



2023 SESSION
POSITION PAPER

BILL NO: SB 509

COMMITTEE: Senate Finance Committee

POSITION: Support with Amendments

TITLE: Health Care Facilities - Nursing Homes - Acquisitions and Licensure

BILL ANALYSIS

SB 509 - Health Care Facilities - Nursing Homes - Acquisitions and Licensure requires the Maryland Healthcare Commission (MHCC) to provide information and a recommendation to the Maryland Department of Health's Office of Health Care Quality (OHCQ) when MHCC receives notice that a nursing home is being acquired or that an ownership interest in a nursing home is being transferred.

POSITION AND RATIONALE

The Maryland Health Care Commission supports SB 509 with an amendment.

The MHCC is in support of this legislation because it will codify a practice that MHCC already undertakes. Under current law, a person seeking to acquire a health care facility must provide written notice to MHCC at least 30 days prior to closing on the transaction. (Md. Code, Health-Gen. §19-120(k)(6)(ii)).

If the proposed change in ownership involves a nursing home, the potential purchaser must also provide notice to the Office of Health Care Quality (OHCQ). (§19-1401.1(a)(2)). While under current law MHCC is only required to review the acquisition notice to determine whether the acquisition involves changes that would require a Certificate of Need (CON), for the past year, MHCC staff has evaluated the performance and quality of care track record of persons identified in notices of nursing home acquisition or other changes in ownership using the Centers for Medicare and Medicaid Services Five-Star Quality Rating System (Nursing Home Compare). MHCC has included this evaluation in the determinations issued in response to notices of an acquisition or other changes in ownership and provided this information to our Commissioners in monthly activity updates. OHCQ is copied on the determination of coverage letters we issue in response to notices of nursing home acquisitions or other changes in ownership.

MHCC has noted that turnover in the ownership of Maryland nursing homes has increased in recent years and is concerned about the impact that these changes in ownership may have on the quality of care provided by nursing homes. Our examination of the quality ratings track record of persons acquiring nursing homes in Maryland in the past two years has often found that these track records would disqualify such persons from obtaining a CON to establish a new nursing home in Maryland or relocate or expand an existing Maryland nursing home under the standards established by MHCC for review of CON applications in the Maryland State Health Plan. We do provide and will continue to provide our review of this information to OHCQ. This bill would require MHCC to conduct a more formal review of an acquisition and require that MHCC provide their findings and recommendations to OHCQ. The bill would require OHCQ and the Secretary of the Department of Health to consider this information when acting on the licensure application.

MHCC is offering amendments on this bill to change the timeframe for the submission of the notice of an acquisition from 30 days to 60 days before closing on the acquisition. Additionally, we are offering an amendment to require a purchaser of a nursing home facility that has more than two beds in a room to eliminate all rooms with more than two beds within two years of the acquisition.

For the stated reasons above we ask for a favorable report with amendments on SB 509.

AMENDMENT:

Rationale: Requiring an owner and purchaser to provide notice of an acquisition 60 days before the close of the purchase allows for completion of a thorough review.

Elimination of triple and quad rooms in nursing homes will modernize the facility, improve infection control, and improve quality of care. The elimination of triple and quad rooms in nursing homes will also positively impact the issue of equity regarding nursing home facilities, especially those that have a substantial Medicaid population.

On page 3, strike lines 6 through 13 and insert the following:

(k) (5) A CERTIFICATE OF NEED IS REQUIRED BEFORE A PERSON ACQUIRES A HEALTH CARE FACILITY. ~~if a certificate of need would be required under paragraph (1) or (2) of this subsection for the acquisition by or on behalf of the health care facility.~~



(6) This subsection does not apply to:

(ii) Acquisition of a health care facility **THAT IS NOT A NURSING HOME** if, at least ~~30~~ **60** days before making the contractual arrangement to acquire the facility, written notice of the intent to make the arrangement is filed with the Commission and the Commission does not find, within ~~30~~ **60** days after the Commission receives notice, that the health services or bed capacity of the facility will be changed, provided that, for a merger with or acquisition of an existing general hospice, the purchaser of the general hospice may only acquire the authority to provide home-based hospice services in jurisdictions in which the seller of the general hospice is licensed to provide home-based hospice services;

(iii) **ACQUISITION OF A NURSING HOME IF AT LEAST 60 DAYS BEFORE MAKING THE CONTRACTUAL ARRANGEMENT TO ACQUIRE THE NURSING HOME, WRITTEN NOTICE OF THE INTENT TO MAKE THE ARRANGEMENT IS FILED WITH THE COMMISSION AND THE COMMISSION FINDS, WITHIN 60 DAYS AFTER THE COMMISSION RECEIVES NOTICE, THAT:**

1. **THE HEALTH SERVICES OR BED CAPACITY OF THE NURSING HOME WILL NOT BE CHANGED;**
2. **THE NURSING HOME BEING ACQUIRED DOES NOT CONTAIN ANY PATIENT ROOMS WITH MORE THAN TWO BEDS; AND**
3. **THE PERSON SEEKING TO ACQUIRE THE NURSING HOME WILL NOT INCREASE THE NUMBER OF BEDS PER PATIENT ROOM.**

Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

