

1000 RECEIVERSHIP

1001 DEFINITIONS

- a. Administrator – A long term facility administrator as defined in Ark. Code Ann. § 20-10-101.
- b. Emergency – A situation, physical condition, or one or more practices, methods or operations which threatens the health, security, safety or welfare of residents.
- c. Facility – A long term care facility that is required to be licensed under Ark. Code Ann. § 20-10-224.
- d. Habitual Violation – A violation of state or federal laws which, due to its repetition, presents a reasonable likelihood of serious physical or mental harm to residents.
- e. Licensee – Any person or other legal entity who is licensed to operate a facility.
- f. Owner – The holder of the title to the real estate in which the facility is maintained.
- g. Resident – Any person who lives in and receives services or care in a long term care facility.
- h. Substantial Violation – A violation of a state or federal law which presents a reasonable likelihood of serious physical or mental harm to residents.
- i. Department – The Arkansas Department of Health and Human Services.
- j. Office – Office of Long Term Care.
- k. Director of OLTC – The Assistant Deputy Director of the Office of Long Term Care.
- l. Director – The Director of the Arkansas Department of Health and Human Services.

1002 PURPOSE

- a. Ark. Code Ann. § 20-10-902 describes the purpose for development of a mechanism for the concept of receivership to protect resident in long term care facilities. Utilization of the receivership mechanism shall be a remedy of last resort and shall be implemented consistent with the criteria set forth in Ark. Code Ann. § 20-10-904, to wit:

1. An emergency exists in a facility which threatens the health, security or welfare of residents.
 2. A facility 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.
 3. A facility intends to close but has not arranged at least thirty (30) days prior to closure for the orderly transfer of its residents.
 4. The facility is insolvent.
 5. The Department has suspended, revoked or refused to renew the existing license of the facility.
- b. The objective of any receivership is:
1. To restore a nursing home's capability to meet resident needs or, if that is not feasible;
 2. To arrange for a transfer of ownership or closing of the home.

1003 APPOINTMENT AND SUPERVISION OF A MONITOR(S):

- a. The Director, pursuant to Ark. Code Ann. § 20-10-915, may in its discretion place a designated employee in the facility in lieu of a receiver.
 1. The monitor(s) shall meet the following minimum requirements:
 - A. Be in good physical health.
 - B. Experience in working with the elderly in programs such as patient care, social work, or advocacy.
 - C. Have an understanding of the rules and regulations which are the subject of the monitors' duties as evidenced in a personal interview of the candidate.
 - D. Not be related to the owners of the involved facility either through blood, marriage, or common ownership of real or personal property.
 - E. Successfully completed a baccalaureate degree or two years full-time work experience in the long term care industry.

2. Monitor(s) shall be under the supervision of the Department; shall perform the duties of a monitor delineated and accomplish the following actions:
 - A. A monitor shall visit the facility at least five (5) days per week or more frequently as assigned by the Director.
 - B. Review all records pertinent to the condition for such monitor's placement under 1(a) above.
 - C. Provide to the Director a weekly written report and a daily oral report detailing the observed conditions of the facility.
 - D. Shall be available as a witness for hearings.
3. All communications, including, but not limited to, data, memorandum, correspondence, records and reports shall be transmitted to and become the property of the Department. Findings and results of the monitor's work done under these rules and regulations shall be strictly confidential, subject to disclosure only in accordance with the provisions of the Freedom of Information Act.
4. The assignment as a monitor may be terminated at any time by the Director.
5. The monitor(s) shall submit a written report setting forth findings and recommendations concerning the operation of the facility.

1004 DETERMINATION OF NEED FOR RECEIVERSHIP

- a. Pre-Petition Activities – Prior to the filing of a Petition of Receivership (Ark. Code Ann. § 20-10-905) the Department shall be notified and:
 1. Coordinate the preparation and collection of documentation to support a decision to recommend a receivership action.
 2. In an emergency situation present the supporting documentation and recommendations to the Director.
 3. Receive information from any source, which indicates a need for receivership action.
 4. Request information concerning the following:
 - A. Chronology of facility survey history for the two years immediately prior to the determination of the need.

- B. Summary of physical plant/life safety code compliance and actions necessary to correct violations/deficiencies.
 - C. Summary of number of residents, care levels, special needs and an assessment of major problems occurring in the facility, i.e., staffing, supply shortages (may warrant an immediate on-site visit).
5. Review the need for receivership considering the following options:
- A. Would relocation of residents be an alternative?
 - B. Would appointment of a monitor be sufficient?
6. Identifies the total number and type of violations or deficiencies cited by Department staff.

