

# **MaCCRA Testimony 2023 - Support with Amendments -**

Uploaded by: Bruce Hartung

Position: FAV



## Maryland Continuing Care Residents Association

**The Voice of Continuing Care Residents**

**Bruce Hartung, President**  
1615 C Piccard Drive #1701 Rockville, MD 20850  
[brucehartung@sbcglobal.net](mailto:brucehartung@sbcglobal.net) 301-605-7505

---

**SUBJECT:** Senate Bill 509 - Health Care Facilities - Nursing Homes - Acquisitions and Licensure

**COMMITTEES:** Senate Finance Committee  
The Honorable Melony Griffith, Chair

**DATE:** Friday, March 10, 2023

**POSITION:** **FAVORABLE with Amendments**

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. 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 509.** The acquisition or transfer of interest of nursing homes can be a stressful time for those residing in nursing facilities and their families. The continuity of care and quality of care is of the utmost concern. The more known about the purchaser and their experience in owning and operating facilities the better. Additionally, it would be helpful to have similar information, if applicable, on all individuals and entities having an ownership interest in the purchaser. This would be beneficial to have for purposes of the review to present a clear picture of all who have a stake in the transaction. For these reasons we propose the following clarifying **amendment to Senate Bill 509.**

**Amendment # 1-3:** Page 2, Lines 17, 21, and 24: After each occurrence of "PURCHASER" Insert the following:

**"AND ALL INDIVIDUALS AND ENTITIES HAVING AN OWNERSHIP INTEREST IN THE PURCHASER"**

Thank you for your consideration of our amendment and we ask for a favorable report on Senate Bill 509.

**MSCAN 2023 Testimony SB 509 - NH Acquisitions.doc.**

Uploaded by: Carol Lienhard

Position: FAV



# Maryland Senior Citizens Action Network

## MSCAN

*AARP Maryland*

*Alzheimer's  
Association,  
Maryland Chapters*

*Baltimore Jewish  
Council*

*Catholic Charities*

*Central Maryland  
Ecumenical Council*

*Church of the Brethren*

*Episcopal Diocese of  
Maryland*

*Housing Opportunities  
Commission of  
Montgomery County*

*Jewish Community  
Relations Council of  
Greater Washington*

*Lutheran Office on  
Public Policy in  
Maryland*

*Maryland Association of  
Area Agencies on Aging*

*Maryland Catholic  
Conference*

*Mental Health  
Association of Maryland*

*Mid-Atlantic LifeSpan*

*National Association of  
Social Workers,  
Maryland Chapter*

*Presbytery of Baltimore*

*St. Vincent de Paul  
Society*

*MSCAN Co-Chairs:  
Carol Lienhard  
Sarah Mücke  
410-542-4850*

## Testimony in Support of the Maryland Department of Aging Budget Senate Budget and Taxation Committee Hearing – March 6, 2023

MSCAN is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing, health, and quality of care needs of Maryland's low and moderate-income senior citizens.

MSCAN strongly urges preservation of funding in the budget for all of the cost-effective programs of the Maryland Department of Aging (MDOA) which are vital in meeting the needs of Maryland's 1.4 million and growing senior population. We commend the Department of Aging, through the local Area Agencies on Aging (AAA's), for dedication to important goals which will enable older Marylanders and adults with disabilities to remain independent in their homes with dignity for as long as possible. The AAA's have remained true to the mandate of the federal Older Americans Act, through which they are funded, "to provide services with preference given to older individuals with the greatest economic and social need with particular attention to low-income minority individuals and older adults residing in rural areas" – with the goal of leaving no senior behind.

We are grateful to the Governor for providing a \$3 million increase in funding for some of our most vital state programs: Senior Care, the Senior Assisted Living Subsidy (SALS) and the Congregate Housing Program. The additional funding for these cost-effective programs will allow the AAA's to move seniors from the lengthy waiting lists or, if needed, to provide additional services to enable Maryland's elderly citizens to remain independent in their communities where they really want to be. These programs save far more money than they cost, which is very good news for taxpayers! For example, the **Senior Care Program** provides supportive services to each client for about \$2500 per year to help seniors stay in their homes. With the Senior Care waiting list averaging 2,100 and an average of 150 seniors going to nursing homes each year before they can Senior Care receive services, the cost is staggering. **With the current annual cost of nursing home care at \$108,258**, institutionalization of just those 150 seniors would **cost the for taxpayers \$16.2 million dollars!** On the other hand, at an average cost of \$2500 per year for a Senior Care client, an **entire waiting list of 2,100 could be served for about \$5.3 million dollars – still saving taxpayers \$10.9 million dollars!**

The **Congregate Housing Services Program** is another program which provides a huge bang for the buck. 600 seniors are served in the program at an average cost of about \$3,000 per year. **With today's nursing home costs over \$9,000 per month, three frail seniors could be served for a WHOLE YEAR for the cost of ONE MONTH in a nursing home!**

We also commend the Governor for an increase of \$1 million for the Information and Assistance Program which is designated for hiring staff and increasing outreach. In addition this funding will be used as federal match for the Maryland Access Point (MAP) Federal Financial Participation (FFP) program to increase the billable service hours, thus enabling the local Area Agencies on Aging to serve even more individuals, their families and caregivers.

MSCAN stands with the Area Agencies on Aging as they remain united in their commitment to provide vital services to vulnerable older and disabled Marylanders. We commend their spirit and their dedication for "getting the job done" in spite of all obstacles!

