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Baltimore, MD 21207

**TO:** The Honorable Shane Pendergrass  
Chairwoman, Health and Government Operations Committee

**FROM:** LeadingAge Maryland

**SUBJECT:** House Bill 674, Nursing Homes – Transfer of Ownership – Site Visits and Surveys

**DATE:** February 18, 2021

**POSITION:** **Favorable**

LeadingAge Maryland supports House Bill 674, Nursing Homes – Transfer of Ownership – Site Visits and Surveys.

LeadingAge Maryland is a community of 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. We represent more than 120 not-for-profit organizations, including the vast majority of CCRCs in Maryland. Our mission is to expand the world of possibilities for aging in Maryland. We partner with consumers, caregivers, researchers, faith communities and others who care about aging in Maryland.

This bill requires the Maryland Department of Health to conduct site visits and conduct full surveys, within 1, 3, and 6 months after the date of transfer, of a licensed nursing home if the ownership of the 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.

Ensuring quality care in nursing homes and other care settings is of paramount importance. We support the intent of this bill and would also suggest that the Maryland Health Care Commission (MHCC) and Office of Health Care Quality conduct a study and convene a work group to discuss how the state of Maryland can best understand, prevent, and respond to potential quality issues related to transfers of ownership. We understand from discussions with the MHCC that there may be Interstate Commerce Clause factors that would prohibit the state

from only imposing additional oversight on out-of-state buyers and would encourage the Sponsor to explore this potential conflict further.

There are certainly situations where a nursing home may be experiencing financial trouble, and the transfer of ownership protects both the residents and staff of the home from having to move or seek employment elsewhere. This may be even more common as we enter a post-COVID era. There should be a clear process and standards in place for ensuring that buyers are capable of and prepared to effectively manage nursing home operations.

A recent Health Affairs [article](#) details practical solutions that could “improve nursing home ownership and financial transparency in the post COVID-19 period”. Many of these solutions require a collaborative process between the federal government through CMS and the individual state. While LeadingAge Maryland is an Association of non-profit providers, about 70 percent of nursing homes are operated by for-profit corporations. 24% of those facilities are not-for-profit and 7 percent are government-owned, while 58 percent are operated by corporate chains. An increase in investor-owned regional and national chains has led to complex organizational structures. Private equity firms own about 11 percent of nursing facilities nationwide as investments have increased by \$5.3 billion since 2015, compared to \$1 billion between 2010 and 2014.<sup>1</sup>

As noted in this article, Real estate investment companies (REITs) have dramatically expanded their ownership since the Housing and Economic Recovery Act of 2008 allowed REITs to buy health care facilities. Reportedly, these companies lease their facilities and property to nursing home operating companies at sometimes exorbitant rents. Many nursing homes separated their operating companies from their asset and property companies in an effort to shield parent companies from liability and reduce regulatory oversight. By contracting with related-party individuals and organizations (which have the same owners) for services that include management services, nursing and therapy services, and lease agreements and loans, companies are able to legally pull money out of the nursing homes as expenses and hide the profits through these third-party contractors. As many as half of all nursing homes use separate management companies that are owned by the same owner or separate owners.

Some of the solutions suggested in the Health Affairs article include steps that Center for Medicaid and Medicare Services (CMS) should take. Briefly, here are some of the key points that may be relevant to these bill discussions:

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<sup>1</sup> These Administrative Actions Would Improve Nursing Home Ownership And Financial Transparency In The Post COVID-19 Period, Health Affairs, February 11, 2021

- A prior approval process for changes in ownership or management. The article suggests that CMS should regulate this and establish a centralized application unit for ownership and management evaluations, with processes delineated to work with state agencies, state attorneys general, and the DOJ.
- Minimum criteria for the purchase (or change of ownership) or management of any nursing home.
- Criteria that prevent individual or corporate owners from purchasing, operating, or managing additional facilities if they have a history of owning or operating other facilities with chronically low staffing and poor-quality care in any state.
- Criteria that would prevent companies with corporate settlements for fraud or for “worthless services” from purchasing new nursing homes for five years.
- CMS’s Care Compare website should present information that is searchable not only by individual facilities but also by chain and common ownership, and an annual compendium should be published on the quality of care in nursing home chains.

In closing, we applaud the Sponsor’s goal to ensure quality care in nursing homes through greater oversight and standards of new owners and operators within the state.

For these reasons, LeadingAge Maryland respectfully requests a favorable report for House Bill 674.

For additional information, please contact Aaron J. Greenfield, 410.446.1992