

# **SB677 Danny Mendoza Testimony.pdf**

Uploaded by: BRIG DUMAIS

Position: FAV



Testimony on SB677  
Maryland Health Care Commission – Nursing Homes – Audit  
Position: **FAVORABLE**

My name is Danny Mendoza. I live in Montgomery County. I'm a Bilingual Public Benefits and Insurance Navigator at Whitman Walker Health and a member of 1199SEIU United Healthcare Workers East, the largest healthcare workers union in the country. I have ten thousand 1199SEIU comrades who live & work across Maryland/DC in hospitals and nursing homes. Our union supports SB677 and urges the committee to issue a favorable report because this legislation will provide much needed oversight in Long Term Care facilities.

For years, there has been a massive short-staffing crisis in Long Term Care facilities, and that crisis has been made even more severe due to COVID19. Members of 1199 are often treating nearly double the number of patients than they are supposed to care for. When facilities are so short staffed, it reduces the overall quality of patient care, risks the medical licenses of healthcare workers, causes significant worker burnout, and leads to healthcare workers quitting working in the healthcare field entirely.

During the first year of the pandemic my department alone lost over half of our staff. I, along with thousands of other health care workers have felt the added burden of short staffing on a daily basis. The everyday ramifications of this are; patients being unable to access their life-saving medications, unsafe working conditions for staff, long wait times for patients across the board, and many other health hazards.

Annual audits of Long-Term Care facilities that include survey questions on working conditions, wages, hours, and overtime will ensure that management is not wasting or misappropriating funds that must rightfully go directly to workers in the form of wage increases; and ensure that there are better working conditions. Higher wages and appropriate staffing ratios are critically important to reducing the short staffing crisis in Long Term Care facilities so patients can receive more attentive care and so that workers don't burn out. I urge the committee to vote yes on SB677. Thank you.

Sincerely,

Danny Mendoza  
They/Them Pronouns  
1199SEIU Member  
[Dmendoza8713@gmail.com](mailto:Dmendoza8713@gmail.com)

# **SB 677 Commission on Aging Testimony .pdf**

Uploaded by: James Macgill

Position: FAV



COMMISSION ON AGING

**SB 677**

March 11, 2022

**TO:** Members of the Senate Finance Committee

**FROM:** James Campbell, Co-Chair  
Olivia Farrow, Co-Chair  
Baltimore City Commission on Aging and Retirement Education

**RE:** Senate Bill 677– Maryland Health Care Commission -Nursing  
Homes - Audit

**POSITION: Support**

Chair Kelley, Vice Chair Feldman, and Members of the Committee, please be advised that the Baltimore City Commission on Aging and Retirement Education **supports** Senate Bill 677.

Senate Bill 677 requires the Maryland Health Care Commission to conduct an annual audit of nursing home financial status and related issues. The bill also requires a survey of the workforce that includes questions about wages; working hours (including any mandatory or voluntary overtime), interactions with management and interactions with residents in the facility.

The Baltimore City Commission on Aging is concerned about the quality of care in nursing homes in our city, and across the state. Quality of care is closely linked to a stable, well trained and compassionate workforce, supported by management, committed to serving residents. Nursing homes must invest in that workforce, assuring that it is adequately compensated, and that on a daily basis, direct care workers provide sufficient hours of care to residents to ensure that they are able to live with dignity.

The required audit and survey under SB 677 will provide much needed data about how resources are allocated in Maryland’s nursing homes. This information should help the public, including families of nursing home

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COMMISSION ON AGING

residents, learn more about the status and compensation of those who provide direct care to nursing home residents.

We respectfully request a **favorable** report on Senate Bill 677.

**SB677\_LTCOP\_SEllis.pdf**

Uploaded by: Stevanne Ellis

Position: FAV

SB 677 Maryland Health Care Commission – Nursing Homes – Audit

Position – Favorable from the Office of the State Long-Term Care Ombudsman

March 17, 2022

As the State Long-term Care Ombudsman, I advocate for the most vulnerable residents in Maryland, residents of nursing homes and assisted living facilities. One of the challenges for residents, families and other members of the public is how to be an informed consumer and understand the complexities of how nursing homes are funded and owned.

There are concerns about ownership and fiscal transparency of nursing homes including the role of private equity firms and real estate investment trusts. The information currently online is often incredibly difficult to find, difficult to interpret, and incomplete. For instance this link: <https://health.maryland.gov/mmcp/longtermcare/Pages/Nursing-Facility-Providers.aspx> has information about transmittals and other reports, and the link to the cost reports provided on the site is broken.

The information on other websites related to ownership and other financial information is often hard to find, not connected to the other websites, and does not provide a synthesis of the information as required by the bill.

The Ombudsman Program has received numerous complaints related to staffing and financial issues in facilities. This bill would help identify potential causes of those complaints and help develop solutions.

The annual report and the work force survey would be incredibly beneficial for an understanding of the nursing homes in the state. Knowledge will lead to better resident care and a more informed consumer. If Maryland is more transparent in their long-term care facility practices, individuals will be more likely to choose long-term care facilities in our state.

I respectfully ask the Committee to give this bill a favorable report.

Sincerely,

Stevanne Ellis

Maryland Long-Term Care Ombudsman

# **SB 677 Maryland Health Care Commission Nursing Hom**

Uploaded by: Tammy Bresnahan

Position: FAV





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**SB 677 Maryland Health Care Commission – Nursing Homes Audit  
FAVORABLE  
Senate Finance Committee  
March 17, 2022**

Good afternoon Chair Kelley and members of the Senate Finance Committee. I am Tammy Bresnahan. I am the Director of Advocacy for AARP Maryland. As you know, AARP Maryland is one of the largest membership-based organizations in the country. AARP Maryland and its more than 850,000 members support SB 677. We thank Senator Kelley for sponsoring this bill and championing long term care improvements.

AARP is a nonpartisan, nonprofit, nationwide organization that fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

This bill requires the Maryland Health Care Commission (MHCC), by December 1, 2023, and each December 1 thereafter, to conduct a comprehensive audit of cost trends, labor issues, and financial performance for each licensed nursing home in the State. MHCC must use the audit to develop findings by facility type and ownership group, and on an industry-wide basis. In conducting the audit, MHCC must administer an annual survey of the nursing home workforce.

Due to the high cost of long-term services and supports and the high demand for nursing homes, many older adults fear impoverishment and becoming a burden to their families. There is limited third-party coverage to ease this fear. As the baby boom generation ages, the need for these services will increase at a time where there will be fewer family caregivers to provide such care.

We believe an audit of nursing homes may improve labor standards for the direct-care workforce and health outcomes for consumers. For these reasons, we ask for a favorable report on SB 677. For follow up or questions please contact Tammy Bresnahan at [tbresnahan@aarp.org](mailto:tbresnahan@aarp.org) or by calling 410-302-8451.



# **SB 677 Nurisng Home Audit (Position SupportwAmendm**

Uploaded by: Ben Steffen

Position: FWA



**2022 SESSION**  
**POSITION PAPER**

**BILL NO:** SB 677

**COMMITTEE:** Senate Finance Committee

**POSITION:** Support w/Amendments

**TITLE:** SB 677 - Maryland Health Care Commission – Nursing Homes – Audit

**BILL ANALYSIS**

Senate Bill (“SB 677”) requires the Maryland Health Care Commission (“MHCC”) to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State. The MHCC is also required to conduct an annual survey of the nursing home workforce covering questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility. To fund the audit, the Commission would establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

**POSITION AND RATIONALE**

The Maryland Health Care Commission supports SB 677 with the amendments being offered by the sponsor and the proponents of this bill.

