

AN ACT

RELATING TO HEALTH FACILITY RECEIVERSHIPS; EXPANDING THE DEFINITION OF "HEALTH FACILITY" AS USED IN THE HEALTH FACILITY RECEIVERSHIP ACT; PROVIDING FOR COURT LIMITATION OF AUTHORITY OF DEPUTY RECEIVER; AUTHORIZING RULEMAKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-1E-1 NMSA 1978 (being Laws 1996, Chapter 35, Section 4) is amended to read:

"24-1E-1. SHORT TITLE. -- Chapter 24, Article 1E NMSA 1978 may be cited as the "Health Facility Receivership Act". "

Section 2. Section 24-1E-2 NMSA 1978 (being Laws 1996, Chapter 35, Section 5) is amended to read:

"24-1E-2. DEFINITIONS. -- As used in the Health Facility Receivership Act:

- A. "department" means the department of health;
- B. "health facility" means:

(1) a health facility as defined in Subsection D of Section 24-1-2 NMSA 1978 other than a child-care center or facility, whether or not licensed by the state of New Mexico; or

(2) a community-based program providing services funded, directly or indirectly, in whole or in part, by the home and community-based medicaid waiver program or by developmental disabilities, traumatic brain injury or other

medical disabilities programs;

C. "person" includes a natural person and any other form of entity recognized by law;

D. "receiver" means the secretary, upon appointment pursuant to the Health Facility Receivership Act; and

E. "secretary" means the secretary of health."

Section 3. Section 24-1E-4 NMSA 1978 (being Laws 1996, Chapter 35, Section 7) is amended to read:

"24-1E-4. HEARING ON PETITION. --

A. Except in the case of an ex parte hearing under the Receivership Act, the district court shall hold a hearing on the petition within ten days after the petition is filed or as soon thereafter as practicable. The health facility shall be given notice of the hearing at least five days before the hearing date.

B. In the case of an ex parte hearing under the Receivership Act, the district court may enter an order appointing the secretary as temporary receiver, with all the rights and responsibilities of a receiver, for ten days or until a hearing can be held on the petition.

C. Following hearing, the district court shall appoint the secretary as receiver if it finds that any of the conditions of Subsection A of Section 24-1E-3 NMSA 1978 exists.

D. Following any regular or ex parte hearing, the district court may appoint a qualified person, experienced in health facility management, to act as deputy receiver. The person appointed as deputy receiver shall be free of conflict of interest with the health facility that is in receivership.

E. The receiver's bond shall be deemed satisfied by his bond under the Surety Bond Act. If a deputy receiver is not a public employee covered under the Surety Bond Act, he shall obtain a fidelity and performance bond in an amount determined by the court. The cost of the bond shall be paid from the receivership estate. "

Section 4. A new section of the Health Facility Receivership Act is enacted to read:

"RULEMAKING. --No later than December 31, 2001, the secretary shall promulgate rules to implement the provisions of the Health Facility Receivership Act.

As a minimum, the rules shall establish:

A. conditions under which a petition for a health facility receivership may be filed;

B. the duties, authority and responsibilities of the deputy receiver and the health facility;

C. the specific authority of the deputy receiver to impose financial conditions and requirements on the health facility;

D. minimum qualifications for deputy receivers;

and

E. provisions that will be requested for inclusion in district court orders entered pursuant to the Health Facility Receivership Act. "

Section 5. A new section of the Health Facility Receivership Act is enacted to read:

"FACILITY MAY SEEK MODIFICATION OR TERMINATION. -- A health facility under receivership may petition the court at any time for modification or termination of the order of receivership. "

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