

§13003. Appointment of receiver

1. Grounds for appointment. The following circumstances are grounds for the appointment of a receiver to operate a facility or a provider.

- A. A facility or provider intends to close but has not arranged at least 30 days prior to closure for the orderly transfer of its residents or clients. [PL 1997, c. 610, §3 (NEW).]
- B. An emergency exists in a facility or provider that threatens the health, security or welfare of residents or clients. [PL 1997, c. 610, §3 (NEW).]
- C. A facility or provider is in substantial or habitual violation of the standards of health, safety or resident care established under state rules or federal regulations to the detriment of the welfare of the residents or clients. [PL 1997, c. 610, §3 (NEW).]

This remedy is in addition to, and not in lieu of, any power of the department, including, but not limited to, the power to revoke, suspend or refuse to renew any license or the power of the department to bring an action pursuant to Title 22, chapter 1666-A.

[PL 1997, c. 610, §3 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Who may bring action. The commissioner or acting commissioner may bring an action in Superior Court requesting the appointment of a receiver.

[PL 1997, c. 610, §3 (NEW).]

3. Procedure for hearing. The procedure for a hearing is as follows.

A. The court shall hold a hearing not later than 10 days after the action is filed, unless all parties agree to a later date. Notice of the hearing must 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. The department shall post notice, in a form approved by the court, in a conspicuous place in the facility or provider for not less than 3 days before the hearing. After the hearing, the court may appoint a receiver if it finds that any one of the grounds for appointment set forth is satisfied. [PL 1997, c. 610, §3 (NEW).]

B. A temporary receiver may be appointed with or without notice to the owner or licensee if it appears by verified complaint or affidavit that an emergency exists in the facility or provider that must be remedied immediately to ensure the health, safety and welfare of the clients or residents. The appointment of a temporary receiver without notice to the owner or licensee may be made only if the court is satisfied that the petitioner has made a diligent attempt to provide reasonable notice under the circumstances. Upon appointment of a temporary receiver, the department shall proceed to make service as provided in paragraph A, and a hearing must be held within 10 days, unless all parties agree to a later date. If the department does not proceed with the petition, the court shall dissolve the receivership. On 2 days' notice to the temporary receiver, all parties and the department, or on such shorter notice as the court may prescribe, the owner or licensee may appear and move the dissolution or modification of an order appointing a temporary receiver that has been entered without notice, and in that event the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. [PL 2011, c. 559, Pt. A, §35 (AMD).]

[PL 2011, c. 559, Pt. A, §35 (AMD).]

4. Who may be appointed receiver. The court may appoint any person, except a state employee, considered appropriate by the court to act as receiver.

[PL 1997, c. 610, §3 (NEW).]

5. Compensation of receiver. The court shall set a reasonable compensation for the receiver and may require the receiver to furnish a bond with any surety the court requires. Any expenditures are paid from the revenues of the facility or provider.

[PL 1997, c. 610, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 610, §3 (NEW). PL 2003, c. 689, §B6 (REV). PL 2011, c. 559, Pt. A, §35 (AMD).

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