



**TESTIMONY BEFORE THE
SENATE FINANCE COMMITTEE**

February 25, 2021

Senate Bill 704: Nursing Homes - Transfer of Ownership - Site Visits and Surveys
Written Testimony Only

POSITION: FAVORABLE WITH AMENDMENTS

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support with amendments for Senate Bill 704: Nursing Homes - Transfer of Ownership - Site Visits and Surveys. 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 in the state. HFAM members provide the majority of post-acute and long-term care to Marylanders in need: 6 million days of care across all payer sources annually, including more than 4 million Medicaid days of care and one million Medicare days of care. Thousands of Marylanders across the state depend on the high-quality services that our skilled nursing and rehabilitation centers offer every day.

We thank the sponsors for their leadership on Senate Bill 704. We appreciate and support the intent of this legislation, and recognize the challenge to crafting it.

It is incredibly important to understand that, under current state and federal law and regulation, the Maryland Office of Health Care Quality (OHCQ) can already visit and conduct unannounced survey inspections of nursing homes at any time, including at the frequency that would be mandated in SB 704. Existing law supports the longstanding OHCQ regulation at COMAR 10.07.02.07 that "Licensed nursing homes and any premises that an applicant for a license proposes to operate shall be open at all times to inspection by the Secretary and by any agency designated by the Secretary." The regulation goes on to specify that the surveys are unannounced. There is no limitation on number and duration.

Ownership changes of nursing homes are already tightly regulated. OHCQ has oversight over any change of ownership under COMAR 10.07.02.04B(4). It has an extensive change of ownership process with online instructions at:

https://health.maryland.gov/ohcq/ltc/docs/MDH_LTC_CHOW_Submission_Combined_Instructions.pdf.

OHCQ will also require demonstration that any change of ownership has been signed off by the Maryland Health Care Commission (MHCC) under the certificate of need (CON) process, which includes vetting of the proposed new owner. This process is detailed under the MHCC's regulations at COMAR 10.24.01.03A, which apply to any acquisition of a health care facility. For nursing homes, there is even stricter oversight under the MHCC's State Health Plan at COMAR 10.24.20. These extensive requirements were only recently updated in July 2019 through an extensive, public process.

Specifically, the MHCC process includes a requirement for disclosure “(a) The identity of each person with an ownership interest in the acquiring entity or a related or affiliated entity; (b) The percentage of ownership interest of each such person; and (c) The history of each such person’s experience in ownership or operation of health care facilities.” A favorable determination is required for OHCQ to act. OHCQ and the MHCC already jointly and in collaboration obtain extensive information about a new owner and OHCQ can follow up with as many unannounced surveys of the new owner’s operations as it wishes.

The COVID-19 pandemic has shone a bright light on many of the trends, challenges, issues, and opportunities faced in settings across the care continuum, and specifically in nursing homes and assisted living centers. One of those trends has been the marketplace consolidation of nursing homes in Maryland, as well as in other states.

Generally speaking, about 75-80 percent of residents receiving care in any given nursing homes are long-term residents. The remaining 20-25 percent are represented by a changing group of short-term residents, each with a length of stay of less than 30 days.

To ensure continuity of care and proper financial resources, Maryland must maintain its current process for nursing home changes of ownership.

While the visits, surveys, and inspections proposed in SB 704 are allowed under current federal and state law and rule, this bill makes a linkage specifically for providers who enter the Maryland healthcare delivery system without previous ownership experience in the state.

We propose amending Senate Bill 704 to remove the 30-day required inspection. Very little can be learned about a new operator in 30 days. More than a month is needed to demonstrate performance by the new operator. However, if OHCQ wants to survey a facility sooner, it has existing authority to do so under current law.

(C) IF OWNERSHIP OF A LICENSED NURSING HOME IS TRANSFERRED TO A
PERSON THAT DOES NOT OWN OR OPERATE ANOTHER NURSING HOME IN THE STATE
AT THE TIME OF THE TRANSFER, THE DEPARTMENT SHALL MAKE SITE VISITS AND
CONDUCT A FULL SURVEY OF THE LICENSED NURSING HOME:
[DELETE: (1) WITHIN 1 MONTH AFTER THE DATE OF TRANSFER;]
[(2)] (1) WITHIN 3 MONTHS AFTER THE DATE OF TRANSFER; AND
[(3)] (2) WITHIN 6 MONTHS AFTER THE DATE OF TRANSFER.

For these reasons and with this amendment, we request a favorable report from the Committee on Senate Bill 704.

Submitted by:

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