1005 PETITION FOR NOTICE OF RECEIVERSHIP

- a. The Department, Attorney General, or prosecuting attorney or duly appointed deputy prosecuting attorney of the district in which the facility is located may file in chancery court of the county in which the facility is located a complaint requesting the appointment of a receiver.
- b. The summons, complaint and notice of hearing shall be served on the owner and administrator or licensee of the facility. The summons, complaint and notice may be served by any means set forth in the Arkansas Rules of Civil Procedure, Rule 4, giving actual notice to the owner and administrator or licensee.
- c. Emergency Appointment
 - 1. If the complaint filed under Ark. Code Ann. § 20-10-905 is filed by the Department and alleges that grounds set out in Ark. Code Ann. § 20-10-904(a) exist within the facility, and is accompanied by a verified affidavit setting forth facts which would constitute such a ground, a temporary receiver shall be appointed with or without notice to the owner or licensee.
 - 2. The temporary appointment of a receiver without notice to the owner, licensee, or administrator may be made only if the court is satisfied that the Department has made a diligent attempt to provide reasonable notice under the circumstances. The delivery of a copy of the complaint to the facility upon filing shall constitute reasonable notice for issuance of a temporary receivership order by the court.
 - 3. Upon appointment of a temporary receiver, the department shall proceed forthwith to obtain the service as provided in 20-10-905(d).

4. If the department does not proceed with the complaint, the court shall dissolve the temporary receivership after ten (10) days.

1006 POST PETITION ACTIVITIES

Immediately upon appointment of a receiver the Department shall assist the receiver and insure the following functions and responsibilities are accomplished:

- a. Identify the need for additional staff as necessary to evaluate problems identified on-site.
- b. Identify and work closely with key nursing home personnel to assess the adequacy of services to the patients in the home and to establish whether or not adequate and appropriate inventories of supplies and equipment are available to meet the needs of the patients. Determine the extent, condition and availability of physical inventory and records.
- c. Identify and interview person(s) responsible for maintaining the home's financial records, and identify the bank or other financial institution with which the home is involved for mortgage financing, short term loans, daily banking activities (checking, savings), etc.
- d. Work closely with the director of nursing and other nursing personnel and evaluate the quality and effectiveness of resident care, including progress made on cited code violations.
- e. Assesses:
 1. The ability of licensed and attendant staff to meet the needs of the resident population.
 2. The degree to which the health needs of the residents are met through direct observation of residents, interviews with residents and staff, and examination of clinical records.
 3. The quality and quantity of medical care being rendered, and that physician's orders are being carried out appropriately. (May request the services of a consulting physician to evaluate this aspect).
 4. The nutritional status of the residents; examines the adequacy and appropriateness of diets.
 5. Other resident needs, including grooming and hygiene, recreation, and restorative nursing.

6. The availability and adequacy of appropriate nursing supplies and equipment.
- f. May recommend the removal of residents requiring a level of care greater than the available nursing services.
- g. Work closely with the Director of Nursing in evaluation the status of residents.
- h. Communicate with residents' families and other interested parties to address concerns for the health, safety or welfare of the residents.
- i. Evaluate the social services activity of the home.

1007 ASSISTANCE WITH DUTIES OF THE RECEIVER TO STAFF

Immediately upon completion of the assessment in Section 1006 above, but in no event more than 72 hours after appointment, the Department shall assist the Receiver to:

- a. Conduct an orientation meeting with staff to discuss identified problems, present status of the operation, apparent priorities, establish a plan of operation and receivership goals. Contract personnel will attend if appropriate.
- b. Coordinate assignment of staff to receivership activities.
- c. Distribute reports and other information regarding receivership action to facility supervisory personnel.
- d. Interview persons who maintain inventories (food, medical supplies, etc.) to assure adequacy of supplies on hand.
- e. Interview medical director, director of nursing, heads of housekeeping, maintenance, food service, laundry, etc., to address adequacy of services and environmental conditions of the facility.
- f. Meet all department heads to:
 1. Explain the need and purpose of the receivership.
 2. Discuss identified problems.
 3. Assess the strengths of the group and the facility.
 4. Present a plan of operation including apparent priorities and tentative goals.
 5. Explain style of leadership; expectations.

6. Encourage and elicit free and open expression, noting their feelings, concerns.
7. Announce weekly department head group meetings.

1008 ASSISTANCE WITH RESPONSIBILITIES OF RECEIVER TO RESIDENTS, GUARDIANS AND FAMILIES

Immediately upon completion of assessment in Section 1006 above, but in no event more than 72 hours after appointment the Department shall assist the receiver to:

- a. Meet with the residents/guardians, their families and/or interested parties to:
 1. Explain purpose and necessity of receivership.
 2. Identify persons who will operate the facility, and present plans of operation.
 3. Describe expected goals and end results.
 4. Assure residents and their families of care and continuing concern for their needs, health and welfare and identify the person to be contacted if they have questions.
 5. Ask for their support and patience during the course of the receivership action.
- b. Prepare notice to families, responsible parties and guardians of residents explaining:
 1. Purpose and necessity of receivership action.
 2. Expected goals of receivership and end results.
 3. The assurance of continuing care and concern for the residents.
 4. The need for continued support and concern for the residents.
 5. Identify a person to contact for information.

