

IN THE IOWA DISTRICT COURT FOR HUMBOLDT COUNTY

STATE OF IOWA, ex rel., LARRY JOHNSON, JR., IOWA DEPARTMENT OF INSPECTIONS AND APPEALS,

Petitioner,

v.

BLUE CARE HOMES, LLC; BLUE CARE OPCO HOLDINGS, LLC; BLUE CARE INVESTMENTS, LLC; BLUE CARE OPCO HUMBOLDT – NORTH, LLC, D/B/A HUMBOLDT WELLNESS AND REHABILITATION; BLUE CARE PROPCO HUMBOLDT – NORTH, LLC,

Respondents.

Case No. CVCV019046

ORDER NUNC PRO TUNC FOR APPOINTMENT OF RECEIVER

On Wednesday, January 25, 2023, the Petition for Appointment of Receiver and Other Equitable Remedies came before the Court. Upon reviewing the arguments raised in the Petition and exhibits attached thereto, the Court hereby **GRANTS** the Emergency Petition for Appointment of a Receiver, stating in support thereof:

- A. The Court finds Respondent Blue Care OpCo Humboldt – North, LLC, d/b/a Humboldt Wellness and Rehabilitation (“QHC Humboldt”) is a nursing facility licensed by the State of Iowa pursuant to Iowa Code chapter 135C.
- B. The Court finds an emergency exists which presents an imminent danger to the residents of QHC Humboldt and appointment of a receiver is necessary to protect the health and safety of the residents.
- C. The Court finds that QHC Humboldt does not object to the appointment of a receiver.

- D. Accordingly, the Court hereby appoints Michael F. Flanagan as Receiver to fulfill the duties and responsibilities of the receiver for QHC Humboldt pursuant to Iowa Code section 135C.30. Within three (3) business days following the entry of this Order, Receiver shall file his Oath as Receiver. No bond shall be required to be posted in connection with the appointment of the Receiver.
- E. The Receiver shall be authorized to expend operating revenue and interest from QHC Humboldt's accounts in the ordinary course of business, in addition to any other funds obtained and utilized for relief in instances of receivership, subject to periodic reporting as this Court may require.
- F. Those funds may be used for any purpose permitted under Iowa Code section 135C.30, expressly including the following:
- a. Providing a reasonable fee in the amount of \$30,000 to be paid to Michael F. Flanagan and Mission Management Services, LLC ("Mission"), plus reimbursement of reasonable and necessary out of pocket expenses incurred in operating and closing QHC Humboldt in fulfillment of the duties of receiver;
 - b. Payment of expenses incurred for the continuing care of the residents of QHC Humboldt throughout the closure process;
 - c. Payment of expenses incurred for any required maintenance of buildings and grounds of QHC Humboldt; and
 - d. Payment of expenses incurred in the ordinary course of business, including employee salaries, critical vendors, and accounts payable.
- G. The Receiver shall keep a detailed accounting of all expenses incurred and paid, in addition to the source of each payment.

- H. The Receiver shall be authorized to determine the timing and amount of payment of all receivership expenses and consolidate, modify, or close accounts as necessary.
- I. QHC Humboldt will be responsible for all expenses of this receivership as set forth in Iowa Code section 135C.30(4), including reimbursement to Iowa Medicaid Enterprise and/or the Centers for Medicare and Medicaid Services for any funds utilized pursuant to 42 C.F.R. §488.433 for any reasonable and necessary expenses as set forth in paragraph “F” above.
- J. Respondents shall take any and all action necessary to immediately provide the Receiver full and complete access to the QHC Humboldt facility, its records, and all financial accounts and resources, including, without limitation:
1. all bank accounts, including providing online or other necessary access to such accounts;
 2. tax ID number for QHC Humboldt;
 3. information regarding resident payments and all other income of the QHC Humboldt facility which may be provided through access to Point Click Care;
 4. a list of the security deposits, security deposit accounts, and an accounting for all security deposits currently held by the QHC Humboldt facility;
 5. tax escrow deposits;
 6. keys, fobs, swipe cards, and other items or information necessary to have full access to the QHC Humboldt facility;
 7. books, records, checkbooks (to the extent they exist), ledgers, accounts payable and accounts receivable records, all of which may be provided through access to Point Click Care;
 8. resident agreements;

