

**SB720\_Marylanders for Patient Rights\_fav.pdf**

Uploaded by: Anna Palmisano

Position: FAV

## *Marylanders for Patient Rights*

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### **MARYLANDERS FOR PATIENT RIGHTS REQUESTS A FAVORABLE REPORT ON SB720**

Marylanders for Patient Rights is a leading advocacy group for patients in our state. We strongly believe that SB720 is vitally important to the health and well-being of residents of Assisted Living Facilities (ALFs). Many of us have loved ones residing in ALFs and want the assurance that only appropriately qualified people are in charge of their care.

SB720 will establish a licensing and regulatory system under the aegis of a State Board of Long-Term Care Administrators. The current State Board of Examiners of Nursing Homes would be re-named, its duties expanded, and expertise in ALFs would be included. SB720 will allow the state to update and modernize the current Board to better reflect the rapid growth in ALFs as an essential part of long-term care.

This change is way overdue. ALFs in Maryland have grown rapidly—currently more than 600 facilities serve thousands of vulnerable people. There is a clear need to provide more active oversight of ALFs at the state level. Responsibility for the well-being of this vulnerable population lies primarily with the ALF manager, therefore, the high licensing standards described in SB720 should be met. These standards are commensurate with those of nursing home administrators in terms of requirements and licensing.

The requirements proposed in SB720 are very reasonable, such as ensuring participation of board members with expertise and experience with assisted living programs and developing a system of record maintenance for licensing. Guidelines will ensure that high standards are maintained including continuity in leadership; codifying background checks; specifying qualifications for initial licensing and renewal; and a process for investigating complaints, revoking a license or taking disciplinary action.

Marylanders in ALFs—our family members, friends, and neighbors—deserve the assurance of a safe and secure living environment managed by highly qualified professionals. Please provide a favorable report on SB720.

Thank you,

*A C Palmisano*

Anna C. Palmisano, Ph.D, Director, Marylanders for Patient Rights  
palmscience@verizon.net

**SB 720\_BENHA\_Lee.pdf**

Uploaded by: Ciara Lee

Position: FAV

## SB 720 - State Board of Examiners of Nursing Home Administrators - Renaming and Licensure of Assisted Living Managers

Written Testimony – Ciara J. Lee, Executive Director, Maryland Board of Examiners of Nursing Home Administrators

Good Afternoon Everyone! My name is Ciara Lee and I am the Executive Director of the Maryland Board of Examiners of Nursing Home Administrators. I would first like to thank the sponsors, Chair Senator Dolores G. Kelley; Vice Chair Senator Brian J. Feldman; and Senator Malcolm Augustine of the Finance Committee, for this opportunity to provide testimony for Senate Bill 720.

I come to you today as the administrative representative of the Board Office, and to emphasize the Board's support of Senate Bill 720 for the following reasons:

- The bill promotes public safety and protection (which is a primary objective of the Board's mission); and
- It encourages and promotes professionalism, accountability, and responsibility for assisted living managers (ALMs) in Maryland.

The Office of Health Care Quality (OHCQ) is the State department that regulates assisted living programs in Maryland. According to their Annual Report and Staffing Analysis for Fiscal Year 2021, the tenth most frequently cited deficiency was associated with Assisted Living Manager practices. From my understanding, sanctions are not imposed on ALMs and there is no process for posting public orders against ALMs for public knowledge. With the current regulatory oversight, ALMs are allowed to circumvent discipline and liability.

Maryland, compared to other states, has a high acute Long-Term Care facility population continuing to require more health expertise. Especially during COVID-19 pandemic, as infection control deficiencies are rising, Senate Bill 720 is an extremely important piece of legislation that will strengthen the collaboration between OHCQ and the Board, the standardization of the ALM profession in Maryland, and most importantly, the protection and safety of residents. We ask that you take this into consideration and vote favorably for this bill.

Thank you!

Are there any questions?

# **SB720\_MaCCRA\_FAV**

Uploaded by: Dan Shattuck

Position: FAV



**Maryland Continuing Care Residents Association**  
**Protecting the Future of Continuing Care Residents**  
**The Voice of Continuing Care Residents at Annapolis**

**SUBJECT:** Senate Bill 720 - State Board of Examiners of Nursing Home Administrators - Renaming and Licensure of Assisted Living Managers

**COMMITTEES:** Senate Finance Committee  
The Honorable Delores Kelley, Chair

**DATE:** Thursday, March 10, 2022

**POSITION:** **FAVORABLE**

The **Maryland Continuing Care Residents Association (MaCCRA)** is a not-for-profit organization representing the residents in continuing care retirement communities (CCRCs). Maryland has over 18,000 older adults living in CCRCs. The principal purpose of MaCCRA is to protect and enhance the rights and financial security of current and future residents while maintaining the viability of the providers whose interests are frequently the same as their residents. MaCCRA SUPPORTS efforts to:

- Enhance: Transparency, Accountability, Financial Security; and
- Preserve existing protections in law and regulation for current and future CCRC residents statewide.

**On behalf of the Maryland Continuing Care Residents Association, we support Senate Bill 720.** As drafted, Senate Bill 720, among other provisions *“renames the State Board of Examiners of Nursing Home Administrators to the State Board of Long-Term Care Administrators; establishes a licensing and regulatory system for assisted living managers under the Board; requires, as of October 1, 2024, an individual to be licensed by the Board before practicing as an assisted living manager.”*

Senate Bill 720 that will improve the quality of care for residents in assisted living. Standards to upgrade the training and credentials of the manager of the facility is a step toward increasing quality of care.

As older adults living in continuing care communities, we have family members who reside in the assisted living sections of our communities. We see what life can be like for those of us who need additional support. We see the need for well qualified managers and staff especially in the dementia care special units. Some of us may be residents of our assisted living programs in the future.

Assisted living evolved as a social model but there is an increase in medically complex residents residing in assisted living. It is imperative that the managers of assisted living be qualified to serve in that position. Adding a license requirement for assisted living managers is a step in the right direction to improve the quality of care and service.

For these reasons we support Senate Bill 720 and ask for a favorable report.

**For further information please contact:**

Ann MacKay, President

Maryland Continuing Care Residents Association c/o [maccraste@gmail.com](mailto:maccraste@gmail.com)

# **Testimony in SUPPORT SB720\_State Brd of Examiners**

Uploaded by: Eileen Bennett

Position: FAV

## TESTIMONY IN SUPPORT OF SB720

State Board of Examiners of Nursing Home Administrators –

Renaming and Licensure of Assisted Living Managers

MARYLAND STATE LEGISLATIVE 2022 SESSION

SENATE HEARING – 3/10/2022 FINANCE COMMITTEE, Senator Delores Kelley, Chair

Submitted By: Eileen Bennett, Montgomery County, MD Long Term Care Ombudsman

I am submitting testimony in **SUPPORT** of **SB720**, State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers. As director of the local long term care ombudsman program in Montgomery County, as well as my colleagues across the state, the ombudsman is an advocate, identified under the Older Americans Act, with authority to speak on behalf of residents in long term settings, including licensed assisted living. I have been an ombudsman advocate since 1989 and have personally experienced the changes in care which evolved from a marketing concept to the regulations governing licensed assisted living in Maryland. In the late 1990's Maryland was in the forefront of identifying the assisted living industry as more than a marketing term and developed consumer protections by enacting legislation governing various aspects of the business of care. However, the regulations have not kept pace with the more complex physical care and psycho-social needs equal to the nursing home level of care for some residents receiving healthcare in the assisted living service model. The consumer expects that the person in charge of these services maintains current and standard knowledge of care and business practices which are associated with a professional license. Assisted living residents deserve no less. For continuity, and streamlining of government, it is reasonable that the State Board of Examiners of Nursing Home Administrators be renamed and expanded to encompass the licensure of assisted living managers. The state ombudsman is also in support of the bill.

This legislation is a review of the past, an assessment of the present, and planning for the future of how assisted living services are consistently delivered in Maryland. Now is the time to recognize the alternative to nursing home care is achieved through multiple avenues, but the licensed entities should be accountable for the development and implementation of care practices by the individual who, by definition, is the assisted living manager. There is a standard of practice which the consumer expects accompanies the individual attaining and maintaining licensure which is reviewed by a professional board on a regular basis. In assessing the current state of assisted living, long term care ombudsmen are challenged daily by the lack of standardized knowledge of the assisted living managers in their jurisdictions. This bill is crafted to license everyone who is currently an assisted living manager who has taken the minimum requirements to attain that title. The future for the individual to continue in the field of practice is based the personal accountability to participate in the requirements to maintain that license at regular intervals. The future of assisted living services in Maryland needs to be invested in the standard of practice which holds the individual accountable for being current in care practices through continuing education and sanctions for individuals who are determined by their professional licensing board to be in violation. Through the Board of Examiners, the licensing information then becomes available through public records for the consumer to access.

Thank you for allowing me to share my professional insight in **SUPPORT** t of SB720.

