

SENATE BILL 1000

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4lr2760
CF HB 1122

By: **Senator Beidle**

Introduced and read first time: February 2, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2024

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Care Commission – Nursing Homes – Acquisitions**

3 FOR the purpose of requiring a person, before ~~making a contractual agreement for the~~
4 closing on an acquisition of a nursing home, to submit a request for acquisition to
5 the Maryland Health Care Commission and provide certain notice to certain
6 individuals; establishing requirements regarding the approval or denial of a request
7 for acquisition; providing for judicial review of a final decision of the Commission
8 regarding a request for acquisition of a nursing home; requiring a person who
9 acquires a nursing home to submit a certain report to the Commission on a certain
10 basis; and generally relating to the acquisition of a nursing home.

11 BY repealing and reenacting, without amendments,

12 Article – Health – General

13 Section 19–114(a)

14 Annotated Code of Maryland

15 (2023 Replacement Volume)

16 BY adding to

17 Article – Health – General

18 Section 19–114(a–1) and 19–120.2

19 Annotated Code of Maryland

20 (2023 Replacement Volume)

21 BY repealing and reenacting, with amendments,

22 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 19–115, 19–120(k)(6)(ii), 19–1401.1, and 19–1401.2
2 Annotated Code of Maryland
3 (2023 Replacement Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
5 That the Laws of Maryland read as follows:

6 **Article – Health – General**

7 19–114.

8 (a) In this Part II of this subtitle the following words have the meanings
9 indicated.

10 **(A–1) “ACQUISITION” MEANS:**

11 **(1) A TRANSFER OF STOCK OR ASSETS THAT RESULTS IN A CHANGE**
12 **OF THE PERSON THAT CONTROLS A HEALTH CARE FACILITY; OR**

13 **(2) THE TRANSFER OF MORE THAN 25% OF STOCK OR OWNERSHIP**
14 **INTEREST IN A HEALTH CARE FACILITY.**

15 19–115.

16 (a) In addition to the duties set forth elsewhere in this subtitle, in this Part II of
17 this subtitle, the Commission shall:

18 (1) Act as the State agency to represent the State under Title VI of the
19 federal Public Health Service Act; **AND**

20 (2) Periodically participate in or perform analyses and studies that relate
21 to:

22 (i) Adequacy of services and financial resources to meet the needs of
23 the population;

24 (ii) Distribution of health care resources;

25 (iii) Allocation of health care resources;

26 (iv) Costs of health care in relationship to available financial
27 resources; or

28 (v) Any other appropriate matter[]; and

1 (3) When evaluating a notice of acquisition or transfer of interest of a
2 nursing home in accordance with § 19–120(k)(6)(ii) of this title, provide the Commission’s
3 written findings and recommendations to the Office of Health Care Quality, including:

4 (i) Quality ratings of facilities currently or previously owned, within
5 or outside the State, by the purchaser of the health care facility, based on the most recent
6 Five–Star Quality Rating System established by the Centers for Medicare and Medicaid
7 Services;

8 (ii) For the immediately preceding 3–year period:

9 1. Evidence that facilities currently or previously owned,
10 within or outside the State, by the purchaser of the health care facility maintained quality
11 assessment and assurance committees that met at least quarterly;

12 2. Inspection of care reports and corrective action plans of
13 facilities currently or previously owned, within or outside the State, by the purchaser of the
14 health care facility;

15 3. Licensing and certification surveys and corrective action
16 plans of facilities currently or previously owned, within or outside the State, by the
17 purchaser of the health care facility; and

18 4. Lawsuits or arbitration filings by any patient or patient
19 representative against facilities currently or previously owned, within or outside the State,
20 by the purchaser of the health care facility;

21 (iii) The Tax Identification Number of each purchaser; and

22 (iv) The personal Centers for Medicare and Medicaid Services
23 Certification Number of each purchaser].