MSCAN is eagerly looking forward to working with the new Secretary of Aging and we appreciate the opportunity to testify on behalf of the Maryland Department of Aging's budget as implemented through our local Area Agencies on Aging. Thank you for your support of all of their important work.

# **SB509 - 1199SEIU - Nursing Home Change of Ownershi**

Uploaded by: Claudia Balog

Position: FAV



Official Testimony, March 10, 2023

SB 509

*Bill Title:* Health Care Facilities - Nursing Homes - Acquisitions and Licensure

Position: **FAVORABLE**

Chairwoman Griffith, Vice Chair Klausmeier and members of the Finance Committee,  
My name is Claudia Balog, I am the Assistant Director of Research for 1199EIU United Healthcare Workers East. 1199SEIU represents over 400,000 workers up and down the east coast, and our local represents 10,000 healthcare workers across the care spectrum in hospitals, clinics, and nursing homes throughout Maryland and the District Columbia. I am here in support of SB 509 and urge the Committee to issue a favorable report.

Three years ago, a Washington Post expose uncovered the events that transpired within a chain of skilled nursing facilities owned by a New Jersey-based Private Equity group called Portopiccolo.<sup>1</sup> In response to the decline in safety and quality of care for our most vulnerable residents that was identified by our state's regulators, our legislature passed SB 704. That bill provided for increased inspections by the Office of Healthcare Quality on nursing homes purchased by out of state operators. This bill marked a good first step, however, there is still more work to be done.

**Our members who work as GNAs, LPNs, Dietary Aides, Registration Clerks and Housekeepers in skilled nursing facilities across the state can attest to the ways in which nursing homes may decline in quality following a purchase.** Those owners who are driven by profit will find ways to cut corners to save costs: this can look like eliminating housekeeping positions or the workers who prepare meals. It can also look like slashing the benefits of existing care givers, such as their vacation time and health insurance benefits. As our long-term care industry faces unprecedented levels of staffing shortages, these kinds of cuts exacerbate the problem. And changes in ownership are often abrupt. Our members, much like the family members of

---

<sup>1</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)

residents, frequently report showing up to their skilled nursing facility one day to find a notice on the door, stating that the facility is now operating under a new name.

Maryland's nursing home industry has continued to face rapid change that directly impacts the quality of care for their residents. **Maryland is 5<sup>th</sup> in the country for having the highest changes in ownership rates of nursing homes.** A federal review of nursing home ownership changes found that in Maryland 74 skilled nursing facilities - 33% of our total nursing home market - changed owners between 2016 and 2021. This data sums up the count of each change in ownership transaction, so that one skilled nursing facility may have experienced more than one change in ownership during the study period.<sup>2</sup> From that same Department of Health and Human Services Report came the finding that skilled nursing facilities with overall lower quality star ratings were sold more often compared to their counterparts with higher quality ratings.<sup>3</sup>

The Maryland Department of Health's Office of Health Care Quality (OHCQ) reports that the state's nursing home industry had 27 change-of-ownerships in FY 2020 and 24 in FY 2021. OHCQ anticipated ten Nursing Home changes of ownerships in FY 2022.<sup>4</sup> In fact, our state's Change of Ownership (CHOW) database shows nearly 30 nursing homes on the change in ownership list in 2022. Furthermore, we are only in March and so far, 7 nursing homes have been added to the CHOW list.<sup>5</sup> The rate of what is called "industry churn" has still not subsided, and nursing homes continue to change hands at a rapid pace.

The language in SB 509 provides our regulators with another tool to address the problem of out-of-state owner-operators who are more concerned with profits than providing quality care. **SB 509 connects Maryland's regulatory process for acquisition and transfer of ownership, with the separate process for a facility to receive licensure, requiring our regulators to work together.**

The Maryland Health Care Commission (MHCC) is currently charged with undertaking a review of potential owners seeking to acquire our state's nursing homes. 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 one of our nursing homes. 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.<sup>6</sup> In some of these cases, the MHCC has noted that other facilities owned or operated by the entity acquiring the nursing home had below average star

---

<sup>2</sup> See, HHS Department ASPE, CHANGES IN OWNERSHIP OF SKILLED NURSING FACILITIES FROM 2016 TO 2021: VARIATIONS BY GEOGRAPHIC LOCATION AND QUALITY, July 7, 2022.

<https://aspe.hhs.gov/sites/default/files/documents/dbab91af8491ce317a66471c361d3ec4/changes-ownership-snf.pdf>

<sup>3</sup> <https://aspe.hhs.gov/sites/default/files/documents/dbab91af8491ce317a66471c361d3ec4/changes-ownership-snf.pdf>

<sup>4</sup> 2021 Annual Report of The Oversight Committee of Quality of Care in Nursing Homes and Assisted Living Facilities

<sup>5</sup> See Long-Term Care Change of Ownership Dashboard,

<https://app.smartsheet.com/b/publish?EQBCT=94a019649f3649e68af14c6f81fb25a7>

<sup>6</sup> See: Maryland Healthcare Commission Monthly Activities Reports, November 2021- Present.

ratings on CMS Nursing Home Compare. In other cases, they owned facilities on CMS watch lists. In these cases, the MHCC would note that “the track record of the persons acquiring this [facility] would probably fail to meet the requirements for docketing of a CON application to establish or expand a under the State Health Plan Quality Rating standard...”