MHCC already collects similar or identical data through the MHCC Long Term Care Survey and receives the equivalent financial information that would be gathered from an audit from the Maryland Medicaid Administration.<sup>1</sup> Requiring MHCC to independently gather data as envisioned by SB 677 would not expand the scope of information on nursing home utilization and revenues.

The MHCC Long Term Care Survey is administered annually on all nursing homes and assisted living facilities with ten or more beds. The survey obtains current information including data on ownership, sources of payment, and the scope of services offered. The Maryland Medicaid Administration contracts with an independent accounting firm to collect nursing home financial and utilization data that is used for oversight and administration in an instrument known as the Medicaid Cost Report. Compilations of Medicaid Cost Reports are

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<sup>1</sup> Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

required by the federal government to keep state Medicaid programs in good standing with the federal government. In Maryland all nursing homes that participate in the Medicaid program are required to complete the Medicaid Cost Report and several supplemental schedules. Once reports are complete and accepted by the auditor, Medicaid authorizes the release of elements from the Medicaid Cost Report (“MCR”) and MCR Supplemental Schedules A, B, and C to MHCC. The Maryland Long Term Care Survey and the Medicare Cost Reports are not audited using the conventional meaning of audit. However, both data instruments are subject to exhaustive desk reviews during which inconsistent responses are clarified and sometimes corrected by personnel from the nursing homes.

Data from the Medicaid Cost Report, the MCR Supplemental Schedules, and the Maryland Long-Term Care survey are merged to provide MHCC with a comprehensive data system for monitoring utilization, performance, capacity, and quality. Information in this data system supplements quality metrics, family satisfaction information, safety data, and OHCQ deficiency and inspection reports on nursing homes for the Maryland Quality Reporting Website (<https://healthcarequality.mhcc.maryland.gov>). The information on nursing homes that is displayed on this popular website is presented in Attachment 1. Stakeholders interested in conducting their own research on utilization and the financial performance of nursing homes may download a subset of the Long-Term Care Survey and Medicaid Cost Reports at our public dataset website at [https://mhcc.maryland.gov/public\\_use\\_files/index.aspx](https://mhcc.maryland.gov/public_use_files/index.aspx).

The Maryland Medicaid Administration is the appropriate entity to collect financial information on the nursing home industry. Nursing homes are required to provide this data as a condition of participation in the Medicaid program. States are required to collect Medicaid Cost Reports to keep their Medicaid programs in good standing with the federal government. As the Maryland Medicaid Administration is the primary source of payment for many nursing homes that Administration is in a strong position to obtain accurate financial information. The MHCC believes that even if MHCC collected and audited financial data, the Medicaid Administration would need to administer the Medicaid Cost Report to maintain Federal compliance.

The cost of conducting a duplicative financial audit will be significant. SB 677 would require MHCC to obtain the services of persons with accounting and financial analysis expertise who are not currently available on the agency staff to take on this new audit function. The cost of those services would be borne by the nursing home industry that is still operating under the challenges of the COVID-19 pandemic.

MHCC does not administer a worker satisfaction survey for any health care occupation or health care sector. Employer satisfaction surveys are often problematic because of low response rates. MHCC believes a more complete assessment of caregiver satisfaction could be conducted as part of the bi-annual license renewal required by the Health Occupation Boards. MHCC administered a physician survey as part of license renewal at one time and



achieved almost a 100 percent response rate. MHCC would be pleased to work with the Board of Nursing to develop a short survey that could be completed as part of license renewal. This approach would yield a more complete picture of nursing personnel's satisfaction across many different sites of employment and a very modest cost. Given nursing staffing deficits and widespread evidence of staff burnout, a broader assessment is appropriate. If a health worker survey is contemplated, that survey should cover more than the nursing staff employed in nursing homes and should engage the Health Occupations Boards, particularly the Maryland Board of Nursing.

MHCC sees no value in duplicating information gathering completed by the Medicaid Administration given that information is already shared and used in oversight and quality reporting activities at MHCC. The MHCC Long Term Care Survey can be used as a trusted source for utilization data not collected by Medicaid. Using already collected information will enable MHCC to meet the objectives of SB 677 without imposing additional costs on the industry.

For the reasons noted above MHCC encourages the Committee to issue a favorable report on SB 677 and on the amendments offered.



## Attachment 1 - Maryland Quality Reporting on Nursing Homes

The **Maryland Quality Reporting website** includes several measures a consumer can use to evaluate how well Maryland nursing homes give care to residents:

1. **Quality Measures** that evaluate the way care is given (process) and the results of care (outcome)
2. **Experience of Care Measures** that evaluate how well a responsible party (close family member or friend) or the resident rated the care
3. **Staffing Measures** that show how much time is spent with each patient per day, by different nursing staff and physical therapist
4. Results of **Health and Fire Safety Inspection Reports** performed on-site
5. Rates of **Influenza Vaccination** of nursing home staff

**Quality Measures** reports 20 measures, 14 that evaluate the care for long stay residents and six measures that evaluate care for short stay residents. Examples of measures include how well pain is managed; residents that develop pressure ulcers (bed sores) in the nursing home, and residents given influenza vaccination during the flu season. Quality measures are calculated by Centers for Medicare and Medicaid Services (CMS) from the data supplied by each nursing home using the Minimum Data Set (MDS).

**Experience of Care Measures** are reported in the *Family Satisfaction Survey* that is conducted each year. This survey is completed by a responsible party (usually a family member) for a long term resident of a nursing home. The Maryland Health Care Commission conducts this report every year, with the most recent survey conducted in 2020. The next survey will be conducted in the fall of 2021, with survey reports available in the winter of 2022.

**Health and Fire Safety Inspection Reports** are obtained from inspections completed by the Maryland Office of Health Care Quality (OHCQ) and reported to CMS. OHCQ visits each nursing home to determine if the nursing home is meeting federal and state regulations. Inspections are done to ensure that the nursing home residents receive safe, quality care and services in accordance with rules established by CMS and the state. Each nursing home is required by law to have the latest survey results on available for public inspection.

**Influenza Vaccination Rates of Nursing Home Staff:** It is important that health care workers who provide care to people 65 years or older or those with medical conditions like asthma, diabetes, heart disease, or kidney disease get vaccinated against influenza, as advanced age and complicated medical conditions put a person at higher risk for influenza-related complications and death. The rates displayed report the percentage of staff vaccinated in the nursing home compared to the statewide average (the percentage of staff vaccinated in all Maryland nursing homes).

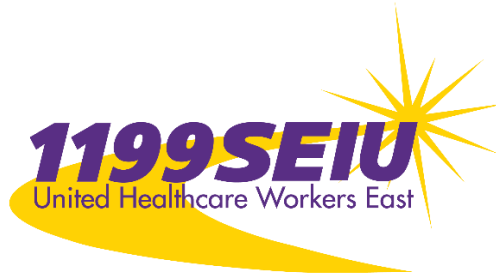
To find the quality measures for a specific Maryland nursing home, or to compare results for up to five Maryland nursing homes, go to the **Maryland Quality Reporting website** and select **Nursing Home**.