24 [(b) The findings and recommendations required to be provided to the Office of
25 Health Care Quality under subsection (a)(3) of this section shall include a summary of the
26 findings and the basis for the recommendations.]

27 [(c) (B) In addition to the duties set forth elsewhere in this Part II of this
28 subtitle, the Governor shall direct, as necessary, a State officer or agency to cooperate in
29 carrying out the functions of the Commission.

30 [(d) (C) This State recognizes the federal act and any amendment to the federal
31 act that does not require State legislation to be effective. However, if the federal act is
32 repealed or expires, this Part II of this subtitle remains in effect.

33 19–120.

34 (k) (6) This subsection does not apply to:

(ii) ~~Acquisition~~ AN ACQUISITION of a health care facility if[, at]:

1. AT least 30 days before making the contractual arrangement to acquire the facility, written notice of the intent to make the arrangement is filed with the Commission and the Commission does not find, within 30 days after the Commission receives notice, that the health services or bed capacity of the facility will be changed, provided that, for a merger with or acquisition of an existing general hospice, the purchaser of the general hospice may only acquire the authority to provide home-based hospice services in jurisdictions in which the seller of the general hospice is licensed to provide home-based hospice services; AND

2. ~~THE FACILITY IS A NURSING HOME AND FOR AN ACQUISITION OF A NURSING HOME, THE ACQUISITION HAS BEEN APPROVED IN ACCORDANCE WITH § 19-120.2 OF THIS SUBTITLE;~~

~~19-120.2.~~

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE COMMISSION.

(3) "NURSING HOME" HAS THE MEANING STATED IN § 19-1401 OF THIS TITLE.

(4) "REQUEST FOR ACQUISITION" MEANS A REQUEST FOR THE COMMISSION TO APPROVE THE ACQUISITION OF A NURSING HOME.

(B) A PERSON SHALL PROVIDE NOTICE TO THE COMMISSION AT LEAST 30 DAYS BEFORE THE CLOSING OF A CHANGE OF OWNERSHIP OF A NURSING HOME THAT:

(1) INVOLVES AT LEAST A 5% TRANSFER IN OWNERSHIP INTEREST;
AND

(2) IS NOT AN ACQUISITION THAT REQUIRES APPROVAL UNDER SUBSECTION (C) OF THIS SECTION.

~~(B)~~ (C) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACQUISITION THAT INVOLVES ONLY CHANGES OF OWNERSHIP INTERESTS AMONG EXISTING OWNERS OF A NURSING HOME.

1 **(2)** AT LEAST ~~120~~ **60** DAYS BEFORE ~~MAKING A CONTRACTUAL~~
 2 ~~ARRANGEMENT FOR THE CLOSING DATE OF THE ACQUISITION OF A NURSING HOME,~~
 3 A PERSON SHALL:

4 ~~(1)~~ **(I)** SUBMIT TO THE COMMISSION A REQUEST FOR
 5 ACQUISITION; AND

6 ~~(2)~~ **(II)** PROVIDE NOTICE TO THE RESIDENTS, RESIDENT
 7 REPRESENTATIVES, AND ~~STAFF~~ EMPLOYEES OF THE NURSING HOME THAT:

8 ~~(H)~~ **1.** THE REQUEST FOR ACQUISITION WAS SUBMITTED TO
 9 THE COMMISSION; AND

10 ~~(H)~~ **2.** THERE WILL BE AN OPPORTUNITY TO SUBMIT
 11 COMMENTS IN ACCORDANCE WITH SUBSECTION ~~(E)~~ **(F)** OF THIS SECTION.

12 ~~(E)~~ **(D)** **(1)** THE EXECUTIVE DIRECTOR SHALL REVIEW A COMPLETED
 13 REQUEST FOR ACQUISITION WITHIN ~~60~~ **45** DAYS AFTER RECEIVING THE COMPLETED
 14 REQUEST FROM THE APPLICANT.