**HB 509 calls for the MHCC to formally share its findings with the Office of Healthcare Quality (OHCQ), the agency charged with issuing licenses to nursing home operators. SB 509 acts as a “bridge” between ownership and quality.** The MHCC will provide detailed ownership information and past and current information on the operation of nursing homes located within or outside of the state to OHCQ. When evaluating approval, denial, or the administering of provisional licenses, OHCQ will consider the findings of the Healthcare Commission. **Implementing this change would create an additional guardrail, allowing Maryland to send a message to outside owners that their quality track record matters.**

**Addressing the pace of changes in ownership in Maryland’s nursing homes benefits our entire health system.** Our State’s unique Total Cost of Care Model requires us to take a comprehensive approach to ensure that we improve our population health outcomes and quality of care. The Post-Acute and Long-Term Care Engagement Workgroup of the Health Services Cost Review Commission (HSCRC) is focused on generating ideas and policy recommendations to improve to improve quality of care, increase care coordination, and reduce costs in long-term and post-acute care settings. We have strong evidence from our state’s health systems that frequent changes in ownership can delay or impede important collaboration between hospitals and nursing homes.<sup>7</sup> Meanwhile, addressing hospital readmissions from skilled nursing facilities is critical to protecting our Medicare Waiver. This legislation bolsters those efforts.

Finally, we think it is important to note that while Private Equity has been receiving attention in the press, the problems posed in transfers of ownership are not limited to Private Equity owners, or even real estate investment trusts (REITs). These ownership models are able to benefit from a lack of ownership and financial transparency that currently exists. This is why in February, the Biden administration issued a proposed rule to require nursing homes to disclose more information regarding their ownership and management, including information related to assets held by real estate investment trusts (REITs) and private equity firms.<sup>8</sup> **While increased ownership transparency will benefit consumers, it will only be as useful to regulators as to the extent that they are proactive in using that transparency to protect consumers.**

---

<sup>7</sup> See:

<https://hscrc.maryland.gov/Documents/Modernization/Progression/HSCRC.PAC.LTC%20Workgroup%202.24.22.pdf>, page 3.

<sup>8</sup> <https://skillednursingnews.com/2023/02/cms-proposes-rule-requiring-more-nursing-home-ownership-transparency-including-reit-and-private-equity-disclosures/>

With SB 509, Maryland can ensure that our regulatory agencies are working in better coordination to protect both nursing home residents and staff. We urge you to issue a favorable report. I will be happy to answer any questions you may have.

Claudia Balog (she/her)

Assistant Director of Research

1199SEIU United Healthcare Workers East

[Claudia.balog@1199.org](mailto:Claudia.balog@1199.org)

# **SB0509\_FAV\_LifeSpan\_HC Facilities - NH - Acquisiti**

Uploaded by: Danna Kauffman

Position: FAV



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

TO: The Honorable Melony Griffith, Chair  
Members, Senate Finance Committee  
The Honorable Malcolm Augustine

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
Christine K. Krone  
410-244-7000

DATE: March 10, 2023

RE: **SUPPORT** – Senate Bill 509 – *Health Care Facilities – Nursing Homes – Acquisitions and Licensure*

---

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** Senate Bill 509.

Senate Bill 509 states that, when evaluating a notice of acquisition or transfer of interest of a nursing home, the Maryland Health Care Commission must provide its' written findings and recommendations, including the basis for the recommendations, to the Office of Health Care Quality. The findings must include the: (i) quality ratings of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility; (ii) the tax identification number of each purchaser; and (iii) the personal centers for CMS certification number of each purchaser.

Over the years, there has been increasing concern raised regarding the acquisition of nursing homes in the State. Senate Bill 509 increases communication and transparency between State agencies to ensure that, in licensing recently purchased nursing facilities, all information can be considered. We request a favorable vote.

# **SB 509 - Written Testimony - Final.pdf**

Uploaded by: Diana Jarek

Position: FAV



Diana Jarek, Attorney  
Public Justice Center  
201 North Charles Street, Suite 1200  
Baltimore, Maryland 21201  
410-625-9409, ext. 223  
jarekd@publicjustice.org

---

## SB 509– Health Care Facilities – Nursing Homes – Acquisitions and Licensure

Hearing of the Senate Finance Committee on March 10, 2023

### Position: Favorable

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization, which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project seeks to expand and enforce workers' right to an honest day's pay for an honest day's work. The PJC **supports SB 509**, which would improve quality of care in Maryland's nursing homes by requiring the Maryland Health Care Commission (MHCC) to provide information to the Office of Health Care Quality (OHCQ) concerning the quality ratings of other facilities owned by the purchaser of a nursing home before taking action to grant or deny licensure to operate a nursing home by a new owner.

**Problem 1: Despite a surge in private equity ownership in nursing homes, there are significant gaps in information about the firms investing in this industry.**

- Private equity acquisition of nursing homes has soared from 2010 to 2019 with estimated private equity deals totaling over \$750 billion.<sup>1</sup>
- The complex business structures and general opacity of the private equity industry make it difficult to track ownership changes and ensure regulatory compliance.
- These same structures also allow owners to reap considerable profits while limiting financial transparency.