Eileen Bennett, Montgomery County MD LTC Ombudsman, Eileen.Bennett@montgomerycountymd.gov

3950 Ferrara Drive, 2nd Floor, Silver Spring, MD 20906 / Phone: 240-777-1067



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Position: FAV



# Board of Examiners of Nursing Home Administrators

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

Felicia W. Anthony, MBA, LNHA, Board Chair – Ciara J. Lee, MS, Executive Director  
4201 Patterson Avenue, Baltimore MD 21215 Phone: 410-764-4750

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## 2022 SESSION POSITION PAPER

**BILL NO:** SB 720  
**COMMITTEE:** Senate Finance Committee  
**POSITION:** SUPPORT

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**TITLE:** State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers

**BILL ANALYSIS:** Senate Bill (SB) 720 bill establishes a license for assisted living facility managers (ALFMs); renames the “Board of Examiners of Nursing Home Administrators (BENHA)” to the “Board of Long Term Care Administrators (BLTCA)”; changes the composition of the Board by adding three (3) actively-practicing ALFMs and requiring two (2) members to be individuals who are not nursing home administrators or assisted living managers, but who are engaged actively in professions that are concerned with the care of chronically ill, infirm, or aged individuals; and requires BLTCA to develop and require a State’s Standards Exam for licensure of ALFMs.

**POSITION AND RATIONALE:** The State Board of Examiners of Nursing Home Administrators (the Board) supports SB 720. This bill seeks to close an existing regulatory gap by strengthening State support of the public protection mandate that BENHA has been committed to since its formation in 1970. Following the national model, licensed nursing home administrators (LNHAs) and ALFMs fall under the purview of the long term care administrator board. There are currently 15 states (including Virginia) that require ALFMs to take either a state exam, the national exam (or both), and be licensed, regulated, and disciplined by their respective boards of long term care.

It is important to note that America’s assisted living facilities (ALFs) are not regulated by the federal government; therefore, there is no federal statutory oversight or regulatory program that is analogous to those governing our nation’s nursing home facilities, despite many that are participating in Medicaid programs (which do have a federal regulatory component, due to joint funding by individual states and the federal government). Consequently, Maryland’s current 1,699 ALFs are only fully-regulated by and accountable to the State (unlike Maryland’s 226 nursing homes, which are fully regulated by the State and the federal government). The onus to ensure adequate protection and safety of a large segment of Maryland’s most vulnerable citizens rests solely within the resources of the State.

For over a decade, it has been widely-known in the industry that the residents in ALFs consistently present acuity levels that were previously only seen among nursing home residents. For instance, the Maryland Department of Health (MDH) Office of Health Care Quality (OHCQ), in its report entitled *Maryland's 2005 Assisted Living Evaluation* noted: "From a review of national and Maryland-specific studies, individuals in assisted living programs are more frail than was anticipated when the program was implemented in 1996."

Maryland's acuity levels in ALFs compared to other states and national averages are of grave concern. The *2016 National Post-acute and Long-term Care Study (NPALS)* (via the CDC National Center for Health Statistics) provided that at 54%, ***Maryland has one of the nation's highest percentages of ALF residents who suffer with Alzheimer's or other dementia-related conditions.*** Furthermore, Maryland's percentage of this particular segment of ALF residents is also 12% higher than the national average, which is 42%. As a comparison, Virginia is below Maryland at 41%, just under the national average. The study also found that 49% of Maryland's ALF residents are 85 years of age or older.

The industry standard for residents in nursing homes and ALFs is the six (6) "activities of daily living" (ADLs), which are bathing, walking, dressing, toileting, eating, and transferring to and from bed. In evaluating residents, facilities look at how much help each person needs with their ADLs. The aforementioned study reported that, *for each ADL category, Maryland had a higher percentage of residents requiring care when compared to the national average as well as all neighboring states (i.e., Virginia, DC, Delaware, Pennsylvania, New Jersey, and New York).*

OHCQ continues to face staffing challenges similar to the rest of the nation which is a barrier to conducting required ALF surveys. For example, the *Office of Health Care Quality Annual Report and Staffing Analysis for Fiscal Year 2021* reported that, of the 1,672 ALFs in Maryland at the time of the report, OHCQ conducted: 164 "initial" surveys (for ALFs that are being initially licensed and are not yet providing resident care); 817 "renewal" surveys; and 100 "other" surveys. The report stated that OHCQ had a grand total of 33 surveyors for all ALFs and planned to increase its surveyor staff by 3.99 FTEs. This is based upon a formula that assumes that each surveyor will spend a minimal amount of time on each survey. For example, 16 hours is anticipated for a surveyor to work on an annual survey.

During the OHCQ surveys, Maryland ALFs are cited and issued State tags that group various types of observable deficient practices. According to the *Office of Health Care Quality Annual Report and Staffing Analysis for Fiscal Year 2021*, 135 citations were issued for State tag 3680 "Medication Management and Administration" in ALFs, the eighth highest ALF deficiency in fiscal year 2021. The given information is truly alarming, especially since almost half of the residents in ALFs in Maryland are over the age of 85 with underlying health conditions that require higher medication needs and medical support. It is noteworthy to report that the top ten most frequently cited assisted living deficiencies in assisted living programs in fiscal year 2021 also included the following: "Tag 2600 - Other Staff Qualifications" as #1; "Tag 2550 - Other Staff Qualifications" as #2; "Tag 2780 - Delegating Nurse" as #3; and "**Tag 2220 - Assisted Living Manager**" as #10. The data depicts a severe deficit in staffing qualifications in ALFs and a need for a licensure qualification for ALMs.

Requiring licensure of ALMs will allow BENHA to partner with OHCQ, thereby fortifying public protection and allowing for appropriate review, investigation, and discipline of ALMs, when necessary. Requiring a license for ALMs will send a clear message to the citizens of Maryland that ALF residents are just as worthy and deserving of **full protection** as our nursing home residents. As we know, many residents in ALFs have conditions that are analogous to their counterparts in nursing home facilities.

For these reasons, the Maryland State Board of Examiners of Nursing Home Administrators strongly urges a favorable report on SB 720.

Thank you for your consideration. For more information, please contact Ciara Lee, Executive Director for the Maryland Board of Examiners of Nursing Home Administrators, at 410-764-4749 or at [ciaraj.lee1@maryland.gov](mailto:ciaraj.lee1@maryland.gov).

*The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.*

**OAG HAU\_FAV\_SB0720.pdf**

Uploaded by: Patricia O'Connor

Position: FAV

**BRIAN E. FROSH**  
*Attorney General*

**WILLIAM D. GRUHN**  
*Chief*  
Consumer Protection Division

**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

Writer's Direct Fax No.  
(410) 576-6571

Writer's Direct Email:  
pocannon@oag.state.md.us



**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

Writer's Direct Dial No.  
(410) 576-6515

March 10, 2022

To: The Honorable Delores G. Kelley  
Chair, Finance Committee

From: Office of the Attorney General's Health Education and Advocacy Unit

Re: Senate Bill 720 (State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers): Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports Senate Bill 720 because the 25,000 consumers residing in Maryland's 1,600 assisted living facilities require the increased protection that the bill's new licensure requirements for assisted living managers will provide. The bill will ensure that persons managing the day-to-day operation of long-term care facilities meet basic educational and training requirements and are subject to a criminal background check.

Moreover, under this bill, the assisted living manager would be individually accountable under the Board's licensing scheme for preventing harm to residents, including harms reported by the State's Long-term Care Ombudsman: having no heat; having no food; exploitation; physical and psychological abuse; and abandonment.

To qualify for an assisted living manager license, an applicant must be of good moral character and at least 21 years old and have (1) a high school diploma, high school equivalency diploma, or other appropriate education, as determined by the board; (2) appropriate experience, as determined by the board; (3) completed a board-approved manager-in-training program; (4) passed a national examination and an examination on State standards; and (5) met additional requirements, as established by the board. To apply for a license, an applicant must (1) submit a board-approved application; (2) pay an application fee set by the board; and (3) submit satisfactory evidence of having completed a State and national criminal history records check. The HEAU believes these requirements, as enforced, will protect residents, and we ask the committee for a favorable report.

cc: Sponsor



**SB0720- Bell, Ronda B. Testimony.pdf**

Uploaded by: Ronda Bell

Position: FAV



## MEMORANDUM

**Date:** March 10, 2022

**To:** Senator Delores G. Kelley, Chair  
Senate Finance Committee

**From:** Ronda Butler Bell  
Immediate Past Executive Director  
Maryland State Board of Examiners of Nursing Home Administrators

**Re:** Support for SB 0720

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Madam Chair, Mr. Vice-Chair, and members of the Committee, I appreciate the opportunity to provide this testimony in full support of Senate Bill 720, State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers. I served as the Executive Director of the Maryland State Board of Examiners of Nursing Home Administrators from January of 2015 through January of 2021. In May of 2019, in preparation for the 2020 Legislative Session, I drafted a pre-proposal concept paper that was submitted to the Maryland Department of Health (“MDH”) in the hope that it would be included in departmental legislation. Unfortunately, MDH did not select or support moving this legislation in support of public protection forward.