15 **(2)** THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE
 16 SECRETARY OR THE SECRETARY'S DESIGNEE, MAY:

17 **(I)** APPROVE THE ACQUISITION;

18 **(II)** APPROVE THE ACQUISITION WITH CONDITIONS;

19 **(III)** DENY THE ACQUISITION; OR

20 **(IV)** REFER THE REQUEST FOR ACQUISITION TO THE
 21 COMMISSION FOR A FINAL DECISION.

22 ~~(D)~~ **(E)** TO APPROVE A REQUEST SUBMITTED UNDER SUBSECTION ~~(B)~~ **(C)**
 23 OF THIS SECTION, THE EXECUTIVE DIRECTOR MUST FIND THAT THE ACQUISITION:

24 **(1)** IS CONSISTENT WITH THE STATE HEALTH PLAN; AND

25 **(2)** ~~WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND~~
 26 ~~EFFECTIVE HEALTH CARE SERVICES; AND~~

27 ~~(3)~~ **(3)** SUBJECT TO SUBSECTION ~~(E)~~ **(F)** OF THIS SECTION, IS IN THE
 28 PUBLIC INTEREST.

1 ~~(E)~~ (F) IN DETERMINING WHETHER AN ACQUISITION OF A NURSING HOME
2 IS IN THE PUBLIC INTEREST, THE EXECUTIVE DIRECTOR SHALL:

3 (1) SOLICIT AND ACCEPT COMMENTS FROM INDIVIDUALS WHO:

4 (I) RESIDE IN THE NURSING HOME;

5 (II) HAVE FAMILY MEMBERS WHO RESIDE IN THE NURSING
6 HOME; OR

7 (III) ARE ~~EMPLOYED AT~~ EMPLOYEES OF THE NURSING HOME;
8 AND

9 (2) CONSULT WITH THE ATTORNEY GENERAL ON WHETHER THE
10 ACQUISITION RAISES PUBLIC INTEREST CONCERNS.

11 ~~(F)~~ (G) IF THE EXECUTIVE DIRECTOR REFERS A REQUEST FOR
12 ACQUISITION TO THE COMMISSION UNDER SUBSECTION ~~(C)(2)(IV)~~ (D)(2)(IV) OF
13 THIS SECTION, THE COMMISSION SHALL USE THE CRITERIA SPECIFIED IN
14 ~~SUBSECTION (D)~~ SUBSECTIONS (E) AND (F) OF THIS SECTION OR AND REGULATIONS
15 ADOPTED BY THE COMMISSION TO MAKE A FINAL DECISION WITHIN 60 DAYS AFTER
16 RECEIVING THE COMPLETED REQUEST FROM THE APPLICANT.

17 ~~(G)~~ (H) IF THE EXECUTIVE DIRECTOR DENIES A REQUEST FOR
18 ACQUISITION OR IMPOSES A CONDITION ON THE APPROVAL OF THE ACQUISITION, A
19 PERSON THAT IS ~~AN INTERESTED~~ A PARTY TO THE ACQUISITION MAY SUBMIT A
20 WRITTEN REQUEST FOR THE COMMISSION TO REVIEW THE DECISION IN
21 ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

22 ~~(H)~~ (I) (1) A DECISION OF THE COMMISSION UNDER SUBSECTION ~~(F)~~
23 ~~OR (G)~~ (G) OR (H) OF THIS SECTION SHALL BE A FINAL DECISION FOR THE PURPOSE
24 OF JUDICIAL REVIEW.

25 (2) A PERSON THAT IS ~~AN INTERESTED~~ A PARTY TO THE ACQUISITION
26 MAY TAKE A DIRECT JUDICIAL APPEAL WITHIN 30 DAYS AFTER THE COMMISSION
27 MAKES THE FINAL DECISION.

28 (3) THE COMMISSION SHALL SEND EACH FINAL DECISION TO THE
29 SECRETARY, THE SECRETARY OF AGING, THE OFFICE OF HEALTH CARE QUALITY,
30 ~~AND~~ THE OFFICE OF THE ATTORNEY GENERAL, AND THE STATE LONG-TERM CARE
31 OMBUDSMAN.