**Problem 2: Nursing homes controlled by private equity firms statistically offer a lower quality of care than their peers.**

- For more than a decade, private equity-owned nursing homes have faced scrutiny for detrimental impacts on patient care.
- A recent study found that residents in nursing homes acquired by private equity firms were 11.1% more likely to have a preventable emergency department visit and 8.7% more likely to

---

<sup>1</sup> Scheffler, et al, 2021. "Soaring Private Equity Investment in Healthcare" American Antitrust Institute & Petris Center at UC Berkeley. Available at <https://www.antitrustinstitute.org/wp-content/uploads/2021/05/Private-Equity-I-Healthcare-Report-FINAL-1.pdf>.

experience a preventable hospitalization, when compared to residents of for-profit nursing homes not associated with private equity.<sup>2</sup>

- In the last year, a dozen nursing homes have been acquired by new owners that have been flagged by the Maryland Health Care Commission for a poor-quality track record in other facilities they own.<sup>3</sup>

**Problem 3: There is a disconnect between various public agencies' oversight roles concerning the acquisition, licensure, and quality of care compliance of nursing homes.**

- The Maryland Healthcare Commission (MHCC) conducts an analysis of facilities to approve acquisitions. However, that information is not required to be taken into consideration by the Office of Healthcare Quality (OHCQ), which is responsible for approving licenses and ensuring on-going quality of care at the facilities.
- Without data on facility owners' history of nursing home management, OHCQ may struggle to prevent poor facility management from hurting quality of care Marylanders receive.

**Solution: When nursing homes are transferred or acquired, SB 509 requires regulating agencies to work together and exchange certain information to prevent bad actors with bad track records from operating in the state.**

- When evaluating a notice of acquisition or transfer of interest of a nursing home, MHCC will share its findings from its analysis of facilities with OHCQ, *including detailed ownership information and past and current information on the operation of nursing homes located within or outside of the state.*
- OHCQ will consider MHCC's findings when evaluating approval, denial, or administering of provisional licenses.
- This information sharing will increase transparency and prevent private equity firms with a history of poor quality of care from obtaining licensure –and without licensure, they cannot operate.

For the foregoing reasons, the PJC **SUPPORTS SB 509** and urges a **FAVORABLE** report. Should you have any questions, please contact Diana Jarek at [jarekd@publicjustice.org](mailto:jarekd@publicjustice.org) or 410-625-9409 ext. 223.

---

<sup>2</sup> Jama Health Forum, "Association of Private Equity Investment in US Nursing Homes With the Quality and Cost of Care for Long-Stay Residents," November 19, 2021. Available at <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2786442>.

<sup>3</sup> Maryland Health Care Commission, Monthly Activities Reports, November 2021- Present. See also The Washington Post, "An investment firm snapped up nursing homes during the pandemic. Employees say care suffered." December 21, 2020. Available at [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).

# **SB 509 - Health Care Facilities - Nursing Homes -**

Uploaded by: Donna Edwards

Position: FAV



# MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

7 School Street • Annapolis, Maryland 21401-2096

Balto. (410) 269-1940 • Fax (410) 280-2956

*President*

**Donna S. Edwards**

*Secretary-Treasurer*

**Gerald W. Jackson**

**SB 509 - Health Care Facilities - Nursing Homes - Acquisitions and Licensure  
Senate Finance Committee  
March 10, 2023**

**SUPPORT**

**Donna S. Edwards  
President**

**Maryland State and DC AFL-CIO**

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 509. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

Patients deserve high quality healthcare without having to worry about whether or not their provider has plans to slash staffing and cut services before selling their company to the highest bidder. Private equity firms have gained notoriety over the last few years for their high profile takeovers of large retailers like Toys R' Us. These investors are infamous for acquiring companies through taking on large amounts of debt and then laying off staff in order to pay themselves.<sup>1</sup>

Unfortunately, our country's healthcare industry is now a target, with the Private Equity Stakeholder Project (PESP) finding over 125 buyouts and 503 add-on acquisitions occurring in 2022.<sup>2</sup> This should raise alarm bells as PESP reports, "The common private equity strategy of pursuing outsized returns over relatively short periods of time can lead to cost-cutting efforts that negatively impact patients and workers. Further, private equity firms are more likely to use debt to fund their investments, leading to unwieldy debt service obligations that can divert money away from patient care and fair compensation for employees."

Patients, families, and workers deserve transparency in this essential industry. SB 509 provides this by requiring the Office of Healthcare Quality to consider who is actually purchasing nursing home providers and their record of quality care before approving mergers or acquisitions. This is a commonsense measure that protects our state from investors that want to turn our health care infrastructure into a quick buck. We urge a favorable report on SB 509.

---

<sup>1</sup> Jon Skolnik, "The Grim Secrets of Private Equity." The New Republic. September 22, 2022.

<sup>2</sup> Mary Bugbee, Eileen O'Grady, and Michael Fenece, "Recent Trends in Private Equity Healthcare Acquisitions." Private Equity Stakeholder Project. February 2023.

**SB509\_FAV\_AlzheimersAssociationMD.pdf**

Uploaded by: Eric Colchamiro

Position: FAV

Testimony of the Alzheimer's Association Greater Maryland and National Capital Area Chapters  
**SB 509 - Health Care Facilities - Nursing Homes - Acquisitions and Licensure**  
Position: Favorable

Chair Griffith and Vice Chair Klausmeier,

The Alzheimer's Association – representing the over 110,000 Marylanders with Alzheimer's and other forms of dementia, along with their caregivers – is here today in strong support of Senate Bill 509, which requires the Maryland Health Care Commission to provide certain information regarding the acquisition of a nursing home to the Office of Health Care Quality; and requires the Secretary of Health to consider the information before acting regarding licensure to operate a nursing home.

