

## **CHAPTER 23-16.1 MEDICAL HOSPITAL RECEIVERSHIP**

### **23-16.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of health and human services.
2. "Health care facility" means those facilities licensed under chapter 23-16.

### **23-16.1-02. Conditions for appointment of receiver.**

If the department has revoked the license of a health care facility, or if the operator of a health care facility has requested, the department may file a petition with the district court to place the health care facility under the control of a receiver if necessary to protect the health or safety of patients or residents at the health care facility. The court may grant the petition upon a finding that the health or safety of the patients or residents at the health care facility would be seriously threatened if a condition existing at the time the petition was filed is permitted to continue. This finding may be based upon evidence concerning the physical plant or the program and services offered by the health care facility, but not solely upon evidence that a health care facility has been denied a license to operate as a health care facility or has had a previously issued license revoked.

#### **23-16.1-02.1. Imminent threat to health or safety - Conditions for appointment of receiver - Appointment of receiver.**

If the department determines a situation exists which constitutes an imminent threat to health or safety of the residents of a nursing facility, the department may take immediate control of the nursing facility and appoint an interim administrator. Within ten days of taking control of a nursing facility, the department shall petition the district court of the district in which the nursing facility is located to establish a receivership. The court shall grant the petition if it finds the department is substantially justified in concluding there was an imminent threat to life or health of the residents. In making its decision the court shall consider the matters set forth in section 23-16.1-02, any matters that the department considered in reaching its decision, and any other matters bearing on the ability of the nursing facility to provide for the health or safety of its residents. If the court grants the petition, the court shall also reconfirm the appointment of the interim administrator or direct the state health officer to choose another pursuant to section 23-16.1-03. Any receiver reconfirmed or appointed pursuant to this section shall comply with sections 23-16.1-03 through 23-16.1-05. Neither the department nor the court may terminate the appointment of a receiver appointed under this section until the nursing facility has complied with federal and state law and demonstrated management capability to ensure continued compliance and the health and safety of the residents.

As used in this section, an "imminent threat to health or safety" means without intervention one or more of the following will occur to the residents: death, loss of mobility, partial disability, loss of motor skills, loss of speech, hearing, sight, or other ability to function within normal limits for an individual of that age and condition.

#### **23-16.1-02.2. Closure of facility or removal of residents.**

In the event of an emergency any receiver appointed under section 23-16.1-02.1 may remove any or all residents of a nursing facility and close the facility if deemed necessary.

#### **23-16.1-03. Appointment of receiver.**

The court shall appoint as receiver the state health officer who shall designate a qualified individual, not employed by this state or its political subdivisions, or a nonprofit organization to execute the receivership. The receiver appointed by the court shall use the income and assets of the health care facility to maintain and operate the health care facility and to attempt to correct the conditions that constitute a threat to the patients or residents. The receiver may not liquidate the assets of the health care facility.

**23-16.1-04. Termination of receivership.**

The receivership must be terminated when the receiver and the court certify that the conditions which prompted the appointment have been corrected, when the license is restored, when a new license is issued, or, in the case of an election by the owner or owners to discontinue operation, when the patients or residents are safely placed or provided services in the health care facility.

**23-16.1-05. Accounting.**

Upon the termination of the receivership, the receiver shall render a complete accounting to the court and shall dispose of surplus funds as the court directs.