32 ~~(I)~~ (J) (1) ON OR BEFORE JULY 1 IMMEDIATELY FOLLOWING THE
33 ACQUISITION OF A NURSING HOME AND ~~EVERY~~ EVERY EACH YEAR FOR 3 YEARS

1 THEREAFTER, THE PERSON THAT ACQUIRED THE NURSING HOME SHALL SUBMIT A
 2 REPORT TO THE COMMISSION IN ACCORDANCE WITH REGULATIONS ADOPTED BY
 3 THE COMMISSION.

4 (2) THE COMMISSION SHALL PROVIDE THE REPORT REQUIRED
 5 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE SECRETARY, THE SECRETARY
 6 OF AGING, THE OFFICE OF HEALTH CARE QUALITY, ~~AND~~ THE OFFICE OF THE
 7 ATTORNEY GENERAL, AND THE STATE LONG-TERM CARE OMBUDSMAN.

8 ~~(J)~~ (K) (1) THE COMMISSION SHALL ADOPT REGULATIONS THROUGH
 9 AN UPDATE TO THE STATE HEALTH PLAN FOR FACILITIES AND SERVICES TO CARRY
 10 OUT THE PROVISIONS OF THIS SECTION.

11 (2) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL:

12 (I) REQUIRE THE PERSON THAT ACQUIRED OWNERSHIP OF A
 13 NURSING HOME TO:

14 1. REDUCE THE NUMBER OF RESIDENT ROOMS IN THE
 15 NURSING HOME THAT CONTAIN MORE THAN TWO BEDS IN ACCORDANCE WITH
 16 STANDARDS ESTABLISHED BY THE COMMISSION; OR

17 2. RECEIVE A WAIVER FROM THE REQUIREMENT
 18 ESTABLISHED UNDER ITEM 1 OF THIS ITEM FROM THE EXECUTIVE DIRECTOR IN
 19 ACCORDANCE WITH STANDARDS ESTABLISHED BY THE COMMISSION;

20 (II) 1. IF NECESSARY, ALLOW THE PERSON THAT ACQUIRED
 21 OWNERSHIP OF A NURSING HOME TO TEMPORARILY DELICENSE BEDS FOR AT LEAST
 22 3 YEARS IMMEDIATELY FOLLOWING THE ACQUISITION TO REDUCE THE NUMBER OF
 23 RESIDENT ROOMS THAT CONTAIN MORE THAN TWO BEDS; AND

24 2. AUTHORIZE THE COMMISSION TO EXTEND THE
 25 PERIOD THE BEDS ARE TEMPORARILY DELICENSED BEYOND 3 YEARS FOR GOOD
 26 CAUSE SHOWN, INCLUDING DEMONSTRATED PROGRESS TOWARD ELIMINATING
 27 MULTIBEDDED ROOMS BY EXPANDING THE EXISTING FACILITY OR TRANSFERRING
 28 THE BEDS TO ANOTHER FACILITY WITHIN A MERGED ASSET SYSTEM IN THE SAME
 29 JURISDICTION;

30 ~~(II)~~ (III) ESTABLISH STANDARDS FOR THE EVALUATION OF
 31 THE QUALITY OF THE ~~FACILITIES~~ NURSING HOMES CURRENTLY OR PREVIOUSLY
 32 OWNED, WHETHER IN THE STATE OR OUTSIDE THE STATE, BY THE PERSON THAT
 33 SUBMITTED A REQUEST FOR ACQUISITION; AND

1 ~~(H)~~ (IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,
 2 ESTABLISH CRITERIA FOR THE EXECUTIVE DIRECTOR AND THE COMMISSION TO
 3 CONSIDER WHEN MAKING A DECISION REGARDING A REQUEST FOR ACQUISITION.