In 2022, Maryland still needs to have its assisted living managers licensed to: 1) protect the public; 2) close the gap caused by the lack of federal oversight of assisted living facilities; 3) create accountability that does not currently exist; 4) allow for use of the National Practitioner Databank reporting system, which catches many health occupations boards’ licensing actions that will never be discovered via CJIS criminal history records checks; 5) show that Maryland takes all of the data seriously and is focused on the care of its vulnerable citizens by joining at least 11 other states (e.g., Virginia) that have licensed assisted living managers; and 6) provide the robust level of training and credentialing necessary to provide the appropriate level of care to the residents in our state’s assisted living facilities, who are very frequently on par with their nursing home counterparts in their levels of acuity.

As a part of the research conducted in 2019, I looked at Maryland’s assisted living residents vis-à-vis the national average as well as in comparison to the following states: Virginia, District of Columbia, Delaware, Pennsylvania, New Jersey, and New York. *At that time, the data indicated that Maryland had a higher percentage of assisted living residents in need of help in 4 of the 6 measured Activities of Daily Living (or “ADLs,” which are: bathing; walking; dressing; toileting; transferring to and from bed; and eating) than all the above-referenced states. Additionally, I found that Maryland had a percentage of assisted living residents in need of help, across all 6 ADLs, that was higher than the national average.* As far back as 2005, the Maryland Office of Health Care Quality, in Maryland’s 2005 Assisted Living Evaluation, noted that “The DHMH has confirmed, from a review of national and Maryland-specific studies, that individuals in assisted living programs are more frail than was anticipated when the program was implemented in 1996.” In 2022, I think we can all agree that acuity levels in all facilities, nursing homes as well as assisted living facilities, have continued to worsen.

In July of 2019, my dear mother, who was already battling stage 4 breast cancer, suffered 2 strokes; as her only daughter, I assisted her and watched her transition from the hospital to a nursing home, to an assisted living facility, and, finally, to hospice. I personally was able to witness, as a family member, the differences in the treatment of residents in nursing homes versus assisted living facilities. The lack of accountability and low sense of urgency to assist with something such as a call bell for a nurse, for example, was very telling. As was the open verbal abuse of a resident, which I personally overheard in the assisted living facility. The time has long passed for Maryland to license assisted living managers. It is my sincere hope that the Committee will issue a favorable report.

# **SB 720 ALF Managers 2022 final sb.pdf**

Uploaded by: Shawn Brennan

Position: FAV



## COMMISSION ON AGING

February 28, 2022

The Honorable Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
Miller Senate Office Building, 2 West Wing  
11 Bladen Street  
Annapolis, Maryland 21401

Re: **SB 720** State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers

Dear Senator Pinsky,

I am writing on behalf of the Montgomery County Commission on Aging to express our strong support for SB 720, which would establish a licensing and regulatory system for assisted living managers. These are the individuals who oversee and are responsible for the day-to-day operation of assisted living facilities.

The Commission on Aging was established in 1974 to advise County government on the needs, interests, and issues of older adult residents, and to advocate on their behalf. We are concerned that in Montgomery County, as in all of Maryland, vulnerable older residents of assisted living facilities are not receiving the quality of care they deserve because the person in charge of the facility may not have the background required to properly manage such a facility. Given that assisted living facilities are regulated under the Code of Maryland Regulations, which provides detailed requirements for procedural, safety and health protocols, the absence of a licensing requirement for the person overseeing the assisted living facility is a strange omission, but easily fixed by SB 720.

SB 720 would require that the State Board of Examiners of Nursing Home Administrators become the State Board of Examiners of Long-Term Care Administrators eliminating the need to create and administer a new and distinct Board thereby reducing the administration costs of the bill. Beginning October 1, 2024, an individual must be licensed by this Board before practicing as an assisted living manager in Maryland, providing sufficient time for assisted living managers to become licensed. Further, the legislation considers the variety of assisted living facilities in Maryland and the differences in care needs of its residents by allowing the Board to establish different assisted living manager applicant requirements that correspond to the different levels of care and the number of beds in the assisted living facility.

The Montgomery County Commission on Aging sees no downside to this proposed legislation, we believe it efficiently and effectively prevents unqualified individuals from overseeing the care of vulnerable residents of assisted living facilities. We strongly support SB 720.

Thank you for your consideration.

Sincerely,

*Barbara Selter*

Barbara Selter, Chair

**SB720\_LTCOP\_SEllis 3.9.2022.pdf**

Uploaded by: Stevanne Ellis

Position: FAV

SB720 State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers

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

March 9, 2022

As the State Long-Term Care Ombudsman, I advocate for the residents in nursing homes and assisted living facilities. At this time, Maryland has over 1600 assisted living facilities (ALF) and over 25,000 assisted living residents. These residents are afforded protections under state law and regulations that provide minimum standards related to facility practice. I would recommend that the Committee review the position paper submitted by the State Board of Examiners. This paper provides a statistical analysis as well as other information that supports the needs for this bill to become law.

In assisted living facilities, residents receive assistance for activities of daily living by a caregiver and a medication technician. The assisted living manager is responsible for overseeing and coordinating the care of the residents with limited support from the delegating nurse who is not required to be onsite and often only visits every 45 days and as needed as required by state regulation.

Even though many of the assisted living residents have the same needs and same acuity level as nursing home residents, there is no interdisciplinary team, as there is in nursing homes, to help develop the treatment plan and provide the care. This falls on the assisted living manager. The assisted living manager has the authority and responsibility to ensure that the residents receive the best and most appropriate care possible. I would encourage members of this committee to review the COMAR that shows the responsibilities of the assisted living manager.

Currently, there are no professional licensure standards for assisted living managers.

Assisted living residents in Maryland deserve to have excellent care, and this bill would be another step in the right direction. ALF managers are responsible for the quality of life and care in assisted living facilities. In at least 15 states, ALF managers have a license. This bill would require managers to have licenses in Maryland for the first time. Licensure will provide a credibility and integrity to the profession and to assisted living facilities in Maryland.

The benefits of the bill include the following:

- Licensure will ensure that the professional completes the necessary requirements for the position and continuing education.
- Licensure would allow public information to be available about the ALF manager's licensure status and any sanctions. Currently there is no public information available about the assisted living manager. This would allow for greater transparency and informed consumer choice.

Unfortunately, the ombudsman program has seen serious issues in assisted living facilities that could have been prevented by and at times caused by the assisted living manager. Some recent complaints have included the following:

- No staff or trained staff caring for residents. In one ALF, one of the residents was providing care.
- No heat when the outside temperature was at times less than thirty degrees.
- No food.
- Visitors were not allowed to visit including family members.
- Residents were denied access to medical records, did not have medical records, or the medical records were not onsite. In one case, the manager kept the records at her house and in another case in the trunk of her car.
- Financial exploitation – the ALF manager became the financial power or attorney of a resident that could not make financial decisions and spent the resident’s money on herself.
- Physical abuse
- Verbal and psychological abuse
- Abandonment
- Violation of county and state fire codes
- Running an unlicensed assisted living facility and moving residents from a licensed assisted living facility to an unlicensed one. The operation of an unlicensed facility is a felony.
- Relocating residents without consent and notification of proper authorities.

These concerns are serious, and at times have life threatening consequences. In the past, in several instances, residents have not had supervision, left the facility or eloped, and have died. The facility was held accountable, but there was no process for professional accountability for the individual that allowed these situations to happen.

This bill would require licensure for the first time in Maryland. Licensure would allow ALF managers to be held accountable for regulatory violations not just against the facility, but also against their license. As a result, this bill would allow for complaints to be investigated against the assisted living manager. Currently, complaints can be made against the facility, but not specifically against the manager since the manager is not licensed. This would allow the manager to be held responsible.

This bill is needed, necessary, and will be one of the most important protections for residents in Maryland. Assisted living residents deserve to receive the best care possible, and this bill help ensure that this occurs.

Consumers choosing between a facility in Maryland and another state, would be more likely to choose an assisted living in Maryland knowing that that there is integrity and

professional accountability. Assisted living residents and their families will know that they are valued.

As the State Long-Term Care Ombudsman, I encourage you to support this bill.

Respectfully submitted,

Stevanne Ellis, Maryland Long-Term Care Ombudsman



# **SB 720 State Board of Examiners of Nursing Home Ad**

Uploaded by: Tammy Bresnahan

Position: FAV



One Park Place | Suite 475 | Annapolis, MD 21401-3475  
1-866-542-8163 | Fax: 410-837-0269  
aarp.org/md | md@aarp.org | twitter: @aarpm  
facebook.com/aarpm

**SB 720 State Board of Examiners of Nursing Home Administrators - Renaming and  
Licensure of Assisted Living Managers  
Senate Finance Committee  
FAVORABLE  
March 10, 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 720. We thank Senator Kelley for sponsoring this bill. We also thank her for being a champion for the quality of care in long-term care settings.