9. information regarding resident payments and balances, which may be provided through access to Point Click Care;
10. resident contact information;
11. resident lists or ledgers, which may be provided through access to Point Click Care;
12. a current aged account receivable/delinquency report, which may be provided through access to Point Click Care;
13. an aged listing of all trade payables and other payables, which may be provided through access to Point Click Care;
14. a list of all pending litigation (excluding this action);
15. documents pertaining to all pending new resident agreements;
16. current insurance policies and certificates, including the terms of all insurance policies;
17. primary vendor list;
18. pending bids for contractor work;
19. on-site active employee payroll records and employee files and applications;
20. documents, books, records and computer files, and all other records necessary for the operation, and management of the QHC Humboldt facility, which may be established through a new email or an administrator access account for the Receiver;
21. lists of existing utilities providers and utilities accounts;
22. petty cash funds, if any;

23. year-end 2022 operating statements and year-to-date 2023 operating statements;
 24. computer equipment located at the Property, non-proprietary software, management files, and accounts needed to access said computer equipment and software maintained at the Properties or the management office(s) including the office located at each Property, if any;
 25. current operating budgets for each Property; and
 26. such other records pertaining to the management or operation of the QHC Humboldt facility as may be reasonably requested by the Receiver, including, without limitation, any other financial information reasonably requested by Receiver.
- K. In order to allow the Receiver full and complete access to any and all electronic records, systems, and information related to the QHC Humboldt facility and necessary for the operation of the QHC Humboldt facility, within two (2) business days of the entry of this Order, Respondents and/or their respective agents shall create administrator level accounts for Mission to electronic systems (whether for phones, databases, software systems, payroll records, resident records or otherwise), to the extent necessary for the maintenance of the QHC Humboldt facility, the continued operation of the QHC Humboldt facility, and the ongoing delivery of resident care.
- L. Respondents shall be enjoined from exercising control over the facility or any of QHC Humboldt's financial resources after entry of this Order and the orderly transfer of access to the receiver.
- M. This Order shall not impose upon the Receiver any liability to any party for any claims, actions, or causes of action relating to the QHC Humboldt facility that arise out of or relate to events

or circumstances occurring prior to the appointment of the Receiver (including but not limited to any liability resulting from the performance of services rendered by third parties on behalf of Respondents, and any liability to which Respondents are currently or may ultimately be exposed under any applicable laws pertaining to the ownership, management, and operations of the QHC Humboldt facility). The Receiver, Mission and the Receiver's and Mission's employees, agents, representatives, attorneys, officers, directors, partners, shareholders, members, affiliates, successors or assigns (the "Receiver-Related Persons") shall have no personal liability related to the Property and they shall have no claim asserted against them, except for claims due to any gross negligence, fraud, bad faith, misuse of funds, willful misconduct, violations of federal, state or local law, or their breach of the terms and provisions of this Order. No party may commence litigation or discovery in any form against the Receiver-Related Persons without first receiving approval of this Court, after notice and a hearing.

- N. The Receiver shall not be responsible for the preparation and filing of any tax returns for Respondents, including income, personal property, commercial activity, gross receipts, sales and use, or other tax returns.
- O. The Court shall retain jurisdiction in the event additional grounds for relief or additional remedies become necessary under Iowa Code chapter 135C.30.

IT IS SO ORDERED.



State of Iowa Courts

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Type:

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ORDER NUNC PRO TUNC

So Ordered

Kurt J. Stoebe, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2023-01-30 09:57:58