# **Testimony1199SEIUSB677MHCCNursing Homes Audit 0316**

Uploaded by: Claudia Balog

Position: FWA



Official Testimony: Senate Finance Committee

SB 677

*Bill Title –Maryland Healthcare Commission –Nursing Homes -Audit*

Position: **FAVORABLE WITH AMENDMENTS**

Chair Kelley, Vice Chair Feldman and Members of the Committee,

My name is Claudia Balog, I lead the Research Department of the Maryland/DC Region of 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the nation and represent 10,000 workers in long-term care facilities, hospitals and clinics throughout Maryland and the District of Columbia. Our union supports SB 677 with the Amendments submitted, and we urge the Committee to issue a favorable report.

This COVID pandemic has highlighted and exacerbated the problems that have existed in the Nursing Home industry for years. Last year, the Washington Post reported on how conditions deteriorated at a chain of skilled nursing facilities which were purchased by a Private Equity company called Portopiccolo. Residents faced dangerous conditions in facilities while workers reported that the company sought to slash their wages and benefits.

Transfers of ownership in the nursing home industry will continue. On average, 19 nursing homes in Maryland change ownership to an entity outside of the state each year. The Office of Healthcare Quality estimated that 6 nursing homes will transfer ownership to an entity that does not already own or operate another nursing home in Maryland in FY 2022.<sup>1</sup>

Unfortunately, too many stakeholders are in the dark when it comes to understanding the finances of our state's 228 nursing homes. **This is not the result of a lack of data collection. We believe the State can provide better, synthesized information for stakeholders who are seeking to develop policies that improve quality in nursing homes.**

Nursing homes file detailed cost reports to both CMS (Center for Medicare Services) and to the State of Maryland. Unfortunately, these finances are opaque to consumers and advocates seeking to improve the quality of care in these facilities. We know broadly that increased resources need to be dedicated to long-term care. Yet, it often feels like we are flying blind. How many of the nursing homes in Maryland are struggling and therefore vulnerable to acquisition by operators who have put profits over quality in other states? Are there trends we need to identify, either



geographically, or based on ownership? Can we prevent an influx of Private Equity ownership in our State by ensuring the viability of our established operators? If so, can we do that without access to the information that is crucial to guiding these decisions?

While nursing home financial data is reported to the State it is not currently synthesized into a format that is particularly helpful to stakeholders. Accessible synthesized information about the finances of nursing homes would be a valuable tool for policy and decision makers. For example: some legislative and regulatory options to improve quality of care hinge upon the ability of skilled nursing facilities to increase their staffing levels and retain experienced workers. Yet, so long as the finances of the industry are embedded in public use datasets, we will face challenges in developing targeted solutions that are financially sustainable for the industry.

1199SEIU believes the transparency of hospital financial data provides a roadmap for the improvements we can make. Unlike hospitals, whose audited financial statements are posted on the Health Services Cost Review Commission website, cost report data submitted by nursing homes to the State is not easily accessible to the public. Additionally, the HSCRC regularly synthesizes data for a public audience on hospital financial performance. With care offered in 30,000 beds across the State that is largely financed through Medicaid, the public must have a better understanding of the financial pressures and viability of our nursing homes.

The role that Nursing Homes play in our State's Total Cost of Care Model also speaks to the importance of transparency to the public. Patients who are discharged from hospitals must be placed into nursing homes that are able to operate at the highest standards of quality - which includes the ability to pay for safe staffing, PPE (Personal Protective Equipment), training, and infection control. We therefore believe that a summary report to the public of the financial data that is already reported to the state and used by the Maryland Health Care Commission in health planning analysis would be a good first step towards creating this transparency.

A single comprehensive report to the public, posted on the website of the Maryland Healthcare Commission at the end of each year, could detail yearly trends in financial performance and utilization by facility, ownership group, and by region. The report could also include a list of all changes in ownership at nursing homes for that calendar year

Additionally, links on the Maryland Department of Health website to the individual annual cost reports filed by skilled nursing facilities to the State would make sense, given the industry's role in our healthcare delivery system.

We urge this Committee to give SB 677 with the submitted Amendments a favorable report.

Sincerely,

Claudia Balog  
Lead Researcher  
1199SEIU United Healthcare Workers East  
[Claudia.balog@1199.org](mailto:Claudia.balog@1199.org)

# **SB 677\_ Nursing Home Audits.pdf**

Uploaded by: Delores Kelley

Position: FWA

**SENATOR DELORES G. KELLEY**  
*Legislative District 10*  
Baltimore County

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*Chair*  
Finance Committee

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Executive Nominations Committee  
Rules Committee  
Legislative Policy Committee



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**THE SENATE OF MARYLAND**  
ANNAPOLIS, MARYLAND 21401

**TESTIMONY OF SENATOR DELORES G. KELLEY**  
**REGARDING SENATE BILL 677-MARYLAND HEALTH CARE**  
**COMMISSION-NURSING HOMES-AUDIT**  
**BEFORE THE SENATE FINANCE COMMITTEE**  
**ON MARCH 17, 2022**

**Mr. Vice-Chairman and Members:**

**Senate Bill 677 (with significant amendments) is here before us today because of concerns of health care slippage, and poor financial management of far too many Maryland nursing homes, serving our most fragile and medically needy elderly residents.**

**Let's review together significant declines in quality of care, combined in far too many cases, with poor financial management concerning numbers of private equity investment companies purchasing Maryland nursing homes, based on profit motives, and with little or no concern for the health care needs, the interpersonal needs, and the quality of life concerns of nursing home residents.**

**COVID-19 has both highlighted and exacerbated short-staffing, a problem that has long existed in the nursing home industry. I have been working with advocates, industry representatives, regulators, and some other legislators to identify and address concerns at our nursing homes, including rampant transfers of ownership in this industry , especially the increasing number of nursing home purchases by private equity investment companies, more interested in company profits, than in promoting healthy and socially affirming environments for their nursing home residents.**

**In December 2020, the Washington Post reported the terrible conditions at a major chain of skilled nursing facilities, purchased by a private equity investment company (article attached). Family members and concerned staff described unsafe conditions for the residents, coupled with reduced wages and benefits for staff, immediately following the purchase.**

**I am proud of the work that Colleagues accomplished last session to pass a Bill that requires increased quality surveys of Maryland nursing homes sold to out-of-state operators. SB 704 last year's survey Bill, has given us an important tool, and the Maryland Office of Health Care Quality reports**

**that we expect about six of our Maryland nursing homes to transfer to an out-of-state operator this year.**

**Maryland needs a much clearer picture of the quality, the service deficits, and the financial management, and the affordability of our nursing homes, and we need a better understanding of how many are at risk of being purchased by bad actors. Nursing homes already file cost reports, and our Health Care Commission uses this information for health care planning.**

**We need to understand more, however, regarding industry trends. Are non-profit facilities faring worse than for-profits? Are there concerning trends that regulators can identify across ownership chains? Are good established operations at risk of being acquired by private equity companies, which are more concerned about profits, than about the delivery of quality care?**

**Information regarding the finances and quality controls of nursing homes are not easily accessible to nursing homes residents, or to their families and advisors, although our nursing homes are supported by Medicaid dollars.**

**Senate Bill 677-Page 4**

**As amended, Senate Bill 677 will not require a new calendar of audits, but will reflect advice received from the Maryland Health Care Commission. Senate Bill 677 (as amended):**

- 1) highlights each change in ownership of any Maryland nursing homes during the calendar year;**
- 2) describes management trends of Maryland nursing homes, by ownership group, and by region, and**
- 3) reports a summary of financial data included in public use datasets, so that the public and the legislature can see profitability, operating costs and expenses, as well as margins.**

**I invite you to join the advocates for SB 677 in calling upon the Health Care Commission to include website links to cost reports already required of every Maryland nursing home.**

**Colleagues, knowledge is power, for the General Assembly and for the public, especially for families and advisors of Marylanders requiring nursing home services. I therefore ask for your favorable report of SB 677 as amended.**

**SB0677-613729-01.pdf**

Uploaded by: Delores Kelley

Position: FWA



SB0677/613729/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

04 MAR 22  
11:03:15

BY: Senator Kelley  
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 677  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Audit**” and substitute “**Reporting**”; strike beginning with “conduct” in line 3 down through “audit” in line 7 and substitute “post on its website a report that includes certain ownership, utilization, and financial data regarding licensed nursing homes in the State on or before a certain date each year; requiring the Commission to publish certain information regarding licensed nursing homes on its website”; and in lines 7 and 8, strike “an audit of” and substitute “the reporting of information regarding”.

