Finance shall have grant-making authority for purposes of effectuating this subsection.”.

Sec. 3. Section 102(b)(1) of the Community Access to Health Care Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-288; D.C. Official Code § 7-1932(b)(1)), is amended by striking the phrase “Community Hospital;” and inserting the phrase “Community Hospital; provided, that notwithstanding any agreement regarding the repayment of funds associated with this public-private partnership, beginning in calendar year 2009, repayment by Specialty Hospitals of America, LLC, or certain of its subsidiaries, of the \$20 million working capital loan shall be deferred until December 31, 2015, at which time the originally agreed to repayment schedule shall resume; provided further, that the Mayor may withdraw the deferment and re-establish the loan repayment schedule.” in its place.

Note,
§ 7-1932

Sec. 4. Section 5161 of the Community Access to Health Care United Medical Center Amendment Act of 2009, signed by the Mayor on December 18, 2009 (D.C. Act 18-255; 57 DCR 181), is amended to read as follows:

Note,
§ 7-1932

“Sec. 5161. Section 102(b)(1) of the Community Access to Health Care Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-288; D.C. Official Code § 7-1932(b)(1)), is amended by striking the phrase “Community Hospital;” and inserting the phrase “Community Hospital; provided, that notwithstanding any agreement regarding the repayment of funds associated with this public-private partnership, beginning in calendar year 2009, repayment by Specialty Hospitals of America, LLC, or certain of its subsidiaries, of the \$20 million working capital loan shall be deferred until December 31, 2015, at which time the originally agreed to repayment schedule shall resume; provided further, that the Mayor may withdraw the deferment and re-establish the loan repayment schedule.” in its place.”.

Sec. 5. Hospital receivership.

(a) For the purposes of this section, the term:

(1) “Emergency” means a situation, physical condition, or one or more practices, methods, or operations that presents imminent danger of death or serious physical or mental harm to a patient, including imminent or actual abandonment of an occupied hospital.

(2) “Habitual violation” means a violation of the standards of health, safety, or patient care established under District or federal law that, due to its repetition, presents a reasonable likelihood of serious physical or mental harm to patients.

(3) "Hospital" means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related care for a variety of physical or mental conditions, and may provide outpatient services, such as emergency care.

(4) "Licensee" means a person or other legal entity, other than a receiver appointed pursuant to this section, that is licensed or required to be licensed to operate a hospital.

(5) "Owner" means the holder of the title to the real estate on which the hospital is maintained.

(6) "Patient" means a person living in or receiving care from a hospital.

(7) "Substantial violation" means a violation of the standards of health, safety, or patient care established under District or federal law that presents a reasonable likelihood of serious physical or mental harm to patients.

(b) The Mayor may bring an action in the Superior Court of the District of Columbia requesting the appointment of a receiver to operate a hospital on the following grounds:

(1) A hospital intends to close, but has not arranged for the orderly transfer of patients at least 30 days prior to its closure date;

(2) An emergency exists at the hospital;

(3) A habitual or substantial violation exists at the hospital; or

(4) Insolvency or lack of financial resources of an owner or the licensee has placed the continued operation of the facility in jeopardy.

(c)(1) The court shall hold a hearing no later than 10 days after an action requesting the appointment of a receiver is filed, unless all parties agree to a later date.

(2) Notice of the hearing shall be served on both the owner and the licensee not less than 5 days before the hearing. If either the owner or the licensee cannot be served, the court shall specify the alternative notice to be provided.

(3) The Mayor shall post notice of the hearing, using a court-approved form, in a conspicuous place in the hospital, for not less than 3 days before the hearing.

(4) After the hearing, the court may appoint a receiver if it finds that any one of the grounds for an appointment set forth in subsection (b) of this section has been satisfied.

(d)(1) The court may:

(A) Appoint any person considered appropriate as receiver, except a District employee; and

(B) Remove a receiver for good cause.

(2) The court shall set a reasonable compensation for the receiver, which shall be paid from the revenue of the hospital.