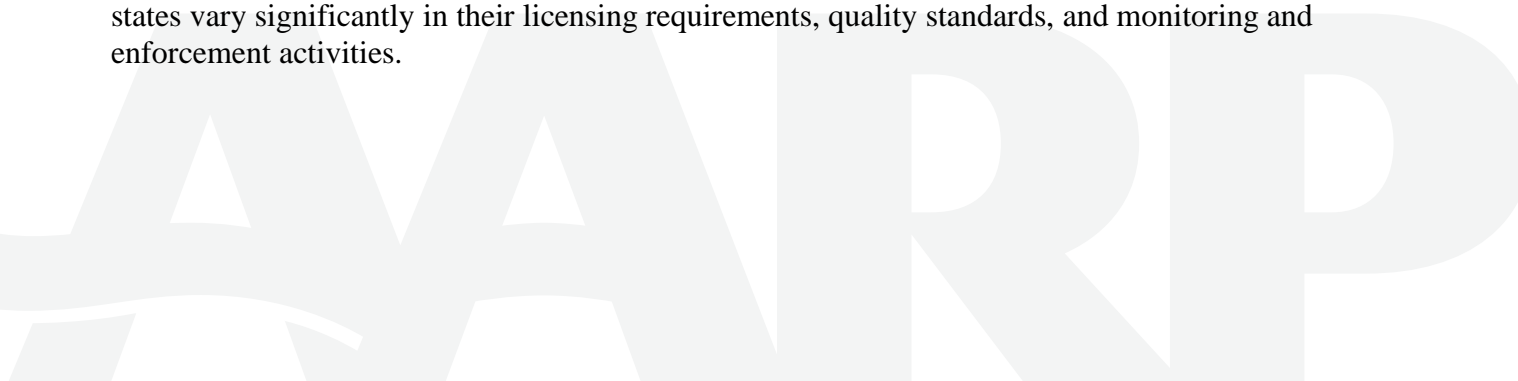
AARP is a nonpartisan, nonprofit, nationwide organization that helps strengthen communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

Senate Bill 720 renames the State Board of Examiners of Nursing Home Administrators to be the State Board of Long-Term Care Administrators and requires that an individual must be licensed by the board to practice as an assisted living manager in the State beginning October 1, 2022. The bill alters board structure and membership requirements, specifies that the board is a medical review committee, and makes conforming changes

Assisted living facilities are designed for older people who are no longer able to manage living independently and need help with daily activities such as bathing or dressing, but don't require the round-the-clock health care that a nursing home would provide. Assisted living is there to offer that assistance, while maximizing their independence.

What we are all familiar with is that assisted living facilities usually provide residents with their own apartments or rooms, as well as some common areas. They may offer around-the-clock supervision and a range of services, including meals, housekeeping and laundry, as well as assistance with personal care and help with medications. What we have in Maryland is a rather large percentage of smaller assisted living facilities that provide level three care like what is provided in a nursing home.

In contrast to nursing homes, no federal quality standards exist for assisted living. Additionally, states vary significantly in their licensing requirements, quality standards, and monitoring and enforcement activities.



In October 2000, the Oversight Committee on Quality of Care in Nursing Homes and Assisted-Living Facilities originated when the General Assembly established the Oversight Committee on Quality of Care in Nursing Homes. The Committee adopted its present name on October 1, 2005 adding in Assisted Living. As a group who is represented on the Committee, it has been brought to the attention of the committee, problems in the smaller assisted living facilities, such as inadequately trained staff, too few staff, medication errors, and the admission and retention of individuals who need more care.

This proposed legislation will strengthen State oversight of Maryland Assisted Living Programs. Currently, there is limited oversight of the ALF manager. Having more accountability and an actual license subject to sanctioning will increase the awareness of the managers who oversee Assisted Living Facilities.

AARP Maryland believes that state governments should conduct regular, thorough, and consistent oversight of long-term care including assisted living. Oversight should include evaluation of consumer outcomes and the quality of care.

AARP Maryland also believes that States should also ensure quality of care and quality of life for all consumers. The rights of the consumer should be protected in all long-term care settings including assisted living.

For these reasons, AARP Maryland respectfully requests the Health and Government Operations Committee issue a favorable report for SB 720. For questions or further follow up, please contact Tammy Bresnahan at [tbresnahan@arp.org](mailto:tbresnahan@arp.org) or by calling 410-302-8451.

# **LeadingAge - 2022 - CCAH - Steffen Letter.pdf**

Uploaded by: Aaron Greenfield

Position: FWA



January 5, 2022

By E-Mail

Aaron J. Greenfield, Esquire  
Greenfield Law, LLC  
11155 Dolfield Boulevard, Suite 200  
Owings Mills, Maryland 21117

Re: Use of Excluded Comprehensive Care Facility Beds  
at a Continuing Care Retirement Community

Dear Mr. Greenfield:

I am writing to you in response to your inquiries over the past several months regarding the permitted use by a continuing care retirement community (CCRC) of comprehensive care facility (CCF or nursing home) beds that were obtained through an exclusion from Certificate of Need (CON) issued by the Maryland Health Care Commission (the Commission) under COMAR 10.24.01.03K "for the exclusive use of the provider's subscribers who have executed continuing care agreements and paid entrance fees that are at least equal to the lowest entrance fee charged for an independent living unit or an assisted living unit before entering the continuing care community, regardless of the level of care needed by the subscribers at the time of admission." Specifically, you ask whether a CCRC that establishes a continuing care at home (CCAH) program through the Maryland Department of Aging (Aging) can use CON-excluded beds at the CCRC for the provision of nursing home care to the CCAH's subscribers. For reasons stated in this letter, Commission staff concludes that the CON-excluded CCF beds at a CCRC cannot be used by a CCAH member.

In looking at this issue, staff and counsel reviewed the applicable statutes. In 1985, Article 70B defined continuing care as meaning "furnishing *shelter* and either medical and nursing services or other health related benefits to an individual 60 years of age or older not related by blood or marriage to the provider for the life of the individual or for a period in excess of one year under a written agreement that requires a transfer of assets or an entrance fee notwithstanding periodic charges." Maryland Annotated Code, Article 70B, § 7(b)(1) (1985)(emphasis added).

Continuing care at home was created in 1996, with the statute (then Article 70B, § 22A) defining continuing care at home as

Aaron J. Greenfield, Esquire

January 5, 2022

Page 2

providing either directly or by contractual arrangement medical, nursing, or other health related services to an individual 60 years of age or older who is not related by blood or marriage to the provider for the life of the individual or for a period in excess of 1 year under a written agreement that requires a transfer of assets or an entrance fee notwithstanding periodic charges.

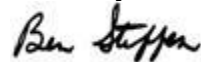
Maryland Annotated Code, Article 70B, § 22A (1996).

When the plain language in a statute – particularly Article 70B, which was recodified in the Human Services Article in 2007 – is not clear, the legislative history is examined to understand legislative intent. The Article 70B legislative history shows that the 2007 recodification created confusion over CCAH, despite the statement that it was to be a “nonsubstantive revision and may not otherwise be construed to render any substantive change in the law of the State.” Thus, there was no legislative intent to expand the CON-exclusion regarding CCF beds at a CCRC to CCAH subscribers. Also note that Health-General §19-114(d)(2)(ii) was not changed.

Furthermore, the State Health Plan Chapter at COMAR 10.24.20.07(B)(11) defines “continuing care” as “furnishing shelter plus services consistent with COMAR 32.02.01”. Note that this definition does not include a citation to the Department of Aging’s COMAR 32.02.02 regulations governing continuing care at home. Finally, nowhere in the Commission’s existing statutes and regulations is there a reference, or cross-reference to another Maryland statute or regulation, regarding “continuing care at home.” The fact that the Commission’s existing statutes and regulations are silent on continuing care at home, supports the conclusion that the CON exclusion of beds at CCRCs does not apply to CCAH.

The only avenue that I can recommend to you is to introduce legislation in the 2022 Legislative Session to change the statute to permit the admission of CCAH subscribers to CON-excluded beds at a CCRC.

Sincerely,



Ben Steffen

Executive Director

cc: Rona Kramer, Secretary MDOA  
Andrew Pollak, MD, Chairman  
Lorraine Webb, MDOA  
Jeff Myers, AAG, MDOA  
Rajni Sekhri, AAG, MDOA  
Allison Ciborowski, Leading Age  
Wynee E. Hawk, Chief, Certificate of Need



Aaron J. Greenfield, Esquire

January 5, 2022

Page 3

Linda Cole, Chief, Long-Term Care Policy and Planning

Sarah E. Pendley, AAG



[mhcc.maryland.gov](http://mhcc.maryland.gov)

# **LeadingAge Maryland - 2022 - SB 720 - ALM.pdf**

Uploaded by: Aaron Greenfield

Position: FWA





576 Johnsville Road  
Sykesville, MD 21784

**TO:** Finance Committee  
**FROM:** LeadingAge Maryland  
**SUBJECT:** Senate Bill 720, State Board of Examiners of Nursing Home Administrators - Renaming and Licensure of Assisted Living Managers  
**DATE:** March 10, 2022  
**POSITION:** **Favorable with Amendments**

LeadingAge Maryland supports with amendments Senate Bill 720, State Board of Examiners of Nursing Home Administrators - Renaming and Licensure of Assisted Living Managers.

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. Our mission is to expand the world of possibilities for aging in Maryland. We partner with consumers, caregivers, researchers, public agencies, faith communities and others who care about aging in Maryland.