AMENDMENT NO. 2

On pages 1 through 3, strike in their entirety the lines beginning with line 18 on page 1 through line 13 on page 3, inclusive, and substitute:

**“(A) ON OR BEFORE JANUARY 31 EACH YEAR, THE COMMISSION SHALL POST ON ITS WEBSITE A REPORT THAT INCLUDES THE FOLLOWING INFORMATION REGARDING NURSING HOMES LICENSED UNDER § 19-1401 OF THIS TITLE FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR:**

**(1) EACH CHANGE IN OWNERSHIP AT A LICENSED NURSING HOME, AS REPORTED TO THE COMMISSION;**

**(2) INFORMATION ON THE TRENDS IN THE UTILIZATION OF LICENSED NURSING HOMES IN THE STATE, SORTABLE BY INDIVIDUAL FACILITY, FACILITY OWNER, AND REGION IN THE STATE; AND**



**(3) A SUMMARY OF THE FINANCIAL DATA REGARDING LICENSED NURSING HOMES IN THE STATE COLLECTED BY THE COMMISSION FOR THE PURPOSES OF HEALTH PLANNING AND AVAILABLE AS A PUBLIC USE FILE.**

**(B) THE COMMISSION SHALL PUBLISH ON ITS WEBSITE SEARCHABLE INFORMATION ON NURSING HOMES LICENSED UNDER § 19-1401 OF THIS TITLE, INCLUDING INFORMATION FROM AND LINKS TO COST REPORTS FILED WITH THE COMMISSION BY NURSING HOMES.**".

# Washington Post Article.pdf

Uploaded by: Delores Kelley

Position: FWA

# An investment firm snapped up nursing homes during the pandemic. Employees say care suffered.

By [Rebecca Tan](#) and [Rachel Chason](#)

December 21, 2020



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An investment firm has bought more than 20 nursing homes during the coronavirus pandemic, leading to disruptions at multiple facilities that weakened care for vulnerable residents amid the worst health crisis in generations, interviews and documents show.

From April through July, the New Jersey-based Portopiccolo Group — which buys troubled nursing homes and tries to make them profitable — paid hundreds of millions of dollars to acquire facilities in Maryland, Virginia and elsewhere.

The purchases drew scant scrutiny from regulators despite poor safety records at dozens of the company's other nursing homes, including hefty fines for infection-control lapses and shortages of staff.

Many of Portopiccolo's existing facilities were struggling to contain outbreaks of the coronavirus when its leaders went seeking new properties, state health records show. At a Virginia nursing home, staff hosted a hallway dance party for residents in April, weeks after federal guidelines had cautioned against such events. Conditions were so bad at one North Carolina facility that it was placed on a federal watch list even after the Centers for Disease Control and Prevention dispatched a strike team to help.

At its new nursing homes in Maryland, Portopiccolo's operating companies made major changes to insurance and time-off benefits, failed to buy enough supplies and protective equipment and asked some employees to keep working after testing positive for coronavirus, said 14 current

and former employees from four of the eight facilities.

Many veteran staffers quit as a result of the changes, said the employees, most of whom spoke on the condition of anonymity because they feared reprisals. Those who remained found themselves tending to dozens of residents at a time, the employees said.

“It was hair on fire,” said Katrina Pearthree, a former social worker at two facilities purchased by Portopiccolo over the last 15 months. She resigned from her job after losing health insurance coverage and disagreeing with new managers on patient care.

Portopiccolo spokesman John Collins denied that caregiving suffered and said that while benefits changed, they remained competitive within the industry. The firm, he said, wants to fill the gap left by nursing home owners exiting the industry because of the pandemic.

“Our company was founded by people who share a passion for caring for the sick, elderly and forgotten,” Collins said in a statement. “Any attempts to characterize our work or the work of our teams differently is flat out wrong.”

Elder-care advocates say Portopiccolo’s record of fines at other facilities, and the timing of its acquisitions, should have raised red flags for regulators, especially as the virus decimated the country’s nursing home population.

But the Centers for Medicare and Medicaid Services (CMS), the main federal agency regulating nursing homes, said the only way it tracks ownership changes is when facilities report the information for Medicare enrollment.

President-elect Joe Biden has said he wants to increase federal oversight through mandatory audits of nursing home cost reports and ownership data. Typically, such monitoring has fallen to state regulators, said Charlene Harrington, a professor emerita of sociology and nursing at the University of California at San Francisco. But even before the coronavirus crisis, she said, most states did a poor job.

In Maryland, the commission that oversees changes in nursing home ownership said the sale of a facility requires little more than “timely notification.” Virginia officials said they don’t closely monitor such sales, either.

“Your history indicates what you’re going to do in the future,” said Richard Molloy, executive director of a national advocacy group called the Long Term Care Community Coalition. “There needs to be more oversight of these purchases.”

## 'From bad to worse'

Portopiccolo founders Simcha Hyman, 31, and Naftali Zanziper, 38, bought their first nursing home in 2016 after selling their medical supplies company to a private equity firm. They have since purchased more than 70 facilities in nine states, including 18 in Virginia. The nursing homes are run by operating companies set up and financed by the firm, including Peak Healthcare, Accordius Health and Pelican Health — a trend first reported by the business magazine Barron's.

For years, Hyman and Zanziper described Portopiccolo as a private equity firm. But that description, along with the group's promise to swiftly turn "distressed assets" profitable, was removed from the [Portopiccolo website](#) in early December after inquiries from The Washington Post about the firm's nursing home acquisitions.

Collins said the label "private equity" — which typically describes groups that raise funding from private investors — is inaccurate. He declined to explain why the group described itself that way for months, including in news releases, and still does on its [LinkedIn page](#).

Atul Gupta, a professor of health-care management at the Wharton School at the University of Pennsylvania, said it is possible Portopiccolo is trying to rebrand itself because of the increasingly negative stigma tied to private equity groups — which have been criticized for slashing costs at nursing homes, then selling them off to new owners. [Studies, by Gupta and others](#), show that private equity ownership correlates with declines in staffing and quality of care.

Collins declined to say how many facilities Portopiccolo owns, how many it has sold or how much the firm has profited. Neither Peak Healthcare nor Accordius Health responded to multiple requests for comment.

An analysis of federal data shows that nearly 70 percent of facilities Portopiccolo owned before the pandemic have Medicare ratings of one or two stars out of five — based on patient-care metrics such as staffing ratios and infection control.

Two Portopiccolo facilities last month [were placed](#) in a federal monitoring program for having "a history of serious quality issues"; two others were listed as candidates because of severe deficiencies. Prior to the pandemic, the firm's facilities in North Carolina were fined more than \$480,000 for violating state and federal rules, federal data shows.

