

HOUSE BILL 1122

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CF SB 1000

By: **Delegate Kerr**

Introduced and read first time: February 7, 2024

Assigned to: Health and Government Operations

A BILL ENTITLED

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 acquisition of a nursing home, to submit a request for acquisition to the Maryland
5 Health Care Commission and provide certain notice to certain individuals;
6 establishing requirements regarding the approval or denial of a request for
7 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
23 Section 19–115, 19–120(k)(6)(ii), 19–1401.1, and 19–1401.2
24 Annotated Code of Maryland
25 (2023 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

19–114.

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

(A–1) “ACQUISITION” MEANS:

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

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

19–115.

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

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

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

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

(ii) Distribution of health care resources;

(iii) Allocation of health care resources;

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

(v) Any other appropriate matter[]; and

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

(i) Quality ratings of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, based on the most recent

1 Five-Star Quality Rating System established by the Centers for Medicare and Medicaid
2 Services;

3 (ii) For the immediately preceding 3-year period:

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

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

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

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

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

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

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

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

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

28 19–120.

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

30 (ii) Acquisition of a health care facility if[, at]:

31 1. AT least 30 days before making the contractual
32 arrangement to acquire the facility, written notice of the intent to make the arrangement

1 is filed with the Commission and the Commission does not find, within 30 days after the
2 Commission receives notice, that the health services or bed capacity of the facility will be
3 changed, provided that, for a merger with or acquisition of an existing general hospice, the
4 purchaser of the general hospice may only acquire the authority to provide home-based
5 hospice services in jurisdictions in which the seller of the general hospice is licensed to
6 provide home-based hospice services; AND

7 **2. THE FACILITY IS A NURSING HOME AND THE**
8 **ACQUISITION HAS BEEN APPROVED IN ACCORDANCE WITH § 19-120.2 OF THIS**
9 **SUBTITLE;**

10 **19-120.2.**

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

13 **(2) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF**
14 **THE COMMISSION.**

15 **(3) “NURSING HOME” HAS THE MEANING STATED IN § 19-1401 OF**
16 **THIS TITLE.**

17 **(4) “REQUEST FOR ACQUISITION” MEANS A REQUEST FOR THE**
18 **COMMISSION TO APPROVE THE ACQUISITION OF A NURSING HOME.**

19 **(B) AT LEAST 120 DAYS BEFORE MAKING A CONTRACTUAL ARRANGEMENT**
20 **FOR THE ACQUISITION OF A NURSING HOME, A PERSON SHALL:**

21 **(1) SUBMIT TO THE COMMISSION A REQUEST FOR ACQUISITION; AND**

22 **(2) PROVIDE NOTICE TO THE RESIDENTS AND STAFF OF THE NURSING**
23 **HOME THAT:**

24 **(I) THE REQUEST FOR ACQUISITION WAS SUBMITTED TO THE**
25 **COMMISSION; AND**

26 **(II) THERE WILL BE AN OPPORTUNITY TO SUBMIT COMMENTS IN**
27 **ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.**

28 **(C) (1) THE EXECUTIVE DIRECTOR SHALL REVIEW A COMPLETED**
29 **REQUEST FOR ACQUISITION WITHIN 60 DAYS AFTER RECEIVING THE COMPLETED**
30 **REQUEST.**

1 **(2) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE**
2 **SECRETARY, MAY:**

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

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

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

6 **(IV) REFER THE REQUEST FOR ACQUISITION TO THE**
7 **COMMISSION FOR A FINAL DECISION.**

8 **(D) TO APPROVE A REQUEST SUBMITTED UNDER SUBSECTION (B) OF THIS**
9 **SECTION, THE EXECUTIVE DIRECTOR MUST FIND THAT THE ACQUISITION:**

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

11 **(2) WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND**
12 **EFFECTIVE HEALTH CARE SERVICES; AND**

13 **(3) SUBJECT TO SUBSECTION (E) OF THIS SECTION, IS IN THE PUBLIC**
14 **INTEREST.**

15 **(E) IN DETERMINING WHETHER AN ACQUISITION OF A NURSING HOME IS IN**
16 **THE PUBLIC INTEREST, THE EXECUTIVE DIRECTOR SHALL:**

17 **(1) SOLICIT AND ACCEPT COMMENTS FROM INDIVIDUALS WHO:**

18 **(I) RESIDE IN THE NURSING HOME;**

19 **(II) HAVE FAMILY MEMBERS WHO RESIDE IN THE NURSING**
20 **HOME; OR**

21 **(III) ARE EMPLOYED AT THE NURSING HOME; AND**

22 **(2) CONSULT WITH THE ATTORNEY GENERAL ON WHETHER THE**
23 **ACQUISITION RAISES PUBLIC INTEREST CONCERNS.**

24 **(F) IF THE EXECUTIVE DIRECTOR REFERS A REQUEST FOR ACQUISITION TO**
25 **THE COMMISSION UNDER SUBSECTION (C)(2)(IV) OF THIS SECTION, THE**
26 **COMMISSION SHALL USE THE CRITERIA SPECIFIED IN SUBSECTION (D) OF THIS**
27 **SECTION OR REGULATIONS ADOPTED BY THE COMMISSION TO MAKE A FINAL**
28 **DECISION.**