This bill renames the State Board of Examiners of Nursing Home Administrators to be the State Board of Long-Term Care Administrators and requires that an individual must be licensed by the board to practice as an assisted living manager (ALM) in the State beginning October 1, 2024. The bill alters board structure and membership requirements, specifies that the board is a medical review committee, and makes conforming changes. The bill also establishes that specified violations are a felony rather than a misdemeanor, increases the associated penalties, and imposes new civil fines.

The assisted living regulations provide minimum standards. The regulations currently provide requirements for assisted living managers. For instance, assisted living programs must employ an individual who have taken the 80-hour assisted living manager course and met certain other training and education standards. Failure to employ a certified manager is subject to a \$10,000 civil money penalty. However, the regulations do not impose any separate disciplinary actions on managers, only the programs.

LeadingAge Maryland suggests the following amendments to ensure consistency between the assisted living program regulations and the provisions in Senate Bill 720:

1. Board Structure: This bill places ALMs under the Board of Examiners for Nursing Home Administrators (BENHA) and only allows for three ALMs on a Board of 17, six of which must be nursing home administrators. We recommend an equal number of nursing home administrators and assisted living managers.
2. Training Requirement: The bill states that training and examination requirements will be “determined or approved by the Board.” (See page 11, lines 6-8). In addition to a state examination, the applicant will need to take a federal exam from the National Association of Boards of Long-Term Care (See page 11, lines 14-16). We suggest an amendment that would apply the current requirements of 80 hours initial certification and 20 hours of continuing education requirements as specified under Section 19-1807 of Health-General Article. The requirement for a state exam will stay in place but the federal examination requirement will be removed.
3. Education Requirements: The bill states that the education requirements will be “developed by the Board.” (See page 11, lines 6-7; page 14, line 26; page 17, lines 25-26). Like the training requirements, the amendment will cross-reference current education requirements, under COMAR, that must be satisfied to be an assisted living manager.
4. Grandfather Provision: Under the bill, the Board “MAY” waive the experience and training requirement for an individual, who before October 1, 2022, meets the requirements of Section 19-1807 (AL manager course). (See page 11, lines 26-27). LeadingAge Maryland strongly supports the “grandfather provision.” However, we suggest an amendment by permitting licensure for those who have satisfied for the requirements before October 1, 2022, including those who were originally grandfathered under Section 19-1807 of the Health-General Article. The amendment will also address the appointment of a replacement assisted living manager.
5. Implementation Timeline: The amendment will require that the Board submit a status report to the House Health and Government Operations Committee and the Senate Finance Committee on Board appointments, allocation of personnel pins and hiring, status of necessary software changes, process for grandfathering individuals and any other items for implementation of licensure by December 1, 2022. This is to ensure that the steps are in place prior to acceptance of licensure applications. LeadingAge Maryland is concerned about meeting full implementation by October 1, 2024 given the

complexity of establishing a new licensure category, (appointment of Board, hiring of Board employees, software implementation, etc.). We propose an amendment to require the Board submit a status report to the House Health and Government Operations Committee and the Senate Finance Committee on Board appointments, allocation of personnel pins and hiring, status of necessary software changes, process for grandfathering individuals and any other items for implementation of licensure by December 1, 2022. This is to ensure that the steps are in place prior to acceptance of licensure applications.

For these reasons, LeadingAge Maryland respectfully requests a favorable report with amendments for Senate Bill 720.

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

# **SB0720\_FWA\_LifeSpan\_SBOE NH Administrators - Renam**

Uploaded by: Danna Kauffman

Position: FWA



*Keeping You Connected...Expanding Your Potential...  
In Senior Care and Services*

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer

DATE: March 10, 2022

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 720 – *State Board of Examiners of Nursing Home Administrators – Renaming and Licensure of Assisted Living Managers*

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On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland representing nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services, we **support with amendments** Senate Bill 720. This bill requires assisted living managers to be licensed by the Board of Long-Term Care Administrators (currently known as the Board of Examiners for Nursing Home Administrators).

The assisted living regulations provide minimum standards that must be followed to deliver quality services to residents in assisted living programs. The regulations cover those providing care to as few as two residents up to those providing care to over 100 residents. Enforcement of these existing minimum standards is necessary to assure quality of care to residents.

These standards currently address requirements for serving as an assisted living manager. Assisted living programs must employ individuals who have taken the 80-hour assisted living manager course and have met certain other training and education standards. Failure to employ a certified manager is subject to a \$10,000 civil money penalty. However, the regulations do not impose any separate disciplinary actions on managers, only the programs.

To ensure consistency between the assisted living program regulations and the provisions in Senate Bill 720, we propose the following amendments:

- **Board Structure:** The proposal places assisted living managers under the Board of Examiners for Nursing Home Administrators and changes the name to the Board of Long-Term Care Administrators. As drafted, the proposal has six nursing home administrations and three assisted living managers. The amendment would provide an

equal number of nursing home administrators and assisted living managers serving on the Board.

- **Training Requirements:** The proposal states that training and examination requirements will be determined and/or approved by the Board. The proposal also states that, in addition to a state examination, the applicant will need to take a federal exam from the National Association of Boards of Long-Term Care. The amendment would apply the current requirements of 80 hours initial certification and 20 hours of continuing education requirements as specified under Section 19-1807 of Health-General Article. The requirement for a state exam will stay in place but the federal examination requirement will be removed.
- **Education Requirements:** The proposal states that the education requirements will be developed by the Board. Like the training requirements, the amendment will cross-reference current education requirements that must be satisfied to be an assisted living manager.
- **Grandfathering Provision:** The amendment will tighten the grandfathering provision for training and education by grandfathering in those who have satisfied for the requirements before October 1, 2022, including those who were originally grandfathered under Section 19-1807 of the Health-General Article. The amendment will also address the appointment of a replacement manager.
- **Implementation Timeline:** The amendment will require that the Board submit a status report to the House Health and Government Operations Committee and the Senate Finance Committee on Board appointments, allocation of personnel pins and hiring, status of necessary software changes, process for grandfathering individuals, and any other items for implementation of licensure by December 1, 2022. This is to ensure that the steps are in place prior to acceptance of licensure applications.

**For more information:**

Danna Kauffman  
Pam Metz Kasemeyer  
410-244-7000

# **AL Pre-Proposal Concept Paper 2020 Session - FINAL**

Uploaded by: Delores Kelley

Position: FWA



# MARYLAND Department of Health

## **Pre-Proposal Concept Paper – 2020 Departmental Legislation**

**Administration:** Boards and Commissions

**Title of Proposed Legislation:** State Board of Examiners of Nursing Home Administrators —  
Renaming and Licensing Assisted Living Facility Managers

**Statutes to be Amended or Added:** Amending: Health Occupations Article, §§ 9-101, 9-201—  
9-203, 9-315—9-316.1, 9-401—9-403, and 9-501, Annotated Code of Maryland

Adding: Health Occupations Article, §§ 9-3A-01—9-3A-15, Annotated Code of Maryland

**Priority Order:** 1

**Date:** May 24, 2019

### **Concept:**

Establishes a license for assisted living facility managers (ALFMs) within the Maryland Department of Health (MDH); renames the “Board of Examiners of Nursing Home Administrators (BENHA)” to the “Board of Long Term Care Administrators (BLTCA)”; amends the composition of the Board by adding 3 actively-practicing ALFMs with a minimum of 5 years of practice experience and 2 consumers who have relevant experience with relatives residing in assisted living facilities; requires BLTCA to develop and require a State’s Standards Exam for licensure of ALFMs; sets forth criteria for provisional licensure of current ALFMs beginning July 1, 2020 through December 31, 2022; requires applicants to meet the current provisions of COMAR 10.07.14.15A, with the following modifications: 1) Instead of an 80-hour training course, applicants will be required to participate in a Board-approved manager-in-training (MIT) program under a Board-certified preceptor; 2) Applicants will be required to pass the State Standards Exam and the National Residential Care/Assisted Living Exam (both exams are administered by the National Association of Long Term Care Administrator Boards, or “NAB”); requires applicants to have a criminal history records check completed prior to initial licensure.

This proposed legislation seeks to close an existing regulatory gap by strengthening State support of the public protection mandate that BENHA has been committed to since its formation in 1970. Following the national model, nursing home administrators (NHAs) and ALFMs fall under the purview of the long term care administrator board. Currently, the following states require ALFMs to take either a state exam, the national exam (or both), and be licensed, regulated, and disciplined by their respective boards of long term care: Arizona, Florida, Idaho, Indiana, Maine, Missouri, Nevada, Ohio, Oklahoma, South Carolina, and Virginia. Additionally, the District of Columbia is currently finalizing ALFM licensure legislation and the Oregon General Assembly recently passed their legislation (Oregon House Bill 4129) in the 2018 Legislative Session.



Having more accountability and an actual license that is subject to official sanctioning will increase the awareness of ALMs, who very frequently operate within a current system where inconsistent and intermittent oversight allows for a climate in which abuse, neglect, and exploitation of residents may take place, with very low potential for any significant consequences.