One facility placed in the monitoring program was the Citadel Salisbury, a one-star nursing home in Salisbury, N.C., where more than 150 staff and residents have contracted the virus, according to state data. Employees and residents alleged in a lawsuit filed in Rowan County Superior Court that Portopiccolo, which bought the facility from Genesis HealthCare on Feb. 1, left the nursing home woefully unprepared for the pandemic.

Employees testified in sworn affidavits that managers from Accordius, the operating group, prohibited staff from wearing masks in March, saying that doing so would scare residents. Nurses sometimes had to care for more than 50 residents at a time, employees alleged.

The lawsuit asks that the facility be required to improve conditions or be closed or put under new ownership. But lawyers for Portopiccolo asserted that staffing and equipment have been adequate. Hyman, Zanziper and Accordius executives sought to downplay their role at the Citadel, claiming in a motion to dismiss that daily operations were the responsibility of staff on site.

At the same time, Portopiccolo sued the families in federal court, arguing that they had signed agreements that preclude litigation against the nursing home.

Such arbitration clauses have become increasingly common at for-profit nursing homes, studies show, and have been criticized by consumer advocates as well as lawmakers as a way for facilities to avoid accountability. Biden said he wants to restore an Obama-era ban on the practice that was overturned by the Trump administration.

In June, North Carolina officials identified a slew of violations at the Citadel that they said placed residents in “immediate jeopardy,” including a systemic failure to control infection and failing to inform the families of those who tested positive. Some found out their relatives had the virus from an emergency room physician. One man said he learned his aunt had died only when a funeral director called, asking what to do with her body.

Two hundred miles away in Virginia, staff shortages at Accordius Health in Harrisonburg were so dire before the pandemic that residents sometimes went days without showers, inspection records show.

“This place has gone from bad to worse,” one resident told an inspector. “They cut costs at our expense.”

After Accordius took over the facility in 2019, Ruth Simmers-Domzalski said, she noticed fewer staff members tending to her mother-in-law, Mary Domzalski, whose family twice found her lying on soiled bedsheets. On April 6, the facility held a hallway dance party where residents interacted without masks.

Domzalski, 88, attended. Three weeks later, she died of covid-19.

When asked about the event, Collins said the dance party did not conflict with federal guidelines at the time. CMS said on April 2 that all nursing home residents should cover their noses and mouths while interacting with staff; nearly a month before, it told facilities to cancel all group activities.

## Tumultuous takeovers



Portopiccolo declined to say how many nursing homes it has bought during the pandemic, but The Post used CMS records to identify at least 22 facilities — eight in Maryland — that reported that Hyman and Zanziper had become owners since April.

Three of the Maryland facilities were bought from Genesis HealthCare, one of the largest skilled-nursing operators in the country. Amid plummeting occupancy rates and ballooning expenses, Genesis told stockholders this year that the firm would “improve its liquidity position” by selling off nearly two dozen of its roughly 400 nursing homes.

One was the Sligo Creek Center in Takoma Park, Md., where Pearthree, 59, worked part time as a social worker.

She had spent 18 years full time at another Genesis nursing home, the Fox Chase Rehabilitation Center in Silver Spring, leaving months after Portopiccolo bought it in 2019.

That sale was a “nightmare,” said Pearthree, recalling that new managers failed to secure local suppliers, leaving employees scrambling for medication and food. One afternoon, she said, staff members were unable to access digital patient records because Peak Healthcare had not put a new software system in place.

Less than a year after she left Fox Chase, Pearthree found herself facing another Portopiccolo takeover — this time amid a pandemic.

Again, the transition was chaotic. Peak did not actively recruit employees or offer them competitive packages prior to the takeover, leading to the departure of longtime staffers, including the administrator and director of nursing, said Pearthree and a senior Sligo Creek employee who spoke on the condition of anonymity because she feared reprisals. The former administrator and director of nursing did not respond to requests for comment.

Pearthree, a graduate student who worked 30 hours a week, was told she would have to increase her hours to keep her health insurance, she and Collins said.

Pearthree and the current employee also said Peak stopped providing hazard pay for contract employees and laid off a group of nonmedical staff Genesis had assembled to take temperatures and wipe down surfaces at the onset of the pandemic.

The facility has been cited twice by Maryland regulators since Peak took over, state inspection records show — in June for failing to test all residents and staff, and in August for failing to consistently inform family members of viral outbreaks.

Collins said staffing gaps were part of a nationwide shortage of nursing home workers and disputed the accounts from Pearthree and the current employee, saying supplies at both Sligo and Fox Chase were adequate and benefits were fair.

Eleven workers at three other Maryland nursing homes acquired by Portopiccino during the pandemic said they lost paid time off and were offered more limited insurance packages. One worker who has asthma and high blood pressure said her bimonthly health insurance co-pay increased from \$67 to \$113 when Peak took over.

At Peak Healthcare Chestertown, on Maryland's Eastern Shore, employees said the company offered a more limited benefits package than the facility's previous owners, Autumn Lake, including less paid time off for new employees and no paid time off on major holidays.

The company scrimped on supplies, including cutlery, cleaning materials and clothing for residents, said employees at three facilities, who also spoke on the condition of anonymity out of fear of retribution.

Three employees at another facility said nurses have had to use hand soap to clean residents and rip up towels or bedsheets to dry them off.

“We risk our lives every day, and we don’t have proper supplies,” said one geriatric nursing assistant who brings her own gloves to work. “At what point do we put the patients first?”

Collins denied there were shortages, adding that at Chestertown, the budget for supplies had actually increased. He also denied that employees lost time off to which they were entitled, but said he could not address specific claims without knowing the names of the employees.

Reducing operating costs appears to be part of Portopiccolo’s business strategy, according to documents reviewed by The Post. In 2019, while acquiring three nursing homes in North Carolina, the group said it expected to save \$360,000 by lowering expenses associated with employee benefits and insurance and \$410,000 by cutting equipment and transportation costs. These measures, outlined in a mortgage loan contract, had allowed Portopiccolo to save more than \$50 million across 37 facilities.

Collins said Portopiccolo has invested more than \$6.7 million to purchase cleaning supplies and protective equipment since the start of this year. In comparison, Genesis, which operates about three times as many nursing homes, said that as of September, it had spent about \$40 million more than normal on cleaning supplies and protective equipment.

## Little government scrutiny

A recent study by the Long Term Care Community Coalition identified 15 states as having some good oversight practices for nursing home purchases, including requiring companies to disclose what other assets they own. Of the nine states in which Portopiccolo operates, none made the list.

“If your facilities in other states have very low staffing or a history of citations, you should not be allowed to purchase another one,” said Mollot, executive director of the coalition. “But states have a very hands-off approach to anything that happens outside their borders.”

Maryland Department of Health spokesman Charles Gischlar said the agency saw “no reason to change” the way it tracks shifts in nursing home ownership during the pandemic.

The Maryland Health Care Commission, another entity meant to oversee the sale of nursing homes, last year started asking prospective owners to affirm that they have not been convicted of a felony within the past 10 years or penalized more than \$10 million because of their ownership of nursing homes.

But this requirement, which was designed “to keep out poor performers,” has not deterred a single transaction, said Paul Parker, a director at the commission.

For each facility that Hyman and Zanziper bought in Maryland, they declared to state regulators that they would not make substantive changes to services, staffing or bed ratios. State officials did not respond to questions asking how they ensured this would be true.

Gupta, the Wharton professor, said there should have been a moratorium on nursing home sales when the pandemic started because the changes that follow any acquisition can hamper a facility’s pandemic response.