1 (G) IF THE EXECUTIVE DIRECTOR DENIES A REQUEST FOR ACQUISITION, A
2 PERSON THAT IS AN INTERESTED PARTY TO THE ACQUISITION MAY SUBMIT A
3 WRITTEN REQUEST FOR THE COMMISSION TO REVIEW THE DECISION IN
4 ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

5 (H) (1) A DECISION OF THE COMMISSION UNDER SUBSECTION (F) OR (G)
6 OF THIS SECTION SHALL BE A FINAL DECISION FOR THE PURPOSE OF JUDICIAL
7 REVIEW.

8 (2) A PERSON THAT IS AN INTERESTED PARTY TO THE ACQUISITION
9 MAY TAKE A DIRECT JUDICIAL APPEAL WITHIN 30 DAYS AFTER THE COMMISSION
10 MAKES THE FINAL DECISION.

11 (3) THE COMMISSION SHALL SEND EACH FINAL DECISION TO THE
12 SECRETARY, THE SECRETARY OF AGING, THE OFFICE OF HEALTH CARE QUALITY,
13 AND THE OFFICE OF THE ATTORNEY GENERAL.

14 (I) (1) ON OR BEFORE JULY 1 IMMEDIATELY FOLLOWING THE
15 ACQUISITION OF A NURSING HOME AND EVERY 3 YEARS THEREAFTER, THE PERSON
16 THAT ACQUIRED THE NURSING HOME SHALL SUBMIT A REPORT TO THE
17 COMMISSION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

18 (2) THE COMMISSION SHALL PROVIDE THE REPORT REQUIRED
19 UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE SECRETARY, THE SECRETARY
20 OF AGING, THE OFFICE OF HEALTH CARE QUALITY, AND THE OFFICE OF THE
21 ATTORNEY GENERAL.

22 (J) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT
23 THE PROVISIONS OF THIS SECTION.

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

25 (I) REQUIRE THE PERSON THAT ACQUIRED OWNERSHIP OF A
26 NURSING HOME TO:

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

30 2. RECEIVE A WAIVER FROM THE REQUIREMENT
31 ESTABLISHED UNDER ITEM 1 OF THIS ITEM FROM THE EXECUTIVE DIRECTOR IN
32 ACCORDANCE WITH STANDARDS ESTABLISHED BY THE COMMISSION;

1 **(II) ESTABLISH STANDARDS FOR THE EVALUATION OF THE**
2 **QUALITY OF THE FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WHETHER IN THE**
3 **STATE OR OUTSIDE THE STATE, BY THE PERSON THAT SUBMITTED A REQUEST FOR**
4 **ACQUISITION; AND**

5 **(III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
6 **ESTABLISH CRITERIA FOR THE EXECUTIVE DIRECTOR AND THE COMMISSION TO**
7 **CONSIDER WHEN MAKING A DECISION REGARDING A REQUEST FOR ACQUISITION.**

8 **(3) THE CRITERIA ESTABLISHED BY THE COMMISSION UNDER**
9 **PARAGRAPH (2)(III) OF THIS SUBSECTION SHALL REQUIRE THAT THE COMMISSION**
10 **TAKE INTO CONSIDERATION WHETHER ANY FACILITY CURRENTLY OR PREVIOUSLY**
11 **OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PERSON SUBMITTING THE**
12 **REQUEST, FOR THE PERIOD OF 3 YEARS IMMEDIATELY PRECEDING THE SUBMISSION**
13 **OF THE REQUEST:**

14 **(I) MAINTAINED A QUALITY ASSESSMENT AND ASSURANCE**
15 **COMMITTEE THAT MET AT LEAST QUARTERLY;**

16 **(II) WAS THE SUBJECT OF ENFORCEMENT ACTION, SPECIAL**
17 **FOCUS FACILITY DESIGNATION, SURVEY, OR PLAN OF CORRECTION; OR**

18 **(III) WAS THE SUBJECT OF A LAWSUIT, A JUDGMENT, OR AN**
19 **ARBITRATION FINDING BY A RESIDENT OR RESIDENT REPRESENTATIVE.**

20 19-1401.1.

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

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

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

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

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

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

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

5 (i) Medical care;

6 (ii) Nursing care;

7 (iii) Financial condition; and

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

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

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

13 19-1401.2.

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

17 (1) Approve an application for a license;

18 (2) Deny an application for a license;

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

20 (4) Revoke a license.

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

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

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