For proper context, it is important to note that America's assisted living facilities (ALFs) are not regulated by the federal government; and therefore there is no federal statutory oversight or regulatory program that is analogous to those governing our nation's nursing home facilities, despite many that are participating in Medicaid programs (which do have a federal regulatory component, due to joint funding by individual states and the federal government). Therefore, Maryland's current 1,554 ALFs are only fully-regulated by and accountable to the State (unlike Maryland's 230 nursing homes, which are fully regulated by the State and the federal government). The onus to ensure adequate protection and safety of a large segment of Maryland's most vulnerable citizens rests solely within the resources of the State.

For over a decade or more, it has been widely-known in the industry that the residents in ALFs consistently present acuity levels that were previously only seen among nursing home residents. The Maryland Office of Health Care Quality (OHCQ), in its report entitled *Maryland's 2005 Assisted Living Evaluation* noted: "The DHMH has confirmed, from a review of national and Maryland-specific studies, that individuals in assisted living programs are more frail than was anticipated when the program was implemented in 1996. According to studies detailed more specifically herein, up to two-thirds of residents in assisted living programs have moderate to severe dementia and less than half receive adequate treatment for this condition. Most residents have multiple medical diagnoses, some debilitating, and take, on average, 9-14 medications per day."<sup>1</sup> A 2015 American Health Lawyers Association analysis of rising acuity levels in ALFs echoed OHCQ's findings by noting that 87% of providers responding to a *McKnight's Long Term Care News* survey indicated there was clearly a rise in ALF acuity levels; it went on to indicate that 45% of the respondents were unsure how to respond to this sobering reality<sup>2</sup>.

A review of Maryland's acuity levels in ALFs compared to other states and national averages was quite telling. The *2014 National Study of Long-Term Care Providers* (via the National Center for Health Statistics) provided that at 53%, Maryland has the nation's highest percentage of ALF residents who suffer with Alzheimer's or other dementia-related conditions. Furthermore, Maryland's percentage of this particular segment of ALF residents is also 13% higher than the national average, which is 40%. No other state is 50% or over; Michigan is just slightly below Maryland, at 49%<sup>3</sup>. The study also found that 54% of Maryland's ALF residents are 85 years of age or older; the national average is 53%.

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<sup>1</sup> Maryland Office of Health Care Quality *Maryland's 2005 Assisted Living Evaluation*, pg. 10.

<sup>2</sup> Berdzik, Segalla, & McMillen, *Best Practices for Managing Acuity Creep in Assisted Living*, 2015.

<sup>3</sup> Sengupta, Harris-Kojetin, & Caffrey, *2014 National Study of Long-Term Care Providers Web Tables of State Estimates About Residential Care Community Residents*. Supplement to: *Variation in Resident Characteristics, by Size of Community: United States, 2014*. NCHS Data Brief No. 223. National Center for Health Statistics, 2015.

The chart below highlights a comparison of Maryland, neighboring states, and the national averages for the industry’s acuity benchmark, activities of daily living (ADLs). It details the percentage of the ALF population that requires help with ADL’s:

**National Center for Health Statistics Data Brief No. 223 – Data Collected 2014**  
**Percentage of ALF Residents Needing Assistance with ADL’s**

Population	Bathing	Walking	Dressing	Toileting	Transferring to and from Bed	Eating
National Average	62	29	47	39	30	20
<b>Maryland*</b>	<b>68</b>	<b>36</b>	<b>53</b>	<b>47</b>	<b>35</b>	<b>29</b>
Virginia	64	37	49	42	33	13
District of Columbia	69	26	61	38	29	21
Delaware	50	15	37	32	21	19
Pennsylvania	59	28	45	36	27	21
New Jersey	61	33	51	38	30	18
New York	60	11	37	25	10	9

**\*Maryland has a higher percentage in each ADL category, versus the national average, and is higher than all listed states in 4 of the 6 ADL categories (bathing, toileting, transferring to and from bed, and eating).**

The *State Long Term Care Ombudsman’s June 2018 Fact Sheet* reports that nursing home facilities and ALFs generate the identical number one complaint received, which is “discharge/eviction-planning, notice, procedures, abandonment” yet there is no license required and no licensing board to address these issues with respect to ALFs. Additionally, 44% of complaints made to the State Long Term Care Ombudsman were made by residents<sup>4</sup>. It follows that many more significant, and likely dangerous/egregious, scenarios are taking place without being reported due to the frail and vulnerable residents’ incapacity to report or fear of potential staff retaliation.

OHCQ continues to be understaffed and, therefore, incapable of conducting the required number of ALF surveys. For example, the *Office of Health Care Quality Annual Report and Staffing Analysis for Fiscal Year 2018* reported that, of the 1,546 ALFs in Maryland that existed at the time of the report, OHCQ conducted: 218 “initial” surveys (for ALFs that are being initially licensed and are not yet providing resident care); 570 “renewal” surveys; 64 “other” surveys; and investigated 1,137 of 1,315 complaints and self-reports received. **It should be noted that a category of “annual” surveys are not listed in this report as being conducted in Fiscal Year 2018;** however, annual surveys are listed as a category in Appendix A<sup>5</sup>. The report stated that OHCQ had 29 surveyors for ALFs and planned to increase its surveyor staff by 5.83 FTEs. This is based upon a formula that assumes that each surveyor will spend a minimal amount of time on each survey. For example, 16 hours is anticipated for a surveyor to work on an annual survey. Among the top 10 frequently cited deficiencies noted in the above-referenced report are:

***Alternate Assisted Living Manager – 127 deficiencies***

COMAR 10.07.14.18 requires that assisted living facilities have a qualified alternate individual available to assume the responsibilities of the duties of the assisted living manager.

<sup>4</sup> Maryland Department of Aging, *Long-Term Care Ombudsman Program Fact Sheet June 2018*

<sup>5</sup> Maryland Office of Health Care Quality *Annual Report and Staffing Analysis Fiscal Year 2018*, pp. 29.

### ***Administration – 97 deficiencies***

COMAR 10.07.14.13 requires that assisted living managers implement quality assurance plans and work with the delegating nurse (**every 6 months**) to discuss the change in residents' status, pharmacy reviews and service plan requirements.

### ***Assisted Living Manager – 96 deficiencies***

COMAR 10.07.14.15 requires that assisted living facilities have a qualified manager who meets the requirements set forth in the regulation.

Requiring licensure of ALMs will allow BENHA to partner with OHCQ, thereby fortifying public protection and allowing for appropriate review, investigation, and discipline of ALMs, when necessary. Requiring a license for ALMs will send a clear message to the citizens of Maryland that ALF residents are just as worthy and deserving of **full protection** as our nursing home residents. As we know, many residents in ALFs have conditions that are analogous to their counterparts in nursing home facilities. NAB's *2014 Practice Analysis of Long Term Care Administrators across Multiple Lines of Service* validated the fact that 82% of the competencies of NHAs and ALMs are common and that ALMs require a high level of competency, one that is similar to NHAs<sup>6</sup>.

Implementing an actual ALM license will both legitimize and further standardize the profession. As our state's population continues to age and require services such as ALFs, it is clear that this step is imperative and will allow the State to operate from a proactive position versus one that is reactive. We must put the protection and care of the citizens of Maryland first.

### **Fiscal and Operational Impact:**

1. ***Department*** – This proposal will have a fiscal and operational impact on the Department. However, the operational impact of needing to increase the BENHA staff will be minimal and offset by the increased revenue due to ALFM applications, licensing and renewal fees for over 1,550 potential licensees.
2. ***Other State agencies or local governments*** – No anticipated direct financial impact.
3. ***Small businesses***- No anticipated direct financial impact.

### **Legislative Strategy:**

1. ***Prior introductions*** SB 471 (2009), introduced by Senator Delores Kelley, also proposed licensing ALFMs.
2. ***Anticipated support or opposition*** - The support of the following advocates/entities is anticipated: State and local county Long Term Care Ombudsmen; National Association of Boards of Long Term Care; Voices for Quality Care; AARP; United Seniors of Maryland; Alzheimer's Association of Greater Maryland; National Association of Social Workers

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<sup>6</sup> National Association of Long Term Care Administrator Boards, *Final Report: Practice Analysis of Long Term Care Administrators across Multiple Lines of Service*, 2014, Professional Examination Service.

Maryland Chapter; Gerontological Advanced Practice Nurses Association; Nurse Practitioner Association of Maryland; Mid-Atlantic Society for Post-Acute and Long-Term Care Medicine; Society for Post-Acute and Long-Term Care Medicine; National Association of Directors of Nursing Administration; American Geriatrics Society; Baltimore City Medical Society; Maryland State Medical Society; and other senior advocacy groups.

Opposition from owners' advocacy groups and professional associations, such as HFAM, Lifespan, and Leading Age is anticipated.

3. ***Stakeholder strategy*** – BENHA will reach out to the stakeholder groups to invite discussions and feedback in order to better understand their concerns and make all possible changes that do not compromise the Board's mission of public protection.

# **Assisted Living Manager Legislation by State.pdf**

Uploaded by: Delores Kelley

Position: FWA

## Assisted Living Manager Legislation by State

20 States require Assisted Living Managers to be licensed or certified by the State or a Medical Board:

Alabama	Kansas	Oregon
Arizona	Maine	Rhode Island
Arkansas	Minnesota	South Carolina
California	Missouri	South Dakota
Delaware	Nevada	Tennessee
Idaho	New Jersey	Virginia
Indiana	Oklahoma	

30 States require Assisted Living Managers to take training courses or meet other age, educational, or experiential requirements. In several states, a license is accepted as an alternative to other requirements.

