

144A.15 INVOLUNTARY RECEIVERSHIP.

Subdivision 1. **Petition, notice.** In addition to any other remedy provided by law, the commissioner of health may petition the district court in Ramsey or Hennepin County or in the district in which a nursing home or certified boarding care home is located for an order directing the controlling persons of the nursing home or certified boarding care home to show cause why the commissioner of health or a designee should not be appointed receiver to operate the facility. The petition to the district court shall contain proof by affidavit that the commissioner of health has either commenced license suspension or revocation proceedings, suspended or revoked a license, or decided not to renew the nursing home license, or that violations of section 1919(b), (c), or (d), of the Social Security Act, or the regulations adopted under that section, or violations of state law or rules, create an emergency. The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy to the nursing home administrator and to the persons designated as agents by the controlling persons to accept service on their behalf pursuant to section 144A.03, subdivision 2.

Subd. 2. **Appointment of receiver, rental.** If, after hearing, the court finds that involuntary receivership is necessary as a means of protecting the health, safety or welfare of a resident of a nursing home, the court shall appoint the commissioner of health, or any other person designated by the commissioner of health, as a receiver to take charge of the facility. The court shall determine a fair monthly rental for the facility, taking into account all relevant factors including the condition of the facility. This rental fee shall be paid by the receiver to the appropriate controlling persons for each month that the receivership remains in effect. Notwithstanding any other law to the contrary, no payment made to a controlling person by any state agency during a period of involuntary receivership shall include any allowance for profit or be based on any formula which includes an allowance for profit.

Subd. 2a. **Emergency procedure.** If it appears from the petition filed under subdivision 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in a nursing home or certified boarding care home, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition shall be served personally on the nursing home administrator and on the persons designated as agents by the controlling persons to accept service on their behalf according to section 144A.03, subdivision 2. A hearing on the petition shall be held within five days' after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Subd. 3. **Powers and duties of receiver.** A nursing home receiver appointed pursuant to this section shall with all reasonable speed, but in any case, within 18 months after the receivership order, provide for the orderly transfer of all the nursing home's residents to other facilities or make other provisions for their continued safety and health care. The receiver may correct or eliminate those deficiencies in the facility which seriously endanger the life, health or safety of the residents unless the correction or elimination of deficiencies involves major alterations in the physical structure of the nursing home. The receiver shall, during this period, operate the nursing home in a manner designed to guarantee the safety and adequate health care of the residents. The receiver shall take no action which impairs the legal rights of a resident of the nursing home. The receiver shall have power to make contracts and incur lawful expenses. The receiver shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the receiver's functions. No security interest in any real or personal property comprising the nursing

home or contained within it, or in any fixture of the facility, shall be impaired or diminished in priority by the receiver. The receiver shall pay all valid obligations of the nursing home and shall deduct these expenses, if appropriate, from rental payments owed to any controlling person by virtue of the receivership.

Subd. 4. **Receiver's fee; liability; commissioner assistance.** A nursing home receiver appointed pursuant to this section shall be entitled to a reasonable receiver's fee as determined by the court. The receiver shall be liable only in an official capacity for injury to person and property by reason of the conditions of the nursing home. The receiver shall not be personally liable, except for gross negligence and intentional acts. The commissioner of health shall assist the receiver in carrying out these duties.

Subd. 5. **Termination.** An involuntary receivership imposed pursuant to this section shall terminate 18 months after the date on which it was ordered or at any other time designated by the court or upon the occurrence of any of the following events:

(a) A determination by the commissioner of health that the nursing home's license should be renewed or should not be suspended or revoked;

(b) The granting of a new license to the nursing home; or

(c) A determination by the commissioner of health that all of the residents of the nursing home have been provided alternative health care, either in another facility or otherwise.

Subd. 6. [Repealed, 1992 c 513 art 8 s 59]

History: 1976 c 173 s 15; 1977 c 305 s 45; 1986 c 444; 1989 c 282 art 3 s 23-25