In recent years, the General Assembly has worked to increase inspections on skilled nursing homes following a transfer of ownership. This is important, because according to the fiscal note attached to that law, on average, 19 nursing homes in Maryland change ownership to an entity outside of the State annually. And why does that matter? It matters because, increasingly, these facilities are being owned by for-profit entities who are tasked with caring for our most vulnerable. It matters because of entities like the New Jersey based Portopiccolo Group, who bought more than 20 nursing homes during the coronavirus pandemic, leading to disruptions at multiple facilities that weakened care for vulnerable residents amid the worst health crisis in generations.

Increased inspections is a solution. More authority for the Maryland Health Care Commission, in reviewing these transfers of ownership—in the same way that they review new facilities—is a possible solution. And this legislation, facilitating the flow of information from one part of the Maryland Department of Health to another—the Maryland Health Care Commission to the Office of Healthcare Quality—is a solution which I wish we did not have to legislate. But we do. And our state will be better for it. We urge a favorable report.

# **SB 509 Health Care Facilities- Nursing Homes- Acqu**

Uploaded by: Erin Dorrien

Position: FAV



Maryland  
Hospital Association

March 10, 2023

To: The Honorable Melony G. Griffith, Chair, Senate Finance Committee

Re: Letter of Support- Senate Bill 509- Health Care Facilities- Nursing Home Acquisitions and Licensure

Dear Chair Griffith:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 509. Maryland hospitals support requiring the Maryland Health Care Commission to provide certain information about the acquisition of a nursing home to the Office of Health Care Quality and requiring the Secretary of Health to consider this information before taking certain action regarding licensure to operate a nursing home.

Between 2020 and 2022, 19-23% of Medicare beneficiaries discharged from an acute care hospital stay were admitted to a nursing home for skilled nursing care. Access to high quality care in nursing homes is essential to decrease avoidable hospital admissions and readmissions and improve overall patient outcomes and safety for this population. Additionally, it is critical that hospitals can discharge patients to nursing homes without delay to manage acute care capacity, length of stay, and emergency department wait times.

Affirming that facility owner/operators can provide high quality medical and nursing care, have stable finances, and adhere to state and federal regulation is essential to ensure quality care post hospital discharge. This is critical to daily hospital operations and performance under the Total Cost of Care Model. Maryland patients deserve quality nursing home care.

For these reasons, we urge a *favorable* report for Senate Bill 509.

For more information, please contact:  
Erin Dorrien, Vice President, Policy  
Edorrien@mhaonline.org

# **Testimony for Reggie.pdf**

Uploaded by: Jane Henderson

Position: FAV

## Testimony IN FAVOR of SB 509

Presented to the Finance Committee of the Maryland Senate.

March 10, 2023

From Jane Henderson  
(former executive director of Communities United)

Chairwoman Griffith, Vice Chair Klausmeier and members of the Committee,

I am here today to honor the memory of Reginald Smith, who on August 1, 2022, at the age of just 59, died from a bleed out from his central line while a long-term patient at the ProMedica (formerly ManorCare) Rossville at 6600 Ridge Rd in Baltimore County.

In his memory, I ask for you to pass SB 509.

I had been visiting Reggie, as his fellow members of Communities United knew him, in ManorCare/Promedic facilities for more than four years. I was his “family” contact and so I was who the facility called on August 1, first to tell me they had called 911 and then, maybe 5 minutes late, to tell me he had died. The nurse was clear and honest about exactly what had happened: while hooked up to an IV, blood suddenly started flowing out of him when his central line had for some reason reversed flow. He bled out in just a few minutes as a central line goes directly to the heart. I was told that the temporary nurse who had been administering the IV had been immediately dismissed and reported to the state board of nursing.

Wanting to make sure I had it exactly right, I called back the next day, spoke to the same nurse who told me the same story. I also spoke with other patients that Reggie had befriended who were present in the dining hall when it happened. All confirmed the same story. The friend who had sat next to him chatting told me that she had never in her life seen so much blood. Staff and patients alike were traumatized.

So imagine my shock when I saw Reggie’s death certificate two weeks later listing his cause of death as hypertension, diabetes, and renal failure – the medical conditions that had put him in the nursing home **NOT the immediate cause of his death**. Even the death date is wrong, almost a week after he died.

In the days following Reggie's death, I learned that any death by bleeding out is required to be reported to the state medical examiner, who determines if further investigation is in order. I spoke with that office almost every other day in that first week. Of course, they would never receive any notice of Reggie's death. ProMedica seemed to easily cover it up and any questions about the quality of care at their facility that it might have raised. Once the death certificate was released, the staff at Promedica Rossville who had once been so honest and comforting and even offered to pay for his cremation (which would be carried out before his sister saw or received his death certificate), all stopped answering my calls.

I continue to be in touch with a few of Reggie's friends still in the Rossville facility. While visiting with three women last month, they shared with me their hopes for rehabilitative care that can send them back home. One had requested a transfer because she is so dissatisfied. They say their care is constantly sacrificed to staff shortages, which mean more temporary nurses and that no one gets all the help that they need. And the facility is terribly crowded. On the long-term care floor, three beds are crammed into a room, leaving no room for guests or to maneuver their wheelchairs. And everyone, everyone will tell you the food is terrible: few if any fresh fruit or vegetables, lots of white flour and empty carbohydrates (even on diabetics' plates!) and generally bad tasting. (So easy to cut corners in this area to increase the bottomline.)

