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Maddox of the Senate

An Act relating to public health; amending 63 O.S. 2001, Sections 1-1906, 1-1908.1, 1-1912, 1-1914.1, 1-1914.2 and 1-1925, which relate to the Nursing Home Care Act; adding to listing of grounds for denial of certain license; authorizing the suspension of certain licenses under certain conditions; requiring certain reports; authorizing certain extension and license revocation proceedings under certain circumstances; requiring certain facilities to meet certain standards for certain purposes; providing for certain facilities having suspended licenses at certain time; creating the Nursing Facilities Administrative Penalties Fund; providing for revenue source and limiting expenditures from fund to certain purposes; adding to certain list of certain violations; providing for certain finding of certain emergency and establishing certain procedures; authorizing certain remedial action under certain circumstances; expanding authorization to appoint temporary managers; adding to certain list of certain standards; requiring certain notification by certain persons under certain circumstances and in certain manner; providing for receivership of certain facilities under certain circumstances; providing for petition, hearing and procedures; providing for certain emergencies; providing for appointment of receiver; providing for duties and responsibilities of receiver; providing for certain exemption from liability; providing for certain funds for certain purposes; providing for conditional license; providing for termination of receivership; providing for certain accounting; providing for certain disposition of certain funds; providing for certain liens; providing for certain liabilities and obligations; providing for retention of certain right by certain persons; providing procedures; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1906, is amended to read as follows:

Section 1-1906. A. The State Commissioner of Health shall issue and renew licenses for the operation of facilities which are found to

comply with the provisions of this act, and standards, and rules ~~and~~ ~~regulations~~ of the State Board of Health.

B. For any new facility or for any facility ~~which~~ that has undergone a transfer of ownership or operation the State Department of Health shall issue only an initial license. An initial license shall be valid for one hundred eighty (180) days unless sooner suspended or revoked under this act. Prior to the termination of an initial license, the Department shall fully and completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under this act. If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

C. An application for a license may be denied for any of the following reasons:

1. Failure to meet any of the minimum standards set forth by this act or by rules ~~and regulations~~ promulgated by the Department under this act;

2. Conviction of the applicant, or of any member of an applicant that is a firm, partnership or association or, if a corporation, the conviction of the corporation or any of its officers or a majority stockholder, or of a person designated to manage or supervise a facility, of a felony, meaning a crime that would have a bearing on the operation of a nursing home, the conviction to be shown by a certified copy of the record of the court of conviction, if the Department determines, after investigation, that such applicant has not been sufficiently rehabilitated to warrant the public trust, or other satisfactory evidence that the moral character of the applicant, or administrator, or manager, or supervisor of the facility is not reputable;

3. Personnel insufficient in number or unqualified by training or experience properly to care for the proposed number and type of residents to be determined by standards set by the Department with said standards not being less than those set by federal statute; or

4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care.

D. Immediately upon the denial of any application or reapplication for a license under this act, the Department shall notify the applicant in writing. Notice of denial shall include a clear and concise statement of the violations on which denial is based and notice of the opportunity for a hearing. If the applicant desires to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within ten (10) days after receipt of the notice of denial and the Department shall commence the hearing.

E. The Commissioner may suspend or revoke a license on any of the following grounds:

1. Violation of any of the provisions of this act or the rules, regulations and standards issued pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in a licensed facility; ~~or~~

3. Conduct of practices deemed by the Commissioner to be detrimental to the welfare of the patients or residents of a facility;

4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care; or

5. The facility has closed.

F. 1. The Department, after notice to the applicant or licensee, may suspend, revoke, refuse to renew a license or assess administrative penalties in any case in which the Department finds that there has been a substantial failure to comply with the Nursing Home Care Act or the rules ~~and regulations~~ promulgated by the Department under this act;

2. Notice under this section shall include a clear and concise statement of the violations on which the nonrenewal, revocation or administrative penalty is based, the statute or rule violated and notice of the opportunity for a hearing;

3. If a facility desires to contest the nonrenewal or revocation of a license or the assessment of administrative penalties, the facility shall, within ten (10) days after receipt of notice under paragraph 2 of this section, notify the Commissioner in writing of its request for a hearing. Upon receipt of the request the Commissioner shall send notice to the facility and hold a hearing;

4. The effective date of nonrenewal or revocation of a license by the Commissioner shall be any of the following:

- a. until otherwise ordered by the district court, revocation is effective on the date set by the Commissioner in the notice of revocation, or upon final action after hearing, whichever is later,
- b. until otherwise ordered by the district court, nonrenewal is effective on the date of expiration of any existing license, or upon final action after hearing, whichever is later, or
- c. the Department may extend the effective date of license revocation or expiration in any case in order to permit orderly removal and relocation of residents.

G. A new application, following revocation, shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected; and a new license may then be granted after proper inspection has been made and all provisions of this act have been complied with, and the rules, regulations and standards of the Board have been satisfied.

H. The Department may suspend, for a period not to exceed three (3) years, the license of a facility that has temporarily closed or ceased operations for remodeling, renovation, replacement or

relocation, or that has closed or ceased operations pending a change of ownership, operator or management.

1. The facility shall provide periodic reports to the Department not less than once every six (6) months demonstrating the facility's progress towards reopening.

2. The Department may extend the period of suspension upon a demonstration of extenuating or unusual circumstances, a clear showing of good faith efforts to proceed towards the reopening of the facility, and a determination by the Department that a continuation of the period of suspension poses no harm to the public.

3. Whenever, after receipt of a six-month report, the Department determines that there has been no progress towards reopening the facility, no demonstration of extenuating or unusual circumstances or clear showing of good faith efforts to proceed towards the reopening of the facility, the Department may initiate proceeding to revoke the license of the facility.

4. At or before the conclusion of the suspension period, the facility shall meet applicable requirements for licensure and shall reopen, or the license shall expire.

5. Any closed facility that has a suspended license on the effective date of this act may be issued a suspended license for a period not to exceed three (3) years from the effective date of this act.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1908.1, is amended to read as follows:

Section 1-1908.1 A. The Oklahoma Health Care Authority shall amend the state Medicaid plan to provide a funding source for payment of temporary managers, ~~or~~ state monitors or receivers in facilities certified to provide long-term care services under Medicaid, upon request of the State Department of Health, pursuant to 42 U.S.C.A., Section 1396r(h)(z).

B. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Nursing Facilities Administrative Penalties Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from administrative penalties imposed under the Nursing Home Care Act. Monies collected as a result of administrative penalties imposed under the Nursing Home Care Act shall be deposited into the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the protection of health or property of residents of nursing and specialized nursing facilities that have been placed under temporary managers, state monitors or receivers requested by the Department, including, but not limited to, the following purposes:

1. Relocation expenses incurred by the Department, in the event of closure of a facility;

2. Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management, state monitor or receivership, in the event that the revenues of the facility are insufficient; or

3. The costs associated with informational meetings held by the Department with residents, family members, and interested parties in an affected community where the Department proceeds with appointment of a temporary manager, state monitor or receivership petition.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-1912, is amended to read as follows:

Section 1-1912. A. ~~If upon inspection or investigation, the~~ The State Department of Health shall promptly serve a notice of violation upon a licensee whenever upon inspection or investigation, the Department determines that a:

1. The facility is in violation of this act, any rule promulgated thereunder, or applicable federal certification criteria, it shall promptly serve a notice of violation upon the licensee; or

2. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility.

B. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision, rule or standard alleged to have been violated. The notice of violation shall inform the licensee of its obligation to file a plan of correction within ten (10) working days of receipt of the notice of violation.

~~B.~~ C. The Department shall notify the licensee of its intent to take any remedial action, impose administrative penalties, place a monitor or temporary manager in the facility, issue a conditional license, or suspend or revoke a license. The Department shall also inform the licensee of the right to a hearing.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the health, safety or welfare of any resident of a facility licensed pursuant to the provisions of the Nursing Home Care Act, the Department may, without notice of hearing, issue an order stating the existence of such an emergency and requiring that action be taken as deemed necessary by the Department to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply with such order immediately, but on application to the Department shall be afforded a hearing with ten (10) business days of receipt of the application. On the basis of such hearing, the Department may continue the order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court in Oklahoma County within thirty (30) days. Such appeal when docketed

shall have priority over all cases pending on the docket, except criminal cases. For the purposes of this subsection, the State Board of Health shall define by rule the term "emergency" to include, but not be limited to, a life-endangering situation.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-1914.1, is amended to read as follows:

Section 1-1914.1 A. For violations of the Nursing Home Care Act, the rules promulgated thereto, or of Medicare/Medicaid certification regulations:

1. The State Department of Health shall seek remedial action against a licensee, owner or operator of a facility and may, after notice and opportunity for hearing, impose the remedy most likely to:

- a. gain and ensure continued compliance with the Nursing Home Care Act, the rules promulgated thereto, or federal certification standards or both rules and standards, or
- b. provide for the financial operation of the facility that ensures the health, safety and welfare of the residents;

2. In the alternative or in addition to any remedial action, the State Commissioner of Health may direct the Oklahoma Health Care Authority to withhold vendor payments due to a facility under its programs until such time as the corrections are made;

~~2.~~ 3. The Department may deny, refuse to renew, suspend or revoke a license, ban future admissions to a facility, assess administrative penalties, or issue a conditional license; and

- ~~3.~~ 4. a. Pursuant to an investigation or inspection that reveals a willful violation of rules pertaining to minimum direct-care staffing requirements, the Commissioner shall notify the Oklahoma Health Care Authority and the Authority shall withhold as a penalty a minimum of twenty percent (20%) of the vendor payments due the

facility under its programs for each day such violation continues.

- b. The Commissioner shall impose an equivalent penalty amount under licensure standards for a facility that does not receive vendor payments under its program that is in willful violation of rules pertaining to minimum direct-care staffing requirements.

B. Whenever the Department takes remedial action against a facility because the financial condition of the facility has endangered, or is at risk of endangering, the proper operation of the facility or the health, safety or welfare of the residents of the facility, the Department shall also review the conditions of all other facilities in the state owned or operated by a person with a controlling interest, as defined by Section 1-851.1 of this title, and may take remedial action against said facilities as necessary or appropriate.

C. Remedial action as provided in subsection A or B of this section shall be based on current and past noncompliance or incomplete or partial compliance; repeated violations; or failure to substantially comply with the Nursing Home Care Act and rules promulgated thereto. In determining the most appropriate remedy, the Department shall consider at least the following:

1. The nature, circumstances and gravity of the violations;
2. The repetitive nature of the violations at the facility or others operated by the same or related entities;
3. The previous degree of difficulty in obtaining compliance with the rules at the facility or others operated by the same or related entities; and
4. ~~Any showing~~ A clear demonstration of good faith in attempting to achieve and maintain continuing compliance with the provisions of the Nursing Home Care Act.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 1-1914.2, is amended to read as follows:

Section 1-1914.2 A. The State Commissioner of Health may place a qualified person in a facility as a temporary manager to assume operating control of the facility and to ensure that the health and safety of the residents of the facility are protected when any of the following conditions exist:

1. The conditions at the facility pose immediate jeopardy to the health and safety of the residents of the facility;

2. The facility is operating without a license;

3. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;

4. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility;

5. The facility has closed or has informed the Department that it intends to close and adequate arrangements for the relocation of residents have not been made at least thirty (30) days prior to closure; or

~~5.~~ 6. The Department has terminated certification status under Medicare/Medicaid.

B. The Department shall notify the owner or operator of the action taken, the reason or reasons why such action was taken, and the right of the owner or operator to have a hearing on the matter.

C. Any owner or operator subject to placement of a temporary manager may appeal such action by filing a petition for hearing with the district court. The court shall conduct the hearing within five (5) working days of such action by the Department. On the basis of the hearing, the court may continue the order in effect, revoke it or modify it. The petition for hearing, when docketed, shall have priority over all cases pending on the docket except criminal cases.

D. All funds due or available to the facility from any source during the pendency of the temporary management shall be made available to the temporary manager who shall use the funds to ensure the health and safety of the residents of the facility.

E. The Commissioner shall establish qualifications for persons to be appointed as temporary managers and shall maintain a list of all such qualified persons. The Commissioner may appoint any person from the list to serve as a temporary manager, provided that the Commissioner shall not appoint any owner or affiliate of the facility as its temporary manager.

F. The temporary manager shall make provisions for the continued protection of the health and safety of all residents of the facility. The temporary manager appointed pursuant to the Nursing Home Care Act shall exercise those powers and shall perform those duties set out by the Commissioner in writing. The Commissioner shall provide for the temporary manager to have sufficient power and duties to ensure that the residents of the facility receive adequate care.

G. If funds are insufficient to meet the expenses of performing the powers and duties conferred on the temporary manager, the temporary manager may borrow the funds or contract for indebtedness as necessary; provided any such indebtedness shall not be construed to be a debt of the state or made on behalf of the state. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by any temporary manager in the performance of the managers' official duties pursuant to law.

H. The Commissioner shall set the compensation of the temporary manager, who shall be paid by the facility.

I. A temporary manager may be held liable in a personal capacity only for ~~his own~~ the manager's gross negligence, intentional acts or breaches of fiduciary duty. The Commissioner may require a temporary manager to post a bond.

J. The Department shall issue a conditional license to a facility in which a temporary manager is placed. The duration of a license issued under this section is limited to the duration of the temporary managership.

K. The Commissioner shall require that the temporary manager report to the Department on a regular basis as to the progress of the facility in reaching substantial compliance with the Nursing Home Care Act and the rules promulgated thereto, and the establishment of mechanisms which will ensure the continued compliance of the facility.

L. 1. The Commissioner may release the temporary manager ~~when~~ under any of the following circumstances:

- a. the Commissioner determines that the facility is and will continue to be in substantial compliance with the Nursing Home Care Act and rules promulgated thereto,
- b. a receiver or bankruptcy trustee is appointed,
- c. the Commissioner appoints a new temporary manager,
- d. a new owner, operator, or manager is licensed,
- e. the Department, the temporary manager, or the receiver closes the facility through an orderly transfer of the residents, or
- f. an administrative hearing or court order ends the temporary manager appointment.

2. Within thirty (30) days after release, the temporary manager shall give the Department a complete accounting of all property of which the temporary manager has taken possession, of all funds collected, and of the expenses of the temporary managership.

3. After a complete accounting, and payment of reasonable expenses incurred as a result of the temporary managership, the Commissioner shall order payment of the surplus to the owner. If funds are insufficient to pay reasonable expenses incurred as a result of the temporary managership, the owner shall be liable for the deficiency. Any funds recovered from the owner shall be used to

reimburse any unpaid expenses due and owing as a result of the temporary managership.

4. In order to protect the health, welfare and safety of the residents of any nursing facility for which a temporary manager has been appointed, the Department is authorized to provide the monies from any funds appropriated or otherwise made available to the Department to protect the residents of the nursing facility. The Department shall have a lien for any payment made pursuant to this section upon any beneficial interest, direct or indirect, of any owner in the following property:

- a. the building in which the facility is located,
- b. any fixtures, equipment or goods used in the operation of the facility,
- c. the land on which the facility is located, or
- d. the proceeds from any conveyance of property described in subparagraphs a, b, or c of this paragraph made by the owner prior to the order placing the temporary manager.

M. Nothing in the Nursing Home Care Act shall be deemed to relieve any owner, administrator or employee of a facility in which a temporary manager is placed of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a temporary manager; provided, nothing contained in the Nursing Home Care Act shall be construed to suspend during the temporary managership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of mortgages or liens.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 1-1925, is amended to read as follows:

Section 1-1925. The State Department of Health shall prescribe minimum standards for facilities. ~~These standards shall be promulgated and submitted to the Legislature no later than January 1, 1981.~~ These standards shall regulate:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety and comfort of residents and protection from fire hazards;

2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents; specifically, the Department shall establish staffing ratios for facilities which shall specify the number of staff hours per resident of care that are needed for professional nursing care for various types of facilities or areas within facilities;

3. All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;

4. Diet related to the needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;

5. Equipment essential to the health and welfare of the residents; and

6. Minimum levels of supplies including, but not limited to, food and other perishables;

7. Minimum financial solvency standards to ensure the operation of facilities; and

8. A program of rehabilitation for those residents who would benefit from such programs.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1930.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The owner of a facility shall notify the State Department of Health within twenty-four (24) hours of the occurrence of any of the events specified in subsection B of this section. Such notification may be in written form. When initial notification to the Department is made by telephone or telephone facsimile, it shall be followed with a written confirmation within five (5) calendar days.

