

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Health care facility receivership act.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to hospitals and health care facilities;
2 creating a health care facility receivership act; providing
3 definitions; providing procedures and standards for
4 establishing and terminating a receivership; establishing
5 powers and duties of a receiver; and providing for an
6 effective date.

7

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

9

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

12

E

1 ARTICLE 11 - HEALTH CARE FACILITY RECEIVERSHIP

2

3 **35-2-1101. Short title.**

4

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

7

8 **35-2-1102. Definitions.**

9

10 (a) As used in this act:

11

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

13

14 (ii) "Health care facility" means any facility
15 licensed or certified by the department, including its
16 owner, operator or licensee;

17

18 (iii) "This act" means W.S. 35-2-1101 through
19 35-2-1109.

20

21 **35-2-1103. Petition for receivership; hearing;**
22 **parties; emergency order.**

23

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

4

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

8

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

13

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

21

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

4

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

9

10 (e) The court may appoint a receiver upon an ex parte
11 motion when affidavits, testimony or any other evidence
12 presented indicates there is a reasonable likelihood that
13 any of the conditions in subsection (a)(ii) of this section
14 exist. Notice of the petition and ex parte order appointing
15 the receiver shall be served in any manner as provided by
16 the Rules of Civil Procedure and shall be posted in a
17 conspicuous place inside the facility not later than
18 twenty-four (24) hours after issuance of the order. A
19 hearing on the original petition shall be held not later
20 than five (5) days after the issuance of the ex parte order
21 unless the health care facility consents to a later date or
22 waives the hearing.

23

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

7

8 (g) After the appointment of a receiver, the court
9 shall conduct a hearing on the status of the receivership
10 every six (6) months. For good cause, the court may extend
11 the duration of the receivership.

12

13

14 **35-2-1104. Effect of appointment.**

15

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

23

1 **35-2-1105. Powers and duties of a receiver.**

2

3 (a) A receiver appointed under this act shall:

4

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

11

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

15

16 (iii) Collect incoming payments from all
17 sources;

18

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

22

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

3

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

10

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

14

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

20

21 (ii) Correct or eliminate any deficiency in the
22 structure or furnishings of the health care facility that
23 endangers the safety or health of the residents or patients

1 while they remain in the facility, provided the total cost
2 of correction does not exceed three thousand dollars
3 (\$3,000.00). The court may order expenditures for this
4 purpose in excess of three thousand dollars (\$3,000.00) on
5 application from the receiver;

6

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

10

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

13

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

16

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

23

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

3

4 **35-2-1106. Termination of receivership.**

5

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

8

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

12

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

16

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

20

21 **35-2-1107. Priorities.**

22

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

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

8

9 (ii) Claims for:

10

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

17

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

22

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

6
7 (iv) Unless otherwise provided by law, all other
8 claims of general creditors not falling within any other
9 priority under this section, including claims for taxes and
10 debts due to the federal government or any state or local
11 government which are not secured claims;

12
13 (v) Proprietary claims of shareholders, members
14 or officers of the health care facility.

15

16 **35-2-1108. Receiver's liability.**

17

18 (a) The liability of the department shall be limited
19 as set forth in the Wyoming Governmental Claims Act, W.S.
20 1-39-101 through 1-39-121, for the operation of medical
21 facilities and the provision of health care.

22

1 (b) If a person is designated to act as a receiver
2 pursuant to W.S. 35-2-1103(f) and is not covered by the
3 Wyoming Governmental Claims Act, W.S. 1-39-101 through 1-
4 39-121, the designated receiver shall only be held liable
5 in a personal capacity for the designated receiver's own
6 gross negligence, intentional acts or breach of fiduciary
7 duty.

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9 **35-2-1109. Applicability.**

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11 The receivership provisions of W.S 1-33-101 through 1-33-
12 110 shall apply to actions under this act to the extent
13 that they do not conflict with this act.

14

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

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17

(END)