1009 LONG RANGE RESPONSIBILITIES OF RECEIVER

Upon appointment, the department shall assist in taking appropriate action with regard to the on-going operation of the facility. That action shall include:

- a. Meet regularly with other staff.
- b. Convey copies of reports to the Director as scheduled.
- c. Meet with facility department heads to plan for achieving goals to remedy identified code violation, to mutually review causes and ways to overcome past and present problems, and to promise open communication and support between them. Agrees to other meetings as necessary.
- d. Receive required reports from department heads as scheduled.
- e. Keep daily log of activities and observations for incorporation into written weekly reports to Director.
- f. Hold regular department head meetings – weekly to start, with an agenda that includes:
 - 1. Information from receivership team administrator.
 - 2. Information from department heads.
 - 3. Free exchange of comments.
- g. Monitor closely the ongoing operation of the facility.
 - 1. By daily presence on floors and in departments, keep up the morale and confidence of employees and residents.
 - 2. Evaluate and document performance of staff.
 - 3. Review security of the facility and changes locks as necessary.
 - 4. Consistently work toward the correction of any code violations.
 - 5. Monitor and control admission policies.
 - 6. Recommend to the Director any immediate changes in staff and/or staffing patterns necessary to the safety, health and welfare of the residents.
- h. Review the current resident care program in light of available skills and ability of the staff to meet the needs of residents. Consider the need to close the home to additional admissions, the need to transfer residents from the facility. Make the appropriate recommendations to the Director.
- i. Continuously monitor staffing in relocation to the quantity and types of skills.

- j. If the facility is permitted to continue to accept admissions, review applications for admission, considering skills required for proper care in relation to skills available at the home.
- k. Evaluate the operation of the nursing department, beginning with problems identified as existing code violations and observations made by the pre-receivership team.
- l. Assist the Director of Nursing in the preparation, promotion and implementation of remedial actions.
 - 1. Evaluate the effectiveness of selected remedial programs on a continuing basis.
 - 2. Report progress toward correction of violations and other problems to receivership team administrator on a regular basis.
- m. Monitor all phases of the nursing department and all services pertaining to the care of the residents including:
 - 1. Medical Care
 - A. Frequency of physician's visits
 - B. Physician's responsiveness to emergencies or changes in residents' condition
 - C. Effectiveness of nurse/physician relationships
 - D. Appropriate and timely reporting by nursing staff of emergencies and/or significant physical changes to attending physicians
 - E. Evaluation of the role served by the facility's medical director
 - 2. Care Delivery System
 - A. Medication System
 - i. Proper and effective methods of order transcription
 - ii. Effective pharmacy service
 - iii. Accuracy in administration
 - iv. Accurate recordkeeping

- v. Proper methods of disposal of outdated or discontinued medication
- vi. Prompt renewal of medication orders
- B. Treatment Systems
 - i. Adequacy and appropriateness of treatment supplies
 - ii. Provision of treatments as ordered by the physician
 - iii. Proper recording
 - iv. Utilization of proper techniques
 - v. Charting of effectiveness of prescribed treatment
- C. Restorative Therapies
 - i. Comprehensive orders
 - ii. Proper follow-through
 - iii. Appropriate and accurate records
- D. Restorative Nursing
 - i. Activities of daily living retraining being provided
 - ii. Staff promotion of self-care to extent possible
 - iii. Nursing staff follow-through on therapeutic restorative programs
 - iv. All residents up and dressed as possible
- 3. Accident/Incident Management
 - A. Proper care and follow-up provided by nursing staff
 - B. Physicians notified appropriately
 - C. Medical director reviewing all reports
 - D. Comprehensive charting and accident reports available

4. Record Management
 - A. Medical records complete and in good order
 - B. Charting by nursing staff meaningful
 - C. All reports available in record
 - D. Closed records complete and in good order
5. Laboratory and Other Contract Services
 - A. Responsive on a timely basis
 - B. Reports available promptly
 - C. Current orders available for tests and treatment rendered
 - D. Physicians promptly notified of test results
6. Dignity of Residents
 - A. Residents treated by nursing staff with courtesy and respect
 - B. Resident rights known to all nursing staff and maintained consistently
7. Inservice Programming
 - A. Appropriate to the needs of the staff
 - B. Appropriate planning and scheduling
 - C. Adequate orientation and training of new staff members being provided
8. Supply and Equipment Procurement
 - A. Supplies and equipment available and adequate to meet the needs of the patient census
 - B. Supplies and equipment maintained in sanitary condition and good working order

