

**SUPPORT – SENATE BILL 509**Health Care Facilities – Nursing Homes - Acquisitions and Licensure  
Finance

March 10, 2023

Chair Griffith and Members of the Committee,

Thank you for the opportunity to provide written testimony on Senate Bill 509, on behalf of Disability Rights Maryland (DRM). Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to improve the quality of medical care provided to Marylanders with disabilities, and ensure their access to safe, affordable care in the least restrictive setting possible.

The quality of care and patient safety within Maryland skilled nursing facilities has been declining for many years.<sup>1</sup> The COVID-19 pandemic has only highlighted the deficiencies in care and safety in skilled nursing facilities and the need for more oversight. In 2016, the Maryland Department of Health (MDH) brought a claim against a skilled nursing facility chain, Neiswanger Management Services, LLC (NMS), related to violations of the Patients' Bill of Rights, including patient dumping and trafficking, and Medicaid fraud.<sup>2</sup> NMS illegally discharged and trafficked a 59-year-old woman from West Virginia with advanced stage cancer, from her room at their Hagerstown facility to an unlicensed group home where staff did not provide the woman with her medication and physically and emotionally abused her. After three weeks the group home owner dumped this woman at a homeless shelter and the shelter then immediately had her transported to the emergency room at Mercy Hospital.

Despite numerous patient complaints, state citations, and ongoing investigations, NMS was able to sell their facilities in 2015 and 2016 to Sabra Health Care, a California-based real estate investment trust specializing in ownership of health care facilities. While NMS's patient and billing practices were already deficient, the sale to Sabra Health Care only exacerbated these issues due a heightened need to be even more profit driven, which led to continued dangerous discharge practices. MDH's complaint against NMS, and the subsequent settlement agreement the parties entered, led to NMS discontinuing its operations, the complete closure of its Hagerstown location, and the owners being precluded from engaging directly or indirectly in the management or operation of nursing facilities in Maryland. However, Sabra is still operating in Maryland under the chain Cadia Healthcare.

During the pandemic there has been a staggering influx of out-of-state operators purchasing skilled nursing facilities in MD. A New Jersey-based private equity group, Portopiccolo which operates in Maryland under the skilled nursing facility chain Peak Healthcare, purchases troubled

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<sup>1</sup> See Maryland Nursing Home Family Experience of Care Survey - Statewide Reports, 2015 – 2021, [https://mhcc.maryland.gov/mhcc/pages/apcd/apcd\\_quality/apcd\\_quality\\_nhp.aspx](https://mhcc.maryland.gov/mhcc/pages/apcd/apcd_quality/apcd_quality_nhp.aspx)

<sup>2</sup> [https://www.marylandattorneygeneral.gov/news%20documents/state\\_v\\_nms\\_complaint.pdf](https://www.marylandattorneygeneral.gov/news%20documents/state_v_nms_complaint.pdf)

nursing homes and tries to make them profitable. A Washington Post expose uncovered that care and staffing issues at Peak facilities worsened under Portopiccolo's ownership.<sup>3</sup> Staff at several Maryland facilities reported that after Portopiccolo's purchase major changes to insurance and time-off benefits were made, they failed to buy enough supplies and protective equipment for staff and residents, and asked some employees to keep working after testing positive for coronavirus. Similarly, during the pandemic out of state entities began purchasing or expanded their ownership of poor performing facilities and rebranding them, such as the Autumn Lake Healthcare and ProMedica chains and the skilled nursing facilities owned by CommiCare Family of Companies. Rather than trying to shut down bad operators after years of harming patients, this bill would help prevent bad operators from acquiring Maryland facilities in the first place.

The Office of Health Care Quality (OHCQ) issues State licenses that authorize a facility, such as skilled nursing facilities, to do business in Maryland. OHCQ also monitors the quality of care of skilled nursing facilities through surveys and investigations of complaints. As of July 1, 2021, the Office of Health Care Quality oversees 19,032 providers in 44 industries, and experienced an unprecedented annual increase of 7.7% of providers when compared to July 1, 2020. In FY2021 OHCQ investigated 2,281 complaints and self-reported incidents in skilled nursing facilities and issued significantly more civil money penalties in 86 cases, up from 49 in FY20 and 0 in FY18 & FY19. Finally, OHCQ's 2021 surveyor staffing analysis for FY 22 found that OHCQ required 25 additional staff members for skilled nursing facilities alone.

The Maryland Health Care Commission (MHCC) is charged with reviewing potential owners seeking to acquire skilled nursing facilities. During the course of this review, the MHCC is often in a position to identify potential red flags about a new operator seeking to acquire a skilled nursing facility. In the last year, over a dozen nursing homes have been acquired by new owners who have been flagged by the MHCC for a poor-quality track record in other facilities they own. Given the oversight roles of OHCQ and MHCC it only makes sense to have these two entities coordinate as SB 509 would require. Furthermore, MHCC can provide some much-needed additional support to OHCQ.

In response to the decline in safety and quality of care for nursing facility residents SB 704 was passed during the 2021 session. That bill provided for increased inspections by the Office of Healthcare Quality on nursing homes purchased by out of state operators. SB 509 builds on the oversight goals of this previous bill.

SB 509 will have the following impact:

- Improve outcomes for nursing facility residents through more effective oversight.
- Provide regulators with another tool to use to address the problem of out-of-state owner-operators.
- Bridge the gap between oversight of the ownership of and quality of care provided by skilled nursing facilities.

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<sup>3</sup> [https://www.washingtonpost.com/local/portopiccolo-nursing-homes-maryland/2020/12/21/a1ffb2a6-292b-11eb-9b14-ad872157ebc9\\_story.html](https://www.washingtonpost.com/local/portopiccolo-nursing-homes-maryland/2020/12/21/a1ffb2a6-292b-11eb-9b14-ad872157ebc9_story.html)

For these reasons, DRM strongly supports Senate Bill 509, and urges the Committee to support improved oversight of the facilities that serve some of our most vulnerable residents, and issue a favorable report on SB 509. Thank you for your consideration.

Please contact Randi Ames at 443-692-2506 or [RandiA@DisabilityRightsMd.org](mailto:RandiA@DisabilityRightsMd.org) with any questions.