Those states are:

Alaska	Florida	Iowa
Colorado	Georgia	Kentucky
Connecticut	Hawaii	Louisiana
District of Columbia	Illinois	<b>Maryland</b>

Massachusetts

New Mexico

Texas

Michigan

New York

Utah

Mississippi

North Carolina

Vermont

Montana

North Dakota

Washington

Nebraska

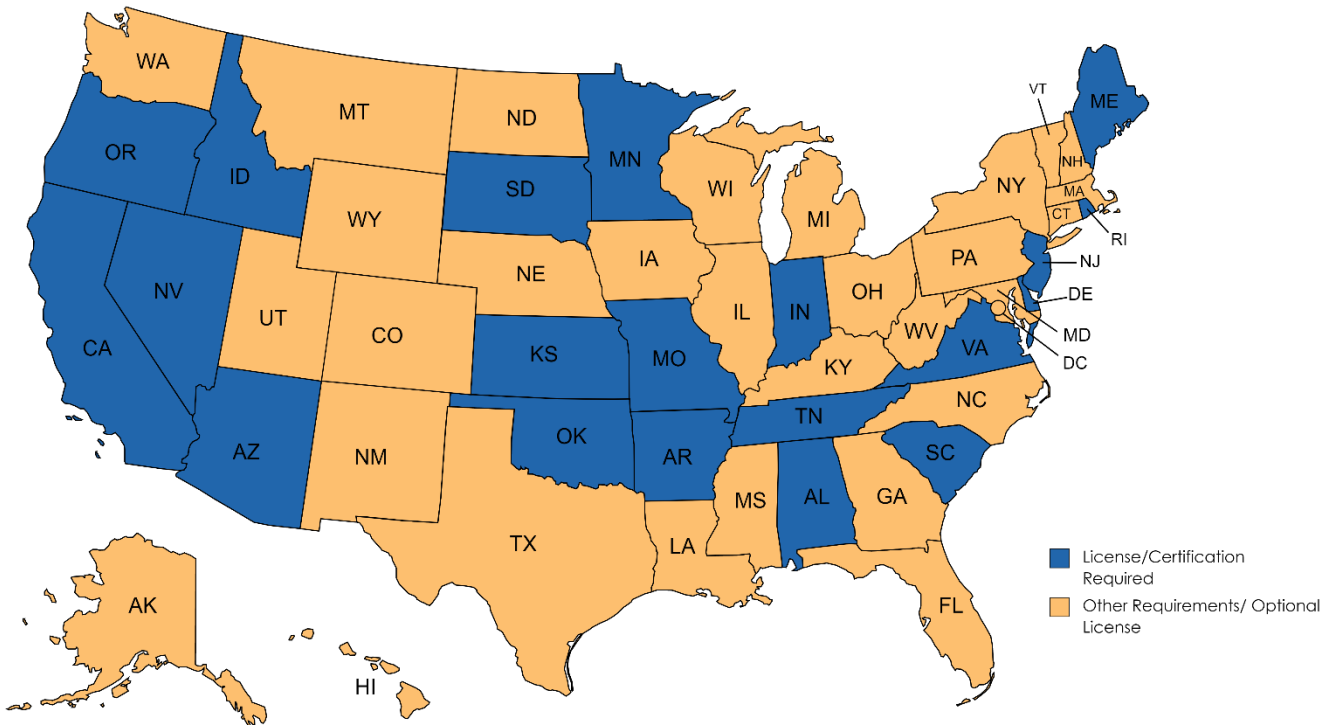
Ohio

West Virginia

New Hampshire

Pennsylvania

Wyoming



Created with mapchart.net

Data from *American Health Care Association's National Center for Assisted Living*

<https://www.ahcancal.org/Assisted-Living/Policy/Pages/state-regulations.aspx>





**SB0720-473129-01.pdf**

Uploaded by: Delores Kelley

Position: FWA



**SB0720/473129/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

04 MAR 22  
15:12:42

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

AMENDMENTS TO SENATE BILL 720  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, after line 14, insert:

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 19-1807

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)”;

and strike beginning with “9–315” in line 18 down through the semicolon in line 19.

On page 2, after line 7, insert:

“BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 9–315 to be under the amended subtitle “Subtitle 3. Nursing Home  
Administrators”

Annotated Code of Maryland

(2021 Replacement Volume)”.

AMENDMENT NO. 2

On page 2, after line 12, insert:

“Article – Health – General

19–1807.

(a) (1) Except as provided in subsection (d) of this section, [by January 1, 2006,] an assisted living manager who is employed by an assisted living program [that is licensed for 5 or more beds] shall have completed a manager training course that is approved by the Department and includes an examination.

(2) The manager training course shall:

(i) Consist of at least 80 hours;

(ii) Require attendance or participation at training programs that provide for direct interaction between faculty and participants; and

(iii) Authorize a maximum of 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.

(b) An assisted living manager employed [in] BY a program [that is licensed for 5 or more beds] shall be required to complete 20 hours of Department–approved continuing education every 2 years.

(c) In addition to the sanctions specified in COMAR 10.07.14.48, an assisted living program that fails to employ an assisted living manager who meets the requirements of this section may be subject to a civil money penalty not to exceed \$10,000.

(d) (1) The requirements of subsection (a) of this section do not apply to an individual who:

(i) Is employed by an assisted living program and has enrolled in a Department–approved manager training course that the individual expects to complete within 6 months;

(ii) [Except as provided in paragraph (3) of this subsection, is] IS temporarily serving as an assisted living manager[, for no longer than 45 days,] UNDER § 9-3A-01 OF THE HEALTH OCCUPATIONS ARTICLE due to an assisted living manager leaving employment and prior to the hiring of a permanent assisted living manager; or

(iii) Subject to paragraph (2) of this subsection:

1. Has been employed as an assisted living manager in the State for 1 year prior to January 1, 2006; or

2. Is licensed as a nursing home administrator in the State.

(2) The Department may require an individual who is exempt under paragraph (1)(iii) of this subsection to complete a manager training course and examination if the Department finds that the assisted living manager repeatedly has violated State law or regulations on assisted living and that those violations have caused actual physical or emotional harm to a resident.

[(3) An assisted living program may request an extension from the Department to allow an individual to serve as an assisted living manager for longer than 45 days if the assisted living program has shown good cause for the extension.]

(e) The Department shall ensure that manager training courses approved by the Department are affordable and accessible to assisted living programs and to individuals seeking to enroll in the courses.”.

On page 4, in line 5, strike “Six” and substitute “**FIVE**”; in lines 10 and 16, in each instance, strike “**THREE**” and substitute “**FIVE**”; in line 11, strike “**ASSISTED LIVING**”

(Over)

MANAGERS” and substitute “INDIVIDUALS”; in line 13, strike “§ 19-1807” and substitute “§ 19-1807(A)”; in the same line, after “ARTICLE” insert “OR ARE EXEMPT FROM THE REQUIREMENT UNDER § 19-1807(D) OF THE HEALTH – GENERAL ARTICLE”; and in line 14, strike “PRACTICED FOR” and substitute “EMPLOYED BY”.

On page 8, in line 22, strike the brackets; in the same line, strike the colon; in line 23, strike “(1) HEAR”; in the same line, strike “; OR”; in line 24, strike “(2) ISSUE A DEFAULT ORDER”; and in line 30, strike “EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF” and substitute “IF”.

On page 9, in line 4, strike “ASSISTED LIVING AUTHORITY” and substitute “DESIGNEE”; in line 5, after “(I)” insert “1.”; in line 7, strike “(II)” and substitute “2.”; in line 8, strike the period and substitute “; OR”; in line 9, strike “(2)” and substitute “(II)”; strike beginning with “(I)” in line 9 down through “APPOINT” in line 11 and substitute “APPOINT AN ALTERNATE ASSISTED LIVING MANAGER OR”; in line 13, strike “2.” and substitute “(2) (I)”; in the same line, strike “THE APPOINTED” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE APPOINTED ALTERNATE ASSISTED MANAGER OR”; in lines 17 and 18, strike “ASSISTED LIVING AUTHORITY” and substitute “DESIGNEE”; strike beginning with “THE” in line 26 down through “4.” in line 28; in line 29, strike “(I)2” and substitute “(I)”; and in line 33, strike “ASSISTED LIVING AUTHORITY” and substitute “DESIGNEE”.

On page 10, in line 3, strike “5.” and substitute “4.”; in line 12, after “(3)” insert “THE APPOINTED ALTERNATE ASSISTED LIVING MANAGER OR NONLICENSED INDIVIDUAL MAY SERVE IN THE CAPACITY OF INTERIM ASSISTED LIVING MANAGER IF THE INDIVIDUAL HAS ENROLLED IN A MANAGER TRAINING COURSE THAT THE INDIVIDUAL EXPECTS TO COMPLETE WITHIN 6 MONTHS AND HAS PROVIDED THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION.”