1010 REPORTING OF PROGRESS OF RECEIVER

- a. The Receiver shall report to the court, the Department, the owner and administrator licensee on the progress of the receivership action before the receivership can be concluded and at such times as directed by the court, and prior to engaging in any function, duty or activity for which a statutorily mandated report is required. The preparation of the final report on all aspects of a receivership action is coordinated by the Director.
- b. The report details all activities and their expenditures during the receivership. It clearly identifies whether the objectives of the receivership have been achieved; i.e., to restore the home's capabilities to meet patient needs, or to close the home. If the objective has not been achieved, it clearly identifies what additional actions are necessary and an estimate of how much time is required to complete them.
- c. The receiver shall forward a report to the Director for review, advice and assistance.
- d. If the Court determines and orders the facility is to continue operation, the receiver shall:
 1. Prepare department heads for change in administration. Provide information and instructions as needed, together with a timetable for activities and required final reports. Such reports are to include a brief summary statement to the receivership team administrator, including statistics and numbers where appropriate, an assessment of strengths and weaknesses and recommendations of the department head.
 2. Meet all employees, each shift, to prepare them for the change in administration, giving dates of action and names. Thank them for cooperation and personal efforts.
 3. Meet with, or arranges for meetings, as needed, with residents and their families to prepare them for upcoming changes, giving dates of action and names. Thanks them for their patience and cooperation.
 4. Notify families and responsible parties to inform them of the approaching changes.
 5. Request and receive concluding reports from all members of the receivership team, and compile final report and forward to Director.
 6. On day of transition of control, collect all keys, records, books, etc., from each member of the receivership team. Turn these items over to the incoming administration.
 7. Remain available to new administration to ease turnover process.

8. Take and record a complete inventory. Provides report to receivership team administrator.
 9. Bring all records up to date; makes final reconciliation of books.
 10. Be available to new financial officer, if any, to assist in an orderly transition.
- e. If the Court determines and orders the facility to be closed, upon receipt of the decision for closure, along with instructions regarding needed information and procedures, the receiver shall:
1. Inform other members of the receivership team of the decision for closure and the responsibilities they will assume during the closure process.
 2. Prepare department heads for closing, giving information and instruction as needed, together with timetable for actions. Instruct on final report as required, including brief summary statements.
 3. Meet with all employees, each shift, giving general outline of concluding activities; ask their cooperation to the end.
 4. Hold concluding meetings with each department head, collecting all final reports, etc.
 5. Receive and act upon instructions regarding storage of files and records, disposition of capital goods, equipment, building, etc.
 6. Take final inventory.
 7. Bring all records up to date and close books.
 8. Conclude all accounts, pay all bills, collect all accounts receivable.
 9. Under the direction of the Director, close all bank accounts, and oversee the transfer of residents' funds to the receiving facilities.
 10. Work with the facility staff in preparing residents and the families of residents for the impending closure of the facility.
 11. Seek additional nursing staff to assist in the transfer, if necessary.
 12. Work with social service staff and the families of residents in securing appropriate placement in other facilities.

13. Participate in the actual transfer process, assuring the proper transfer of records, etc.
14. Oversee the closure of the nursing department and nursing areas, seeing to the proper closure and storage of records.

1011 QUALIFICATIONS AND MAINTENANCE OF LIST FOR RECEIVER

- a. Through consultation with the long-term care industry associations, professional organizations, consumer groups and health-care management corporations, the Department shall maintain a list of receivers. This list shall be updated semi-annually. To be placed on the list, individuals must:
 1. Be in good physical health.
 2. Demonstrate an understanding or working knowledge of applicable laws, rules and regulations.
 3. In addition to 1 and 2 above, individuals placed on the list shall:
 - A. Possess a current, valid Arkansas Nursing Home Administrator's license;
 - B. Possess a degree in business finance, management, health-care or a related field and one (1) year work experience in the degreed field provided; an individual not possessing a college degree but having five (5) years experience in the above fields may substitute such experience for the requisite degree; or,
 - C. Possess one year of experience in working with the elderly in programs or fields such as patient care, social work, or advocacy and having successfully completed a baccalaureate degree in management program or field; or possess a license in that program or field; or have two (2) years full-time working experience in the Arkansas long-term care industry in a management capacity.

1012 DEPARTMENT TO FURNISH RECEIVER WITH COPY OF LEGAL PROCEEDING

- a. Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date which concern the facility.
- b. The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Ark. Code Ann. § 20-10-916 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

1013 MANDATED PATIENT TRANSFER

- a. In the case of Department ordered patient transfers, the receiver may:
 - 1. Assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health.
 - 2. Assist in providing for transportation of the resident, his medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location.
 - 3. Unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

1014-1999 RESERVED