

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Official Code*

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To provide, on a temporary basis, for the appointment of a receiver to operate a hospital, to provide the grounds for such an appointment, to establish the process regarding the appointment of a receiver, to establish the powers and duties of a receiver, to provide for the use of hospital revenues during a receivership, to provide for the termination of a receivership, to establish that a court order shall have the effect of a license for the duration of a receivership, and to establish the liability of a receiver and of the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Establishment of a Hospital Receivership Temporary Act of 2007”.

Sec. 2. Definitions.

For the purposes of this act, 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 section 3, 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.

Sec. 3. Appointment of a receiver; grounds; process.

(a) 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.

(b) The following circumstances are grounds for the appointment of a receiver:

(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, as defined in section 2(1), exists at the hospital; or

(3) A habitual or substantial violation, as defined in section 2(2) and (7), respectively, exists at the hospital.

(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.

Sec. 4. Powers and duties of a receiver.

(a) 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; and

(4) Preserve the assets and property of the patients, owner, and licensee.

(b) With approval of the court, a receiver shall have the authority to:

(1) Remedy violations of District or federal laws governing the operation of the hospital;

(2) Hire, direct, manage, and discharge any employee, including the administrator of the hospital;

(3) 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;

(4) Continue the operation of the hospital;

(5) Continue the care of the patients;

(6) Correct and eliminate any deficiency of the hospital that endangers the safety or health of the patients; and

(7) Exercise such additional powers and perform such additional duties, including regular accountings, as the court considers appropriate.

(c)(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.

(d) 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.

(e) 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.

Sec. 5. Court order to have effect of a license.

An order appointing a receiver pursuant to section 3 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.

Sec. 6. Court review and termination of a receivership.

(a) The court shall review the continued necessity of a receivership at least semiannually. (b)(1) 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 are safely relocated.

(2) 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.

Sec. 7. Liability of receiver.

No person may bring suit against a receiver appointed pursuant to section 3 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.

Sec. 8. Liability of District of Columbia.

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. 9. 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. 10. 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 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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