But federal and state lawmakers never considered such a move.

“Nobody knew what was going on, nobody was in control,” Gupta said.

Joani Latimer, Virginia’s long-term-care ombudsman, said her office has been concerned by Portopiccolo’s pattern of buying facilities with low CMS ratings. Such facilities need more investment — not less — for conditions to turn around, she said.

“It’s not a process that you can just streamline to machine-like efficiency,” she said. “These are human needs with human challenges.”

Officials at the Virginia Department of Health, however, said they did not pay particular attention to Portopiccolo’s acquisition this year of Accordius Health at Courtland in Southampton County and Accordius Health at Waverly in Sussex County.

Such deals are “a business decision between the parties involved,” said Kimberly Beazley, director of the state Office of Licensure and Certification. “And we do not regulate business decisions made by facilities.”

## **Weeks with no hot water**

Multiple employees at Portopiccolo-owned facilities, including one who worked in the kitchen at Chestertown, said their new managers had so much trouble filling staffing gaps this spring that employees were asked to work after learning they had the virus.

“It was a disaster,” said the Chestertown employee, who said she tested positive May 15 and declined when asked to come to work three days later. “People were still testing positive, and we were being asked to reapply for our jobs because this new company was coming in.”

Kent County Health Officer William Webb said local officials intervened that month after learning that a different employee at the facility who also had coronavirus was still working. “It was very concerning to me at the time, and we made sure to put a stop to it,” he said.

The facility’s water heater was broken from July to September, which meant there was no hot water for dishes or hand-washing. State inspectors fined the facility \$730,000 for not fixing or reporting the problem, which they said posed “immediate jeopardy” to residents’ health. Collins said the firm is disputing the fine.

Webb said Peak’s decision not to promptly replace the water heater was “especially difficult” because the facility had seen scores of coronavirus cases and more than a dozen deaths in April and May. “If you’re in the business,” he said, “[you know] ample hot water is the core of any infection prevention program.”

When Peak took over managing the facility, roommates Patricia Sparkman, 82, and Brenda Middleton, 79, were isolated in their ground-floor room after testing positive for the virus.

Sparkman said in an interview that staff members left after the transition. Those who remained seemed less able to help, she said, including with basic tasks like bringing her water.

Middleton’s daughter, Tina Hurley, said the family moved Middleton a few months later to Peak Healthcare at Denton, about 30 miles away, so they could visit more frequently. But that facility had also been acquired by Portopiccolo on May 1.

Hurley said her mother is rarely checked on in Denton and has fallen several times while trying to get things for herself. At one point, she added, Middleton injured her leg but went without care from the facility’s doctor for days.

“I wouldn’t have brought her here if I knew how bad it would be,” Hurley said.

For Pearthree, the social worker at Sligo Creek, the breaking point came when she was asked to transfer back to Fox Chase in mid-May as director of social work. By then, Peak was operating both facilities.

She found residents she had known for years alone in their rooms, she said, confused and despondent in some cases. Relatives of those who died, she added, were given little information about how or when their loved ones had gotten sick.

When she raised concerns with managers, she said, she was brushed aside.

“The families felt betrayed by us,” Pearthree said. “And that was the part that overwhelmed me.” She sent a resignation letter in June.

Collins said Fox Chase administrators were unaware of her resignation and said Pearthree was terminated after she stopped coming to work. But the executive director of Fox Chase left Pearthree a voice mail on June 3 acknowledging her resignation and pleading with her to return.

“You do your job great and I like that,” director Eli Lolyan said in the voice mail, which Pearthree shared with The Post. Lolyan did not respond to an email requesting comment.

Collins said that Portopiccolo leaders see their employees as “health care heroes.”

“We remain committed to putting care first,” he added.

Days before Thanksgiving, as all but one of the firm’s Maryland facilities reported new coronavirus outbreaks to the state, the firm closed on deals worth \$37.7 million to acquire four more facilities in Florida.

Douglas MacMillan contributed to this report.

## Coronavirus’ impact on America’s nursing homes

The Washington Post is examining the deadly effects of the coronavirus on nursing home residents and workers

**51 lives:** Portraits of the pandemic’s tragic toll on U.S. nursing homes

**Reuniting:** With vaccinations, nursing home visits resume but are tinged with grief and fear

**Perspective:** I work in a nursing home. Here’s why my colleagues are skipping the vaccine.

**Vaccinations:** Nursing home workers don't want the vaccine. What facilities are doing about it?

**Regulations:** CMS imposed few penalties at nursing homes despite promises of tough enforcement

**Black nursing homes:** Residents in majority-Black nursing homes suffer higher coronavirus death rates

**Misusing federal money:** Funding from the Cares Act went to nursing homes with deadly breakdowns in patient care

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Uploaded by: State of Maryland (MD)

Position: FWA



**2022 SESSION**  
**POSITION PAPER**

**BILL NO:** SB 677

**COMMITTEE:** Senate Finance Committee

**POSITION:** Support w/Amendments

**TITLE:** SB 677 - Maryland Health Care Commission – Nursing Homes – Audit

**BILL ANALYSIS**

Senate Bill (SB 677) requires the Maryland Health Care Commission (MHCC) to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State. The MHCC is also required to conduct an annual survey of the nursing home workforce covering questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility. To fund the audit, the Commission would establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

**POSITION AND RATIONALE**

The Maryland Health Care Commission supports SB 677 with the amendments being offered by the sponsor and the proponents of this bill.

MHCC already collects similar or identical data through the MHCC Long Term Care Survey and receives the equivalent financial information that would be gathered from an audit from the Maryland Medicaid Administration.<sup>1</sup> Requiring MHCC to independently gather data as envisioned by SB 677 would not expand the scope of information on nursing home utilization and revenues.

The MHCC Long Term Care Survey is administered annually on all nursing homes and assisted living facilities with ten or more beds. The survey obtains current information including data on ownership, sources of payment, and the scope of services offered. The Maryland Medicaid Administration contracts with an independent accounting firm to collect nursing home financial and utilization data that is used for oversight and administration in an instrument known as the Medicaid Cost Report. Compilations of Medicaid Cost Reports are

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<sup>1</sup> Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

required by the federal government to keep state Medicaid programs in good standing with the federal government. In Maryland all nursing homes that participate in the Medicaid program are required to complete the Medicaid Cost Report and several supplemental schedules. Once reports are complete and accepted by the auditor, Medicaid authorizes the release of elements from the Medicaid Cost Report (MCR) and MCR Supplemental Schedules A, B, and C to MHCC. The Maryland Long Term Care Survey and the Medicare Cost Reports are not audited using the conventional meaning of audit. However, both data instruments are subject to exhaustive desk reviews during which inconsistent responses are clarified and sometimes corrected by personnel from the nursing homes.

Data from the Medicaid Cost Report, the MCR Supplemental Schedules, and the Maryland Long-Term Care survey are merged to provide MHCC with a comprehensive data system for monitoring utilization, performance, capacity, and quality. Information in this data system supplements quality metrics, family satisfaction information, safety data, and the Office of Health Care Quality deficiency and inspection reports on nursing homes for the Maryland Quality Reporting Website (<https://healthcarequality.mhcc.maryland.gov>). The information on nursing homes that is displayed on this popular website is presented in Attachment 1. Stakeholders interested in conducting their own research on utilization and the financial performance of nursing homes may download a subset of the Long-Term Care Survey and Medicaid Cost Reports at our public dataset website at [https://mhcc.maryland.gov/public\\_use\\_files/index.aspx](https://mhcc.maryland.gov/public_use_files/index.aspx).