(3) A receiver shall not be considered an agent of the District of Columbia.

(e) A receiver appointed pursuant to this act shall have such powers as the court may direct to:

(1) Operate the hospital;

- (2) Remedy the conditions that constituted the grounds for the receivership;
 - (3) Protect the health, safety, and welfare of the patients;
 - (4) Preserve the assets and property of the patients, owner, and licensee;
 - (5) Remedy violations of District or federal law governing the operation of the hospital;
 - (6) Hire, direct, manage, and discharge any employee, including the administrator of the hospital;
 - (7) Receive and expend, in a reasonable and prudent manner, the revenues of the hospital received by the hospital during the 30-day period preceding the date of his or her appointment and any revenue due thereafter;
 - (8) Continue the operation of the hospital;
 - (9) Continue the care of the patients;
 - (10) Correct and eliminate any deficiency of the hospital that endangers the safety or health of the patients; and
 - (11) Exercise such additional powers and perform such additional duties, including regular accountings, as the court considers appropriate.
- (f)(1) The receiver shall:
- (A) Apply the revenues of the hospital to current operating expenses and, subject to subparagraphs (B) and (C) of this paragraph, to debts incurred by the licensee prior to the appointment of the receiver;
 - (B) Ask the court for direction in the treatment of debts incurred prior to his or her appointment where such debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the hospital, or where payment of a debt will interfere with the purposes of the receivership; and
 - (C) Give priority to expenditures needed for current, direct patient care.
- (2)(A) If a receiver does not have sufficient funds to cover expenditures needed to prevent or remove jeopardy to the patients, the receiver may petition the court for permission to borrow non-District funds for this purpose. Notice of the receiver's petition to the court for permission to borrow must be given to the owner, the licensee, and the Mayor.
- (B) The court, after a hearing, may authorize the receiver to borrow money upon specified terms of repayment and pledge security, if necessary, if the court determines:
- (i) That the hospital should not be closed and that the loan is reasonably necessary to prevent or remove jeopardy; or
 - (ii) That the hospital should be closed and that the loan is necessary to prevent or remove jeopardy to patients for the limited period of time they are awaiting transfer to another hospital or other facility.
- (g) A receiver may not close a hospital without leave of the court. In ruling on the issue of closure, the court shall consider:

- (1) The rights and best interests of the patients;
- (2) The availability of suitable alternative placements;
- (3) The rights, interests, and obligations of the owner and licensee;
- (4) The licensure status of the hospital; and
- (5) Any other factors the court considers relevant.

(h) The owner and the licensee shall be divested of possession and control of the hospital during the period of receivership, under the conditions the court specifies.

(i) An order appointing a receiver pursuant to this section shall have the effect of a license of operation for the duration of the receivership. The receiver shall be responsible to the court for the conduct of the hospital during the receivership, and a violation of regulations governing the conduct of the hospital, if not promptly corrected, shall be reported to the court.

(j)(1) The court shall review the continued necessity of a receivership at least semiannually.

(2) The court shall terminate a receivership when it certifies that the conditions that prompted the receivership have been corrected or, in the case of a discontinuance of operation, when the patients have been safely relocated.

(3) The court shall not terminate a receivership in favor of the former licensee or of a new licensee, unless the person, or entity, assumes all obligations incurred by the receiver and provides collateral or other assurances of payment considered sufficient by the court.

(k) No person may bring suit against a receiver appointed pursuant to this section without first securing leave of the court. Except in cases of gross negligence or intentional wrongdoing, a receiver shall be liable only for actions taken in his or her official capacity and any adverse judgment shall be satisfied out of receivership assets.

(l) The District of Columbia shall not be liable for repayment of funds borrowed by a receiver during the course of the receivership or responsible for any financial obligations of the hospital.

Sec. 6. First source employment agreement.

The United Medical Center shall enter into a first source employment agreement with the Department of Employment Services with respect to the funds authorized in this act.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 8. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review

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as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia