

Below is DAIL's response to Rep. McFaun's question as to whether a receiver is authorized to sell a facility under the provisions of 33 V.S.A. Chapter 71, Subchapter 4.

The purpose of the above receivership proceedings is to safeguard the continuity of care to residents and to protect them from adverse effects caused by abrupt or unsuitable transfer. When a receiver is appointed, they are given numerous powers, all of which are aimed at remedying violations and keeping the facility in operation. To accomplish this, the statute authorizes the receiver to spend and borrow funds. While the court may be inclined to authorize the sale of a facility to another, if such sale were to further the desired goal of safeguarding the residents and protecting them from having to be transferred elsewhere, such a power has not been clearly articulated in the receivership statute.

It is worth noting that although the court may order the receiver to exercise additional powers and perform additional duties, the receiver is specifically ordered to "preserve the assets and property of...the owner, and the licensee."

As further support of the interpretation that the intent may not have been to authorize the receiver to force the sale of the facility, at least without first obtaining court approval, is the provision of the statute that requires the receiver to obtain court approval before closing the facility and transferring residents. Again, the statute bestows upon the receiver those powers necessary to keep the facility in operation. If those efforts fail, and closure/transfer or, perhaps, the sale of the facility is the desired course of action, court intervention would be needed.