I am here today to demand accountability from ProMedica Rossville and all nursing homes operators with whom we trust our most vulnerable people. I hold the management of the nursing home accountable for the death of my friend Reggie.

I know something about central lines having had a son go through a bone marrow transplant over a decade ago. I was constantly told by his nurses what a huge risk it posed to infection and exactly what happened to Reggie. The supervising medical staff at the nursing home had to know it was a huge liability. One of Reggie's nurses at another ProMedica facility recently told me that she always avoided central lines and left them to dialysis and other appropriately trained nurses. Reggie's central line was put in so he could begin emergency dialysis in December 2021 and days later he was transferred to Rossville for their in-patient dialysis services. Shortly after, they had inserted the *much safer* arm port, which had been used for dialysis for months. His central line should have been *long gone* by April or May. But its removal required an appointment and trip to the hospital. As a Medicare patient, it often took months for him to get appointments and some were canceled when transportation was not available or fell through. Indeed, he fully lost his eyesight just weeks into his initial admission to a ProMedica facility, but by the time an appointment was arranged, the doctor told him it was too late to treat and his sight loss was permanent.

The appointment that Reggie's caregivers finally made for removal of his central line would be too late to save him. The morning of August 1, just a couple hours before he died, Reggie had

called me and shared that he was scheduled to go to the hospital in a few days to have it removed. He also told me there were concerns about an infection and that he would be getting antibiotics.

I am very clear that ProMedica's corporate management, driven by more concern about bottom lines than people, is what killed my friend Reggie. Our for-profit healthcare system is the real killer. ***At minimum, SB 509 will scrutinize who we allow to invest in nursing homes in Maryland, to keep out private equity, the profiteers or whatever you want to call those hoping to turn a profit off of human suffering.*** The worst actors do have bad track records in other states if we at least bother to look. I am only just beginning to learn why ManorCare spun off and rebranded some of their facilities as ProMedica, which staff have told me is "non-profit." I have seen only a continued deterioration in care at two of their facilities despite this change.

Don't let your loved one be the next one to be neglected or even killed. Please pass SB 509.

Jane Henderson  
[jhenderson.clark@gmail.com](mailto:jhenderson.clark@gmail.com)  
240-338-2579 (cell)

**SB0509-FIN-FAV.pdf**

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**SB0509**

March 10, 2023

**TO:** Members of the Senate Finance Committee  
**FROM:** Nina Themelis, Interim Director of Mayor's Office of Government Relations  
**RE:** Senate Bill 509 Health Care Facilities - Nursing Homes - Acquisitions and Licensure

**POSITION: Support**

Chair Griffith, Vice Chair Klausmeier, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill 509.

SB 509 requires the Maryland Health Care Commission, when evaluating a transfer of ownership of a nursing home, to provide information to the Maryland Office of Health Care Quality on the entity acquiring the facility, including its Center for Medicare and Medicaid Services (CMS) quality rating, its tax ID number, and its Medicare and Medicaid Services Certification Number. SB 509 will result in more transparency for entities purchasing nursing homes in Maryland, and documentation of whether they have a record of operating facilities that provide quality care to residents.

The Baltimore City Long Term Care Ombudsman program, under federal and State law, acts as an advocate for residents of Baltimore nursing homes and assisted living facilities. The Ombudsman responds to resident complaints about a wide range of issues including poor quality of care, inadequate staffing, and physical, psychological and financial abuse.

In the past five years, the Ombudsman estimates that ownership has changed for 11 of Baltimore City's 28 nursing homes. The owners of all 11 of these appear to operate in multiple states. Five of the 11 have CMS quality ratings of one star (the quality ratings range from one to five stars, with one being the lowest quality rating). The Ombudsman has found that increasingly, as ownership of facilities is transferred to national entities, including private equity firms, that ownership of the facility becomes increasingly difficult to ascertain, and accountability for violation of resident rights is difficult to establish.

SB 509 is a minimal step toward establishing more transparency for nursing homes in Maryland, by requiring applicable State agencies to share information about the entities acquiring nursing homes in Maryland.

For these reasons, the BCA respectfully requests a **favorable** report on SB 509.

**SB 509\_DRM\_Fav.pdf**

Uploaded by: Randi Ames

Position: FAV

**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

---

<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.

---

<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.

**SB509\_SLTCO\_SEllis.pdf**

Uploaded by: Stevanne Ellis

Position: FAV

## **Bill: HB 702 and SB 509 – Health Care Facilities – Nursing Homes – Acquisitions and Licensure**

**Position: Support**

**March 9, 2023**

The Maryland Long-Term Care Ombudsman program advocates for residents in nursing homes and assisted living facilities in Maryland. Ombudsmen work to resolve complaints that can have adverse effects on the quality of care, safety, health, and quality of life of the citizens that reside in these facilities. In Maryland, ombudsmen provide these services to the over 50,000 citizens that live and receive services in nursing homes and assisted living facilities.

There have been a significant number of facilities in Maryland that have had a change of ownership in last few years. These nursing homes are often part of a nursing home company or chain that have acquired nursing home licenses and have gone through the current change of ownership or CHOW process.

How were these providers vetted prior to licensure? Would additional information and requirements have ensured better resident care?