**(4)**;

in lines 12, 16, and 25, in each instance, strike “**(6)**” and substitute “**(7)**”; in line 13, strike “**(1)**” and substitute “**(1)(I)**”; in lines 16, 22, and 25, in each instance, strike “**(4)**” and substitute “**(5)**”; in line 17, strike “**(2)**” and substitute “**(1)(II)**”; in line 20, strike “**(5)**” and substitute “**(6)**”; in line 21, strike “**(1) OR**”; in lines 22 and 25, in each instance, strike “**(3)**” and substitute “**(4)**”; in line 26, after “**LICENSED**” insert “**, CERTIFIED, OR REGISTERED**”; and in line 28, after “**LICENSURE**” insert “**, CERTIFICATION, OR REGISTRATION**”.

On page 11, in line 1, strike “**AND**”; and in line 2, after “**OLD**” insert “**;**”

**(4) MEET THE EDUCATION REQUIREMENTS UNDER COMAR 10.07.14; AND**

**(5) (I) COMPLETE AN ASSISTED LIVING MANAGER TRAINING COURSE REQUIRED UNDER § 19-1807 OF THE HEALTH – GENERAL ARTICLE AND UNDER COMAR 10.07.14, INCLUDING THE SUCCESSFUL PASSING OF THE COURSE EXAMINATION; OR**

**(II) BE EXEMPT FROM THE TRAINING COURSE REQUIREMENT UNDER § 19-1807(D) OF THE HEALTH – GENERAL ARTICLE.**

**(B) INDIVIDUALS WHO HAVE BEEN EMPLOYED IN THE STATE AS AN ASSISTED LIVING MANAGER AND HAVE WORKED AT AN ASSISTED LIVING PROGRAM THAT IS LICENSED FOR FIVE OR MORE BEDS AS OF SEPTEMBER 30, 2022, ARE DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF THIS SECTION**”.

On pages 11 and 12, strike in their entirety the lines beginning with line 3 on page 11 through line 1 on page 12, inclusive.

(Over)

On page 14, in line 22, strike “AND OTHER QUALIFICATIONS AND”; and strike beginning with “SET” in line 22 down through “RENEWAL” in line 23 and substitute “UNDER § 19-1807 OF THE HEALTH – GENERAL ARTICLE”.

On pages 14 and 15, strike in their entirety the lines beginning with line 24 on page 14 through line 1 on page 15, inclusive.

On page 15, in lines 2 and 4, strike “(E)” and “(F)”, respectively, and substitute “(D)” and “(E)”, respectively.

On page 21, in line 32, strike the colon.

On page 22, in line 1, strike “(1) HEAR” and substitute “HEAR”; in the same line, strike “; OR”; and in line 2, strike “(2) ISSUE A DEFAULT ORDER”.

On page 23, in line 8, after “PRACTICING” insert “AS AN”; and in line 9, strike “MANAGEMENT” and substitute “MANAGER”.

On page 25, in line 32, strike “and”.

On page 26, in line 1, strike “one” and substitute “two”; and in the same line, after “2026” insert “; and”

(3) one member in 2027.

SECTION 4. AND BE IT FURTHER ENACTED, That on or before October 1, 2023, the State Board of Long-Term Care Administrators shall submit a report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on the implementation of this Act, including:

- Board;
- (1) the status of the appointment of the assisted living managers to the
  - (2) the number of personnel employed by the Board to implement the assisted living manager licensure requirements;
  - (3) the ability of the Board's software platform to accept applications for licensure as assisted living managers and issue the licenses;
  - (4) the time frame for informing and steps that will be taken to inform assisted living programs and assisted living managers of the licensure requirement; and
  - (5) any other policies that the Board anticipates adopting to implement this Act";

and in line 2, strike "4." and substitute "5.".



**SB0720-843023-01.pdf**

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Position: FWA



SB0720/843023/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

04 MAR 22  
15:22:22

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

AMENDMENTS TO SENATE BILL 720  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “and” and substitute a comma; in line 3, after “Managers” insert “, and Penalties”; in line 7, after “Board;” insert “altering the penalty for taking certain actions related to practicing as a nursing home administrator without a license;”; in the same line, strike “the licensing of assisted living managers and”; and in line 20, after “9-403” insert “, 9-407.”.

AMENDMENT NO. 2

On page 24, in line 10, before “Except” insert “(A)”; and after line 18, insert:

**“(B) (1) THE BOARD MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$20,000 FOR A VIOLATION OF THIS SECTION.**

**“(2) THE BOARD SHALL PAY ANY FINE COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.”.**

On page 25, after line 24, insert:

“9-407.

(a) **[A] EXCEPT AS PROVIDED IN § 9-401(B) OF THIS SUBTITLE, A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:**

(1) **A fine not exceeding \$1,000 for a first offense; and**

(2) A fine not exceeding \$5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.

(b) The Board shall pay any fine collected under this section into the General Fund of the State.”.

**SB0720-893729-01.pdf**

Uploaded by: Delores Kelley

Position: FWA



**SB0720/893729/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

02 MAR 22  
14:37:35

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

AMENDMENTS TO SENATE BILL 720  
(First Reading File Bill)

On page 20 in line 29, and on page 21 in line 10, in each instance, strike “**\$5,000**” and substitute “**\$1,000**”.

On page 21, in lines 1 and 12, in each instance, strike “**\$10,000**” and substitute “**\$5,000**”.

# **HFAM Testimony SB 720.pdf**

Uploaded by: Joseph DeMattos

Position: FWA



**TESTIMONY BEFORE THE  
SENATE FINANCE COMMITTEE**

March 10, 2022

Senate Bill 720: State Board of Examiners of Nursing Home Administrators -  
Renaming and Licensure of Assisted Living Managers

**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 720. 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 720 renames the State Board of Examiners of Nursing Home Administrators to be the State Board of Long-Term Care Administrators and establishes a licensing and regulatory system for assisted living managers under the Board, and generally relates to the licensing of assisted living managers and the State Board of Long-Term Care Administrators.

We commend the sponsors for bringing this legislation forward and we highly value the work and contributions of Assisted Living Managers to the long-term care sector. We also commend the leaders of our colleague associations and other stakeholders in our work together to offer comments and amendments in support of the passage of this important legislation.

Now is the time to further professionalize, support, and organize assisted living managers in the way we have licensed nursing home administrators for decades and with the oversight of a professional board and expanded rules of professional conduct mirroring those that have long been in place for licensed nursing home administrators.

As we all have seen, the pressures of the pandemic dramatically worsened the healthcare workforce shortage – from nursing home administrators to nursing assistants to supporting team members, our sector and others are struggling to find enough staff. And, the most recent surge proved to us yet again that there is no individual hospital, nursing home, or physician’s office workforce – there is one singular healthcare workforce in Maryland. It is shorthanded, and we are all drawing upon it.

Perhaps now more than ever, we need to support dedicated and quality-focused assisted living managers and licensed nursing home administrators leading teams who provide quality long-term and post-acute care to Marylanders in need. I speak from personal experience when I say they are a godsend to families. At this critical time, we must grow their ranks – people working in healthcare are leaving the profession and retiring, just as demand will continue to increase in coming years.

Assisted living managers and licensed nursing home administrators and their respective settings have much in common. For example, the majority of people cared for in both settings have some form of dementia. However, these settings have many distinct differences including patient and resident acuity,

the required level of medical staffing, the licensure and regulatory approach, and very different payor mixes.

Senate Bill 720 was clearly drafted thoughtfully and with diligence. On the consumer representative board slot, we are highly appreciative and think it is important that the representative must have recent experience in the sector as a consumer.

**We support the amendments proposed and introduced in the House by Vice-Chair Peña-Melnyk's office:**

- Equal representation on the Board
  - 5 Assisted Living Managers and 5 Nursing Home Administrators
- “Instead of as determined and approved as the Board,” reference back to the requirements under Section 19-1807 of the Health General Article for education and training requirements as well as the grandfathering provision for all assisted living managers.
- Implementation timeline that requires the Board to report back to the Committee that they have sufficient staffing and resources before accepting applications.
- Ensure the Board has a record of who is serving as representative payees to clients in smaller facilities.
- The Office of the Attorney General currently has this information.

It is critically important that the reformed board maintain equal representation among assisted living managers and licensed nursing home administrators, as outlined in the above amendment. **We offer the additional amendments (which, in communication with Vice-Chair Peña-Melnyk, were intended to be offered in the package of amendments):**

- Page 2: Line 24, the definition of “FAMILY MEMBER” should include “A DOMESTIC PARTNER.”
- Page 8: Delete “OR” on line 23 and delete entirely line 24.
- Page 22: Delete “OR” on line 1 and delete entirely line 2.

Relative to the amendments on pages 8 and 22, we believe that due process is important. It is wrong that under the current language, the new board would have the right to issue a default order without ensuring a full review of facts and evidence. In this legislation and in other legislation we have worked on together that concerns returning citizens, we value individual rights and due process. The same should be the case in this legislation.

Again, we commend the sponsors for bringing forth this important and timely legislation and we are committed to working together to ensure viable solutions. **With our proposed amendments, we request a favorable report from the Committee on Senate Bill 720.**

*Submitted by:*  
Joseph DeMattos, Jr.  
President and CEO  
(410) 290-5132