4 (3) THE CRITERIA ESTABLISHED BY THE COMMISSION UNDER
 5 PARAGRAPH ~~(2)(H)~~ (2)(IV) OF THIS SUBSECTION SHALL REQUIRE THAT THE
 6 COMMISSION TAKE INTO CONSIDERATION WHETHER ANY ~~FACILITY~~ NURSING HOME
 7 CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE
 8 PERSON SUBMITTING THE REQUEST, FOR THE PERIOD OF 3 YEARS IMMEDIATELY
 9 PRECEDING THE SUBMISSION OF THE REQUEST:

10 (I) MAINTAINED A QUALITY ASSESSMENT AND ASSURANCE
 11 COMMITTEE THAT MET AT LEAST QUARTERLY;

12 (II) WAS THE SUBJECT OF AN ENFORCEMENT ACTION, A
 13 SPECIAL FOCUS FACILITY DESIGNATION, SURVEY, OR PLAN OF CORRECTION OR A
 14 DEFICIENCY INVOLVING SERIOUS OR IMMEDIATE THREAT, ACTUAL HARM, OR
 15 IMMEDIATE JEOPARDY TO A RESIDENT; OR

16 (III) WAS THE SUBJECT OF A LAWSUIT, ~~A~~ JUDGMENT, OR AN
 17 ARBITRATION FINDING, FOLLOWING A COMPLAINT FILED BY A RESIDENT OR,
 18 RESIDENT REPRESENTATIVE, OR A GOVERNMENT AGENCY.

19 19-1401.1.

20 (a) (1) In addition to the requirements for licensure of a related institution as
 21 provided in this title, an applicant for licensure of a nursing home shall include in the
 22 application the identity of:

23 (i) Any person with an ownership interest in the nursing home; and

24 (ii) Any management company, landlord, or other business entity
 25 that will operate or contract with the applicant to manage the nursing home.

26 (2) (i) The person acquiring a nursing home shall provide the
 27 Department with written notice of the acquisition or change in operator at the same time
 28 as the notice required under [§ 19-120(k)(6)(ii)] § 19-120.2 of this title is filed with the
 29 Maryland Health Care Commission.

30 (ii) For other changes to the information required under paragraph
 31 (1) of this subsection, the nursing home shall notify the Department within 30 days after
 32 the effective date of the change.

33 (b) An applicant for licensure shall submit to the Secretary or the Secretary's
 34 designee evidence:

1 (1) That affirmatively demonstrates the ability of the applicant to comply
2 with minimum standards of:

3 (i) Medical care;

4 (ii) Nursing care;

5 (iii) Financial condition; and

6 (iv) Other applicable State or federal laws and regulations; [and]

7 (2) Regarding the regulatory compliance history and financial condition of
8 any health care facility owned or operated by the applicant in other jurisdictions; AND

9 (3) THAT A REQUEST FOR ACQUISITION FOR THE NURSING HOME WAS
10 APPROVED IN ACCORDANCE WITH § 19-120.2 OF THIS TITLE.

11 19-1401.2.

12 ~~¶(a)~~ On review of the information required under § 19-1401.1 of this subtitle and
13 any other information that is relevant to the ability of the applicant to operate a nursing
14 home, the Secretary may:

15 (1) Approve an application for a license;

16 (2) Deny an application for a license;

17 (3) Approve an application for a license subject to conditions; or

18 (4) Revoke a license.

19 ~~¶(b)~~ Before taking action on a license under subsection (a) of this section, the
20 Secretary shall consider any findings and ~~recommendations~~ **DECISIONS** of the Maryland
21 Health Care Commission provided to the Office of Health Care Quality under ~~§ 19-115~~ §
22 **19-120.2** of this title. ~~¶~~

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Health Care
24 Commission shall adopt the regulations required under § 19-120.2(j) of the Health –
25 General Article, as enacted by Section 1 of this Act, on or before January 1, 2025, to be
26 applicable to acquisitions executed after the adoption of the regulations.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2024.