For many years, the Ombudsman program's number one complaint in nursing homes was discharge and discharge related complaints. For the last three years, the highest number of complaints have been related to nursing home care. Care related issues are often related to lack of continuity of care, lack of individualized care, and staffing concerns. When companies change hands, often there are changes in staff, policy, and leadership. These changes are often implemented in every nursing home operated by that corporation. As result, the quality of care may change in all facilities affiliated with that corporation. Lately, the complaints indicate that care concerns are related to issues with staffing. It is not uncommon for the Ombudsman Program to receive complaints related to call bell response time and the resulting issues related to long waits. This leads to a host of care concerns that affect the quality of care, quality of life, dignity, and the overall health and well-being of the residents.

It is the hope of the Ombudsman Program that the closer scrutiny of nursing home companies that want to do business in Maryland will help prevent these and other care concerns. Many nursing homes are linked with REITs and private equity companies. For those companies that have a financial model and obligation to their owners, studies and recent news reports indicate that that care suffers, there is higher staff turnover and both result in poor outcomes for residents.

I ask the Committee to consider my comments and offer a favorable report for this bill.

Sincerely,

Stevanne Ellis

Maryland State Long-Term Care Ombudsman

References:

<https://www.advisory.com/daily-briefing/2021/03/16/nursing-homes-ratings>

<https://www.gao.gov/products/gao-23-104813>

<https://skillednursingnews.com/2023/02/cms-proposes-rule-requiring-more-nursing-home-ownership-transparency-including-reit-and-private-equity-disclosures/>

Change of ownership information:

<https://app.smartsheet.com/b/publish?EQBCT=94a019649f3649e68af14c6f81fb25a7>

# **SB 509 Health Care Facilities Nursing Homes Acqui**

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 509 Health Care Facilities - Nursing Homes - Acquisitions and Licensure**  
**Senate Finance Committee**  
**FAVORABLE**  
**March 10, 2023**

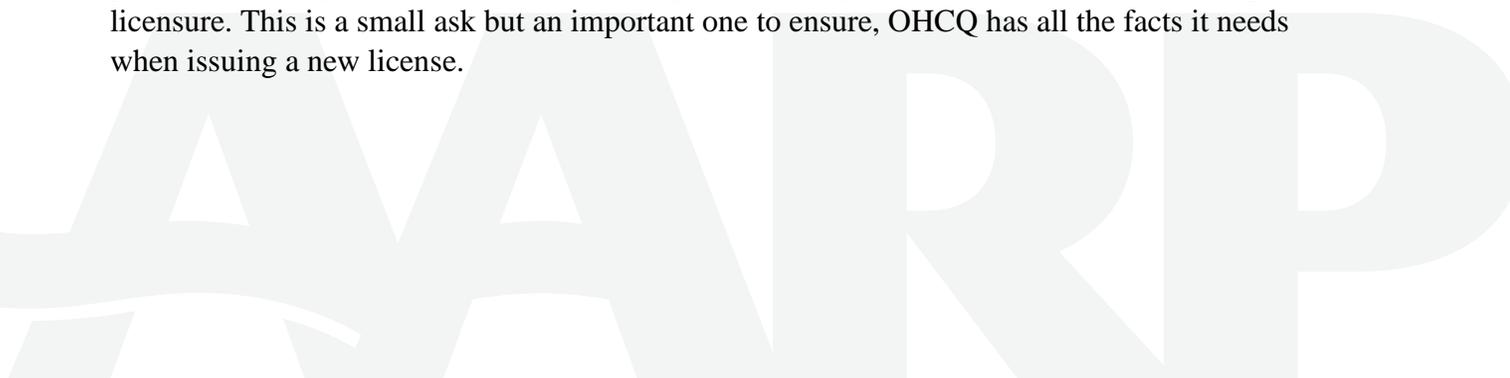
Good afternoon, Chair Griffith and members of the Senate Finance Committee. I am Tammy Bresnahan, Senior Director of Advocacy for AARP MD. On behalf of our almost 900,000 members, we would like to thank you for the opportunity to speak in support of SB 509 Health Care Facilities—Nursing Homes—Acquisitions and Licensure. We thank the Senator Augustine for sponsoring SB 509.

SB 509 requires the Maryland Health Care Commission to provide information regarding the acquisition of a nursing home to the Office of Health Care Quality and requires the Secretary of Health to consider the information before licensure to operate a nursing home.

There are many reasons why a full, clear, and constant view into the workings of nursing homes is important, especially considering the significant role nursing homes play in long-term services and supports. Nursing homes provide a wide range of services to about 30,000 people annually in Maryland. Usually serving individuals with greater needs than those in assisted living or other residential settings. Nursing homes are required to provide everything a resident might need, including nursing care, 24-hour supervision, three meals a day, assistance with activities of daily living, and rehabilitation services (physical, occupational, speech). Most of the care is funded through taxpayer dollars.

Without a clear understanding and insight into a nursing home's provision and quality of services, there is no comprehensive ability to know whether nursing homes are effective, efficient, and providing quality care. Greater transparency and communication between state agencies could help consumers, their families, regulators, and advocates understand how nursing homes are directing the care they are responsible for providing residents.

When individuals enter a nursing home, protecting the quality of care requires regulators to work together to put up guardrails to prevent bad actors from practicing in our state. When evaluating a notice of acquisition or transferring interest of a skilled nursing home, the Maryland Health Care Commission to share its findings with the Office of Health Care Quality (OHCQ). At that point, the OHCQ should consider the findings of the Maryland Health Care Commission prior to licensure. This is a small ask but an important one to ensure, OHCQ has all the facts it needs when issuing a new license.