B. All of the following occurrences shall require notification pursuant to this section:

1. The owner of a facility receives notice that a judgment or tax lien has been levied against the facility or any of the assets of the facility or the licensee;

2. A financial institution refuses to honor a check or other instrument issued by the owner, operator or manager to its employees for a regular payroll;

3. The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified in the Nursing Home Care Act or rules promulgated by the State Board of Health;

4. The financial resources of the facility fall below the amount needed to operate the facility for a period of at least forty-five (45) days based on the current occupancy of the facility. The determination that financial resources have fallen below the amount needed to operate the facility shall be based upon the current number of occupied beds in the facility multiplied by the current daily Medicaid reimbursement rate multiplied by forty-five (45) days;

5. The owner, operator or manager fails to make timely payment of any tax of any government agency;

6. The filing of a bankruptcy petition under Title 7 or Title 11 of the United States Code or any other laws of the United States, by any person or entity with a controlling interest in the facility; or

7. The appointment of a trustee by the bankruptcy court.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1930.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Whenever a determination is made that one of the following conditions exists, the State Commissioner of Health shall take whatever steps necessary to protect the health, welfare and safety of the residents including, if necessary, petitioning the court to place the facility under the control of a receiver to ensure that the residents receive adequate care:

1. The facility is operating without a license;

2. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;

3. The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least thirty (30) days prior to closure;

4. An emergency exists, whether or not the Department has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency, the appointment of a receiver is necessary; or

5. It is necessary to ensure that the residents get adequate care in a situation in which the residents' health and safety are threatened.

B. The court shall hold a hearing within five (5) days of the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the facility and the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than three (3) days before the time specified for the hearing, unless a different time limit is fixed by order of the court. The court shall appoint a receiver for a limited time period, not to exceed one hundred eighty

(180) days, which shall automatically terminate the receivership unless extended by the court.

C. If a petition filed under this section alleges an emergency exists, the court may set the matter for hearing at the earliest possible time. The petitioner shall notify the licensee, administrator of the facility or registered agent of the licensee more than five (5) days prior to the hearing. Any form of written notice may be used. A receivership shall not be established ex parte by the court unless the Commissioner, under oath, has provided a statement that the Commissioner has personally determined that there is a life-endangering situation. A waiver of the five-day notice requirement may be approved by the court in life-endangering situations as determined and confirmed under oath, by the Commissioner.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1930.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership as its receiver. The State Department of Health shall maintain a list of such persons to operate facilities which the court may consider.

B. The receiver shall make provisions for the continued health, safety and welfare of all residents of the facility.

C. A receiver appointed under this section shall exercise those powers and shall perform those duties set out by the court. These powers and duties may include those generally ascribed to receivers and receiverships and may also include the powers and duties of trustees under the 1978 Bankruptcy Code. The court shall provide for the receiver to have sufficient power and duties to ensure that the residents receive adequate care.

D. All funds due to the facility from any source during the pendency of the receivership shall be made available to the receiver who shall use the funds to assure the health and safety of the facility's residents.

E. A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts or breaches of fiduciary duty.

F. Other provisions of this section notwithstanding, the Department may issue a license to a facility placed in receivership. The duration of a license issued under this section is limited to the duration of the receivership.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1930.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The court may terminate a receivership:

1. If the time period specified in the order appointing the receiver elapses and is not extended;

2. If the court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist or the Department grants the facility a new license; or

3. If all of the residents in the facility have been transferred or discharged.

B. 1. Within thirty (30) days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.

2. If the operating funds exceed the reasonable expenses of the receivership, the court shall order payment of the surplus to the owner. If the operating funds are insufficient to cover the reasonable expenses of the receivership, the owner shall be liable for the deficiency.

3. The State Department of Health shall have a lien for any payment made to the receiver upon any beneficial interest, direct or indirect, of any owner in the following property:

- a. the building in which the facility is located,
- b. any fixtures, equipment or goods used in the operation of the facility,
- c. the land on which the facility is located, or
- d. the proceeds from any conveyance of property described in subparagraph a, b or c of this paragraph, made by the owner within one (1) year prior to the filing of the petition for receivership.

4. The receiver shall, within sixty (60) days after termination of the receivership, file a notice of any lien created under this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1930.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

Notwithstanding the general rules of receiverships and trustees, nothing in Sections 7 through 11 of this act shall be deemed to relieve any owner, administrator or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a receiver; provided, that nothing contained in this act shall be construed to suspend during the receivership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of mortgage or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.

SECTION 12. This act shall become effective November 1, 2002.

Passed the House of Representatives the 19th day of March, 2002.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2002.

Presiding Officer of the Senate