

663

2011-2012 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 5, 2011

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Introduced by M. of A. GOTTFRIED, DINOWITZ -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to the appointment of a temporary operator or voluntary receiver of adult care facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (c) of subdivision 4 of section 460-d of the  
2     social services law, as added by chapter 733 of the laws of 1994 and  
3     subparagraph (i) as amended by section 50 of part B of chapter 58 of the  
4     laws of 2004, is amended to read as follows:  
5     (c) Any order or determination to suspend any operating certificate  
6     will specify the conditions of the suspension. These conditions may  
7     include but need not be limited to the following:  
8     (i) if required for the protection of the health, safety or welfare of  
9     the residents, the immediate transfer of some or all residents to other  
10    appropriate facilities or to the custody of their legal guardians, if  
11    any;  
12    (ii) the appointment of a temporary operator to operate the facility  
13    during the term of the suspension. THE POWERS AND PROTECTIONS OF A  
14    TEMPORARY OPERATOR UNDER THIS SUBDIVISION SHALL INCLUDE THE POWERS AND  
15    PROTECTIONS OF A RECEIVER AS SET FORTH IN SUBDIVISION FOUR OF SECTION  
16    FOUR HUNDRED SIXTY-ONE-F OF THIS ARTICLE, TO THE EXTENT NECESSARY TO  
17    CONTINUE TO OPERATE THE FACILITY AND PROTECT THE HEALTH, SAFETY AND  
18    WELFARE OF THE RESIDENTS DURING THE TERM OF THE SUSPENSION; PROVIDED,  
19    HOWEVER, THAT THE TEMPORARY OPERATOR SHALL NOT HAVE THE POWER TO (A)  
20    SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY OUTSIDE OF  
21    THE ORDINARY COURSE OF BUSINESS, (B) TAKE ANY OTHER ACTION WHICH A  
22    RECEIVER WOULD NEED COURT APPROVAL TO TAKE, OR (C) TRANSFER OR REMOVE  
23    RESIDENTS FROM THE FACILITY UNLESS IT IS REQUIRED FOR THE PROTECTION OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 THEIR, OR ANOTHER PATIENT'S, HEALTH, SAFETY OR WELFARE, OR THE TRANSFER  
2 IS REQUESTED BY THE PATIENT;

3 (iii) the immediate transfer of all records concerning the operation  
4 of the facility, including resident records, facility business records  
5 and any other records related to the operation of the facility to the  
6 department immediately. The department shall control the records for the  
7 term of the suspension;

8 (iv) the operator or operators of the facility shall be barred from  
9 access to the facility during the term of the suspension; or

10 (v) the requirement that the operator, if replaced by a temporary  
11 operator, provide the temporary operator with any funds received by the  
12 operator for the operation of the facility.

13 S 2. Subdivision 1 of section 461-f of the social services law, as  
14 amended by section 44 of part B of chapter 58 of the laws of 2004, is  
15 amended to read as follows:

16 1. As a means of protecting the health, safety and welfare of the  
17 residents of an adult care facility subject to inspection and super-  
18 vision by the department, it may become necessary under certain circum-  
19 stances to authorize the continuing operation of such facility for a  
20 temporary period by a court appointed receiver, at the discretion of the  
21 commissioner, as provided in this section or with respect to an adult  
22 home, enriched housing program or residence for adults, a receiver  
23 approved by the department of health pursuant to written agreement  
24 between the department, THE RECEIVER and the operator or operators of  
25 such facility[, provided that such agreement shall not exceed a period  
26 of sixty days but may be extended for an additional sixty day period  
27 upon agreement by the parties]. SUCH RECEIVERSHIP SHALL TERMINATE AT  
28 SUCH TIME AND IN SUCH MANNER AS IS AGREED UPON BY THE PARTIES.

29 S 3. Subdivision 2 of section 461-f of the social services law, as  
30 added by section 45 of part B of chapter 58 of the laws of 2004, is  
31 amended to read as follows:

32 2. The operator or operators of any adult home, enriched housing  
33 program or residence for adults may at any time request the department  
34 of health to appoint a receiver to take over the operation of such  
35 facility. Upon receiving such a request, the department of health may,  
36 if it deems such action desirable, enter into an agreement with any such  
37 operator or operators AND THE RECEIVER for the appointment of a receiver  
38 to take charge of the facility under whatever conditions as shall be  
39 found acceptable by the parties[, provided that such agreement shall not  
40 exceed a period of sixty days but may be extended for an additional  
41 sixty day period upon agreement by the parties]. SUCH RECEIVERSHIP SHALL  
42 TERMINATE AT SUCH TIME AND IN SUCH MANNER AS IS AGREED UPON BY THE  
43 PARTIES.

44 S 4. This act shall take effect immediately.