



**Testimony before the Labor and Public Employees Committee  
February 15, 2010**

***HB 5632 An Act Concerning the Operation of a Nursing Home Involved  
in a Labor Dispute***

This bill proposes to give the Superior Court an additional reason for the appointment of a receiver for a nursing facility – to grant an application for receivership when the employees of such facility have been involved in a labor dispute resulting in a strike or lockout at such facility lasting for a period of four or more calendar months. The department opposes such a measure as an inappropriate use of receivership.

It would not be advisable for the state to assume control of the facility through court-appointed receivership simply because there is an ongoing labor dispute. While a receiver is appropriate if there are serious issues which jeopardize the health, safety and welfare of the patients, a receivership mechanism based solely on the factor of a strike would be unnecessary. In the event that during an ongoing strike, regardless of the length, it has been determined that there is imminent danger to the health, safety and welfare of the residents, the state already has the authority to apply to the court for receivership.

Overall, a receivership is not entered into lightly by the state in any circumstance, including the cost factor, which is at least \$30,000 per month, not including significant additional costs associated with the implementation of a new business entity (insurance, billing, legal, new vendor contracts, etc.). Further, it is the state's role and responsibility to remain neutral in any labor dispute. During a receivership, the state would only have the authority to negotiate with labor for the receivership period with regard to costs and would not have the authority to negotiate a settlement of the labor dispute.

Furthermore, to require a receivership after four months would not be consistent with the federal court decision in **NEW ENGLAND HEALTH CARE, EMPLOYEES UNION, DISTRICT 1199 v. ROWLAND**, 221 F. Supp. 2d 297, 2002. In that case, the court found that while the state could act to protect the health and welfare of nursing homes residents during a labor strike, the state violated federal law by failing to act on factual information specific to each individual home as to such an imminent risk. Instead, the state intervened in an across-the-board manner that interfered with federal labor rights of the parties. HB 5632 contemplates an across-the-board authority that appears to fly in the face of the above court decision.

For all of these reasons, the department must oppose the proposal as an inappropriate addition to the statute governing nursing facility receivership.