The Maryland Medicaid Administration is the appropriate entity to collect financial information on the nursing home industry. Nursing homes are required to provide this data as a condition of participation in the Medicaid program. States are required to collect Medicaid Cost Reports to keep their Medicaid programs in good standing with the federal government. As the Maryland Medicaid Administration is the primary source of payment for many nursing homes that Administration is in a strong position to obtain accurate financial information. The MHCC believes that even if MHCC collected and audited financial data, the Medicaid Administration would need to administer the Medicaid Cost Report to maintain Federal compliance.

The cost of conducting a duplicative financial audit will be significant. SB 677 would require MHCC to obtain the services of persons with accounting and financial analysis expertise who are not currently available on the agency staff to take on this new audit function. The cost of those services would be borne by the nursing home industry that is still operating under the challenges of the COVID-19 pandemic.

MHCC does not administer a worker satisfaction survey for any health care occupation or health care sector. Employer satisfaction surveys are often problematic because of low response rates. MHCC believes a more complete assessment of caregiver satisfaction could be conducted as part of the bi-annual license renewal required by the Health Occupation Boards. MHCC administered a physician survey as part of license renewal at one time and



achieved almost a 100 percent response rate. MHCC would be pleased to work with the Board of Nursing to develop a short survey that could be completed as part of license renewal. This approach would yield a more complete picture of nursing personnel's satisfaction across many different sites of employment and a very modest cost. Given nursing staffing deficits and widespread evidence of staff burnout, a broader assessment is appropriate. If a health worker survey is contemplated, that survey should cover more than the nursing staff employed in nursing homes and should engage the Health Occupations Boards, particularly the Maryland Board of Nursing.

MHCC sees no value in duplicating information gathering completed by the Medicaid Administration given that information is already shared and used in oversight and quality reporting activities at MHCC. The MHCC Long Term Care Survey can be used as a trusted source for utilization data not collected by Medicaid. Using already collected information will enable MHCC to meet the objectives of SB 677 without imposing additional costs on the industry.

For the reasons noted above MHCC encourages the Committee to issue a favorable report on SB 677 and on the amendments offered.



## Attachment 1 - Maryland Quality Reporting on Nursing Homes

The **Maryland Quality Reporting website** includes several measures a consumer can use to evaluate how well Maryland nursing homes give care to residents:

1. **Quality Measures** that evaluate the way care is given (process) and the results of care (outcome)
2. **Experience of Care Measures** that evaluate how well a responsible party (close family member or friend) or the resident rated the care
3. **Staffing Measures** that show how much time is spent with each patient per day, by different nursing staff and physical therapist
4. Results of **Health and Fire Safety Inspection Reports** performed on-site
5. Rates of **Influenza Vaccination** of nursing home staff

**Quality Measures** reports 20 measures, 14 that evaluate the care for long stay residents and six measures that evaluate care for short stay residents. Examples of measures include how well pain is managed; residents that develop pressure ulcers (bed sores) in the nursing home, and residents given influenza vaccination during the flu season. Quality measures are calculated by Centers for Medicare and Medicaid Services (CMS) from the data supplied by each nursing home using the Minimum Data Set (MDS).

**Experience of Care Measures** are reported in the *Family Satisfaction Survey* that is conducted each year. This survey is completed by a responsible party (usually a family member) for a long term resident of a nursing home. The Maryland Health Care Commission conducts this report every year, with the most recent survey conducted in 2020. The next survey will be conducted in the fall of 2021, with survey reports available in the winter of 2022.

**Health and Fire Safety Inspection Reports** are obtained from inspections completed by the Maryland Office of Health Care Quality (OHCQ) and reported to CMS. OHCQ visits each nursing home to determine if the nursing home is meeting federal and state regulations. Inspections are done to ensure that the nursing home residents receive safe, quality care and services in accordance with rules established by CMS and the state. Each nursing home is required by law to have the latest survey results on available for public inspection.

**Influenza Vaccination Rates of Nursing Home Staff:** It is important that health care workers who provide care to people 65 years or older or those with medical conditions like asthma, diabetes, heart disease, or kidney disease get vaccinated against influenza, as advanced age and complicated medical conditions put a person at higher risk for influenza-related complications and death. The rates displayed report the percentage of staff vaccinated in the nursing home compared to the statewide average (the percentage of staff vaccinated in all Maryland nursing homes).

To find the quality measures for a specific Maryland nursing home, or to compare results for up to five Maryland nursing homes, go to the **Maryland Quality Reporting website** and select **Nursing Home**.



# **SB 677 Nurisng Home Audit (Position SupportwAmendm**

Uploaded by: Tracey DeShields

Position: FWA



**2022 SESSION**  
**POSITION PAPER**

**BILL NO: SB 677**

**COMMITTEE: Senate Finance Committee**

**POSITION: Support w/Amendments**

**TITLE: SB 677 - Maryland Health Care Commission – Nursing Homes – Audit**

**BILL ANALYSIS**

Senate Bill (“SB 677”) requires the Maryland Health Care Commission (“MHCC”) to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State. The MHCC is also required to conduct an annual survey of the nursing home workforce covering questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility. To fund the audit, the Commission would establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

**POSITION AND RATIONALE**

The Maryland Health Care Commission supports SB 677 with the amendments being offered by the sponsor and the proponents of this bill.

MHCC already collects similar or identical data through the MHCC Long Term Care Survey and receives the equivalent financial information that would be gathered from an audit from the Maryland Medicaid Administration.<sup>1</sup> Requiring MHCC to independently gather data as envisioned by SB 677 would not expand the scope of information on nursing home utilization and revenues.

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The cost of conducting a duplicative financial audit will be significant. SB 677 would require MHCC to obtain the services of persons with accounting and financial analysis expertise who are not currently available on the agency staff to take on this new audit function. The cost of those services would be borne by the nursing home industry that is still operating under the challenges of the COVID-19 pandemic.

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MHCC sees no value in duplicating information gathering completed by the Medicaid Administration given that information is already shared and used in oversight and quality reporting activities at MHCC. The MHCC Long Term Care Survey can be used as a trusted source for utilization data not collected by Medicaid. Using already collected information will enable MHCC to meet the objectives of SB 677 without imposing additional costs on the industry.

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**Influenza Vaccination Rates of Nursing Home Staff:** It is important that health care workers who provide care to people 65 years or older or those with medical conditions like asthma, diabetes, heart disease, or kidney disease get vaccinated against influenza, as advanced age and complicated medical conditions put a person at higher risk for influenza-related complications and death. The rates displayed report the percentage of staff vaccinated in the nursing home compared to the statewide average (the percentage of staff vaccinated in all Maryland nursing homes).

To find the quality measures for a specific Maryland nursing home, or to compare results for up to five Maryland nursing homes, go to the **Maryland Quality Reporting website** and select **Nursing Home**.



# **LeadingAge Maryland - 2022 - SB 677 - MHCC Nursing**

Uploaded by: Aaron Greenfield

Position: UNF



**TO:** Finance Committee  
**FROM:** LeadingAge Maryland and LifeSpan Network  
**SUBJECT:** Senate Bill 677, Maryland Health Care Commission - Nursing Homes - Audit  
**DATE:** March 17, 2022  
**POSITION:** Unfavorable

LeadingAge Maryland and LifeSpan Network oppose Senate Bill 677, *Maryland Health Care Commission - Nursing Homes – Audit*.

