



February 23, 2022

The Honorable Luke Clippinger
Chair, House Judiciary Committee
101 House Office Building
Annapolis, MD 21401

Re: Letter of Information - House Bill 717 - Health Care Alternative Dispute Resolution Office -
Authority of Director - Dispositive Issues of Law

Dear Chair Clippinger and Judiciary Committee Members:

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to comment on House Bill 717, which authorizes the Director of the Health Care Alternative Dispute Resolution Office to rule on dispositive issues of law under certain circumstances.

As you may know, 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.

Skilled nursing and rehabilitation centers are committed to providing quality care to Marylanders in need and to open communication and collaboration with residents, patients, and family members while preserving all parties' right to legal representation. We are concerned that this legislation could give the Director the authority to make substantive determinations on dispositive motions in way that is contrary to a fair process for health care providers.

As way of background, the Health Care Alternative Dispute Resolution Office was established in 1976 to streamline medical malpractice claims and foster cooperative solutions between providers and plaintiffs. However, it has become an arena for some plaintiff's attorneys to circumvent judicial processes. As part of the three-member arbitration panel, the attorney member of the panel also serves as its chairman. Candidates for each of the panel members, including the chairman, are vetted by both parties and only mutually agreeable individuals are selected.

HB 717 allows the director to step directly into the panel chairman's shoes, which means both parties no longer choose their arbitration panel. This defeats a core tenet of arbitration: allowing parties to choose their arbitrators. It also places additional authority in the hands of the director—an appointed official who the parties have no say in selecting—without an avenue to appeal or review these rulings.

Thank you for your consideration of this issue. We look forward to our continued work together.

Be well,

Joseph DeMattos, Jr.
President and CEO
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