



**TESTIMONY BEFORE THE
HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE**

February 24, 2022

House Bill 747: Maryland Health Care Commission - Nursing Homes – Audit
Written Testimony Only

POSITION: UNFAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our opposition and provide background on House Bill 747. 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.

House Bill 747 requires the Maryland Health Care Commission to conduct an annual audit of cost trends, labor issues, and financial performance of nursing homes in the State; requires the Commission to conduct an annual survey of the nursing home workforce to include questions on working conditions, wages, hours and mandatory or voluntary overtime, and interactions with management and residents in the facility; and also requires the Commission to establish a fee to be paid by each nursing home subject to the audit to cover the cost of the audit.

While transparency and data are incredibly important, much of the information requested by this legislation is already reported and available through annual cost reports and surveys. A long-term care survey is conducted annually by the Maryland Health Care Commission (MHCC) per COMAR 10.24.03. This information is used to develop the State health plan, determine the need for additional capacity, and to assess financial health and overall performance of the industry. In addition, gross patient revenues are reported in cost reports and as part of the LTC survey to determine an annual user fee, which is paid quarterly to MHCC.

Whether organized as for-profit or not-for-profit entities, nursing homes are already among the most regulated and transparent organizations. The vast majority of revenue that nursing homes receive are non-negotiable and come in the form of state Medicaid and federal Medicare reimbursement rates. These are known and can be reviewed via Medicare and Medicaid cost reports.

Additionally, for decades nursing homes have rightfully been subject to unannounced annual federal and state inspections, quality surveys, and unannounced complaint inspections at any time. The results of those inspections are required to be made available to members of the public visiting the centers and are also available online. In addition, those surveys are a driver of the Centers for Medicare and Medicaid Services' (CMS) Nursing Home Compare Five-Star Rating system—again, these are already publicly available online.

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The requirement of an annual workforce survey that this legislation proposes is also duplicative. Organizations already have their own compliance programs that contain a method to report issues concerning fraud, misappropriation, unsafe working conditions, unfair practices, and staff interactions with residents and management. In addition, there is already oversight from the Occupational Safety and Health Administration (OSHA) and Maryland Occupational Safety and Health (MOSH) Division within the Department of Labor, as well as the Labor Board for wage and hourly rate issues.

Labor and staffing ratios, like Medicaid Rates, are also set by the state and are known. Data is available from both the Maryland Department of Health (MDH) and CMS via cost reports. Additionally, wages and financial information are reported into the federal Payroll-Based Journal (PBJ) system, which is publicly available.

Throughout the pandemic, nursing homes in Maryland have also been reporting daily data to the Chesapeake Regional Information System for our Patients (CRISP) and weekly data to the National Healthcare Safety Network (NHSN) to provide a wide variety of COVID-related information including, but not limited to, testing, vaccination, occupancy, and staffing.

Even before the pandemic, independent accounting firms such as Clifton Larson Allen LLP produced annual reports indicating that our sector was largely in a breakeven period financially due to declines in occupancy and Medicaid rates not keeping pace with the cost of quality care.

Throughout the pandemic, historically high operational expenses paired with historically low census have exacerbated financial issues that have long existed in our sector. Direct payments from the federal government, along with financial and operational support from the State, has helped to keep our doors open and has saved lives. This support is documented; there are both state and federal reporting requirements tied to the support that has been given to our sector and there is potential for audits of this information. While the financial and operational support is appreciated, our sector still needs a base Medicaid rate increase to continue providing quality care to Marylanders in need.

Skilled nursing and rehabilitation centers care for Marylanders who have multiple chronic comorbidities. If not cared for in our centers, these residents and patients would otherwise receive care in a hospital at a much higher cost to the state and other payors—putting at risk Maryland's Total Cost of Care Contract.

Given the abundance of reporting, oversight, transparency, surveys, and data already available, the audit requirements proposed in this legislation are unnecessary, duplicative, and burdensome both financially and administratively to nursing homes.

For these reasons, we request an unfavorable report from the Committee on House Bill 747.

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