LeadingAge Maryland is a community of more than 135 not-for-profit aging services organizations serving residents and clients through continuing care retirement communities, affordable senior housing, assisted living, nursing homes and home and community-based services. LifeSpan Network, a senior care provider association in Maryland, represents nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services.

This bill requires the Maryland Health Care Commission to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State. The Commission must conduct an annual survey of the nursing home workforce to include questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility. The Commission is required to establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

LeadingAge Maryland and LifeSpan Network oppose this bill on the basis that the bill is duplicative of information currently reported by the nursing home industry to the State. The information being requested in the proposed audit is already reported by nursing homes in the annual Maryland Medicaid cost reports, annual CMS Medicare cost reports, the CMS Payroll Based Journal reporting (done quarterly) and the Maryland Minimum Data Set (quarterly). In addition, the MHCC already conducts an annual long-term care survey and a Maryland Family Experience Survey.

Regarding imposing another fee on the nursing homes to cover the cost of this audit, the MHCC has legislation before the General Assembly to already increase its user fees, including

the fee assessed on nursing homes. Imposing yet another fee on nursing homes at a time when Medicaid reimbursement falls short of covering the cost of care and census is down only further strains nursing home operations, especially when the information is already being reported to the State through other means and there is no clear reasoning for how this information will then be utilized. For these reasons, we respectfully request an unfavorable report for Senate Bill 677.

For additional information, please contact Aaron J. Greenfield, 410.446.1992 (LeadingAge Maryland) or Danna Kauffman, 410.294.7759 (LifeSpan Network)

**SB0677\_UNF\_LifeSpan\_MHCC Nursing Homes - Audit.pdf**

Uploaded by: Danna Kauffman

Position: UNF



**TO:** Senate Finance Committee  
**FROM:** LeadingAge Maryland and LifeSpan Network  
**SUBJECT:** Senate Bill 677 – Maryland Health Care Commission – Nursing Homes – Audit  
**DATE:** Thursday, March 16, 2022  
**POSITION:** Unfavorable

LeadingAge Maryland and LifeSpan Network oppose Senate Bill 677, *Maryland Health Care Commission – Nursing Homes – Audit*.

LeadingAge Maryland is a community of more than 135 not-for-profit aging services organizations serving residents and clients through continuing care retirement communities, affordable senior housing, assisted living, nursing homes and home and community-based services. LifeSpan Network, a senior care provider association in Maryland, represents nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services.

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LeadingAge Maryland and LifeSpan Network oppose this bill on the basis that the bill is duplicative of information currently reported by the nursing home industry to the State. The information being requested in the proposed audit is already reported by nursing homes in the annual Maryland Medicaid cost reports, annual CMS Medicare cost reports, the CMS Payroll Based Journal reporting (done quarterly) and the Maryland Minimum Data Set (quarterly). In addition, the MHCC already conducts an annual long-term care survey and a Maryland Family Experience Survey.

Regarding imposing another fee on the nursing homes to cover the cost of this audit, the MHCC has legislation before the General Assembly to already increase its user fees, including the fee assessed on nursing homes. Imposing yet another fee on nursing homes at a time when

Medicaid reimbursement falls short of covering the cost of care and census is down only further strains nursing home operations, especially when the information is already being reported to the State through other means and there is no clear reasoning for how this information will then be utilized. For these reasons, we respectfully request an unfavorable report for Senate Bill 677.

For additional information, please contact Aaron J. Greenfield, 410.446.1992 (LeadingAge Maryland) or Danna Kauffman, 410.294.7759 (LifeSpan Network)



# **HFAM Testimony SB 677.pdf**

Uploaded by: Joseph DeMattos

Position: UNF



**TESTIMONY BEFORE THE  
SENATE FINANCE COMMITTEE**

March 17, 2022

Senate Bill 677: Maryland Health Care Commission - Nursing Homes - Audit  
*Written Testimony Only*

**POSITION: UNFAVORABLE**

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our opposition and provide background on Senate Bill 677. HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state.

Senate Bill 677 requires the Maryland Health Care Commission to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State; requires the Commission to conduct an annual survey of the nursing home workforce to include questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility; and also requires the Commission to establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

While transparency and data are incredibly important, the information requested by this legislation is already reported and available through annual cost reports and surveys. A long-term care survey is conducted annually by the Maryland Health Care Commission (MHCC) per COMAR 10.24.03. This information is used to develop the State health plan, need for additional capacity, assess financial health, and overall performance of the industry. In addition, gross patient revenues are reported in cost reports and as part of the LTC survey to determine annual user fee, which is paid quarterly to MHCC.

Whether organized as for-profit or not-for-profit entities, nursing homes are already among the most regulated and transparent organizations. The vast majority of revenue nursing homes receive are non-negotiable and come in the form of state Medicaid and federal Medicare reimbursement rates. These are known and can be reviewed via Medicare and Medicaid cost reports.

Additionally, for decades nursing homes have rightfully been subject to unannounced annual federal and state inspections, quality surveys, and unannounced complaint inspections at any time. The results of those inspections are required to be made available to members of the public visiting the centers and are also available online. In addition, those surveys are a driver of the Centers for Medicare and Medicaid Services' (CMS) Nursing Home Compare Five-Star Rating system—again, these are already publicly available online.

The requirement of an annual workforce survey that this legislation proposes is also duplicative. Organizations already have their own compliance programs that contain a method to report issues concerning fraud, misappropriation, unsafe working conditions, unfair practices, and staff interactions with residents and management. In addition, there is already oversight from the Occupational Safety and Health Administration (OSHA) and Maryland Occupational Safety and Health (MOSH) Division within the Department of Labor, as well as the Labor Board for wage and hourly rate issues.

Labor and staffing ratios, like Medicaid Rates, are also set by the state and are known. Data is available from both the Maryland Department of Health (MDH) and CMS via cost reports. Additionally, wages and financial information are reported into the federal Payroll-Based Journal (PBJ) system, which is publicly available.

Throughout the pandemic, nursing homes in Maryland have also been reporting daily data to the Chesapeake Regional Information System for our Patients (CRISP) and weekly data to the National Healthcare Safety Network (NHSN) to provide a wide variety of COVID-related information including, but not limited to, testing, vaccination, occupancy, and staffing.

Even before the pandemic, independent accounting firms such as Clifton Larson Allen LLP produced annual reports indicating that our sector was largely in a breakeven period financially due to declines in occupancy and Medicaid rates not keeping pace with the cost of quality care.

Throughout the pandemic, historically high operational expenses paired with historically low census have exacerbated financial issues that have long existed in our sector. Direct payments from the federal government, along with financial and operational support from the State, has helped to keep our doors open and has saved lives. This support is documented; there are both state and federal reporting requirements tied to the support that has been given to our sector and there is potential for audits of this information. While the financial and operational support is appreciated, our sector still needs a base Medicaid rate increase to continue providing quality care to Marylanders in need.

Skilled nursing and rehabilitation centers care for Marylanders who have multiple chronic comorbidities. If not cared for in our centers, these residents and patients would otherwise receive care in a hospital at a much higher cost to the state and other payors—putting at risk Maryland's Total Cost of Care Contract.

Given the abundance of reporting, oversight, transparency, surveys, and data already available, the audit requirements proposed in this legislation are unnecessary, duplicative, and burdensome both financially and administratively to nursing homes.

**For these reasons, we respectfully request an unfavorable report from the Committee on Senate Bill 677.**

*Submitted by:*

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President and CEO

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