

§7933. Appointment of receiver

1. Grounds for appointment. The following circumstances are grounds for the appointment of a receiver to operate a long-term care facility, home health care provider, personal care agency, general and specialty hospitals, critical access hospitals, ambulatory surgical centers, hospice agencies and end-stage renal disease units:

- A. A long-term care facility, home health care provider, personal care agency, general hospital, specialty hospital, critical access hospital, ambulatory surgical center, hospice agency or end-stage renal disease unit intends to close but has not arranged at least 30 days prior to closure for the orderly transfer of its residents or clients; [PL 2023, c. 309, §38 (AMD).]
- B. An emergency exists in a long-term care facility, home health care provider, personal care agency, general hospital, specialty hospital, critical access hospital, ambulatory surgical center, hospice agency or end-stage renal disease unit that threatens the health, security or welfare of residents or clients; or [PL 2023, c. 309, §38 (AMD).]
- C. A long-term care facility, home health care provider, personal care agency, general hospital, specialty hospital, critical access hospital, ambulatory surgical center, hospice agency or end-stage renal disease unit is in substantial or habitual violation of the standards of health, safety or resident care established under state or federal regulations to the detriment of the welfare of the residents or clients. [PL 2023, c. 309, §38 (AMD).]

This remedy is in addition to, and not in lieu of, the power of the department to revoke, suspend or refuse to renew a license under the Maine Administrative Procedure Act. [PL 2023, c. 309, §38 (AMD).]

2. Who may bring action. The commissioner or acting commissioner may bring an action in Superior Court requesting the appointment of a receiver. [PL 2005, c. 397, Pt. A, §27 (AMD).]

3. Procedure for hearing. The procedure for a hearing shall be 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 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. The department shall post notice, in a form approved by the court, in a conspicuous place in the facility, 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 1983, c. 454 (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 that must be remedied immediately to insure the health, safety and welfare of the residents. The temporary appointment of a 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 forthwith 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 temporary receivership. On 2 days' notice to the 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 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, §25 (AMD).]

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4. Who may be appointed receiver. The court may appoint any person deemed appropriate by the court to act as receiver, except any state employee. The court may remove a receiver for good cause. [PL 1983, c. 454 (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 such surety as the court may require. Any expenditures shall be paid from the revenues of the facility. [PL 1983, c. 454 (NEW).]

SECTION HISTORY

PL 1983, c. 454 (NEW). PL 1995, c. 620, §6 (AMD). PL 1997, c. 610, §2 (AMD). PL 1999, c. 384, §14 (AMD). PL 2001, c. 354, §3 (AMD). PL 2005, c. 397, §A27 (AMD). PL 2011, c. 559, Pt. A, §25 (AMD). PL 2023, c. 309, §38 (AMD).

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