AARP believes that intra-agency cooperation is necessary. Open-book policies of transparency around all data related to nursing home licensure performance and quality that is used in monitoring, oversight, licensure, quality, and resident health and welfare should be available to state agencies responsible for the oversight of skilled nursing facilities.

For these reasons, AARP MD respectfully requests a favorable report on SB 509. If you have additional questions, please contact me at [tbresnahan@arp.org](mailto:tbresnahan@arp.org) or by calling 410-302-8451.

# **2023 Legislation - MHCC Position Stmt - SB 509 (Nu**

Uploaded by: Ben Steffen

Position: FWA



**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.*



**SB509.LOSWA.pdf**

Uploaded by: Heather Forsyth

Position: FWA

**ANTHONY G. BROWN**  
*Attorney General*

**CANDACE MCLAREN LANHAM**  
*Chief of Staff*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

Writer's Fax No.  
410.576.6571



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

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

Writer's Direct Dial No.  
410.576.6513

March 9, 2023

**TO:** The Honorable Melony Griffith  
Chair, Senate Finance Committee

**FROM:** Office of the Attorney General, Health Education and Advocacy Unit

**RE:** SB0509 – Health Care Facilities – Nursing Homes – Acquisitions and  
Licensure: **Letter of Support with Amendments**

The Office of the Attorney General, Health Education and Advocacy Unit, writes this Letter of Support for Senate Bill 509 with recommendations to strengthen its intent to ensure robust review of nursing home acquisitions and transfers of interest.

This bill amends the Health General Article, Title 19-Health Care Facilities, to add to the Maryland Health Care Commission (MHCC) duties relating to nursing homes. MHCC would be required, when evaluating a notice of acquisition or transfer of interest of a nursing home, to provide written findings and recommendations, including the basis for such recommendation, to the MDH Office of Health Care Quality (OHCQ), including CMS established quality ratings of other facilities owned by the purchaser and tax identification and CMS certification numbers of the purchaser. The bill further requires the Secretary of Health to consider the findings and recommendations provided by MHCC to the OHCQ before taking any action regarding licensure to operate the nursing home.

The HEAU supports the intent of this bill because it would serve Marylanders to have MHCC and MDH develop a robust process to vet operators of nursing homes at the change of ownership stage. However, limiting the review to the CMS established quality ratings omits many other sources of discoverable information about the quality of care nursing home operators offer in other facilities, especially those operated outside the

State.<sup>1</sup> A number of research studies have shown the quality of care provided by a nursing home can be related to its ownership characteristics,<sup>2</sup> so a robust evaluation of potential nursing home owners/operators by State regulators is vital to protecting disabled and aged Marylanders. Calls for greater transparency, particularly of private equity acquisition of health care entities and better oversight of health system consolidation, are also increasing at the federal level. See, <https://khn.org/news/article/private-equity-ownership-of-nursing-homes-triggers-federal-probe/>.

Other information appropriate to form the basis for a recommendation for licensure should include:

- Evidence that facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, maintained a quality assessment and assurance committee that met or meets regularly, no less than quarterly, within the preceding three-year period;
- IOC (Inspection of Care) Reports and any resulting corrective action plans of facilities currently or previously owned, within or outside the state, by the purchaser of the health care facility, within the preceding three-year period;
- Licensing or certification surveys and any resulting corrective action plans of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, within the preceding three-year period;
- Licensing or disciplinary actions against any individual agent or employee of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, within the preceding three-year period; and
- Lawsuits or arbitration filings by any patient or patient representative against facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, within the preceding three-year period.

With this amendment to add additional indicia of nursing home quality and regulatory compliance to the review of licensure applications, the HEAU would request a favorable report for SB509. We have shared this proposed amendment with staff at the MHCC and they are in accord.

cc: Senator Malcolm Augustine

---

<sup>1</sup> The CMS “Five Star Quality Rating System” gives each nursing home a rating between 1 and 5 stars. Nursing homes with 5 stars are considered to have much above average quality and nursing homes with 1 star are considered to have quality much below average. There is one Overall 5-star rating for each nursing home, and separate ratings for health inspections, staffing and quality measures. As these rating mechanisms are based on averages, they are not necessarily accurate reflections of significant under-performance in important areas of quality of care and regulatory compliance. In addition, the ratings are based on data submitted by the nursing homes, which is not always accurate. See, <https://www.advisory.com/daily-briefing/2021/03/16/nursing-homes-ratings>

<sup>2</sup> <https://www.gao.gov/products/gao-23-104813>

**1 - SB 509 - FIN - MHCC - LOSWA.pdf**

Uploaded by: State of Maryland (MD)

Position: FWA



**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.*



# **HFAM Letter of Information SB 509.pdf**

Uploaded by: Joseph DeMattos

Position: INFO



March 10, 2023

The Honorable Melony Griffith  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 509: Health Care Facilities - Nursing Homes - Acquisitions and Licensure

Dear Chair Griffith and Members of the Senate Finance Committee:

First, genuine thanks for the dedication you are putting into conducting the people's business in this 445<sup>th</sup> Session of the Maryland General Assembly. We are writing to offer context and background regarding Senate Bill 509: Health Care Facilities - Nursing Homes - Acquisitions and Licensure.

Providing quality care to Marylanders in need is the steadfast focus of the vast majority of long-term and post-acute care providers in the State, as well as the Health Facilities Association of Maryland (HFAM).

There are 225 skilled nursing and rehabilitation centers in Maryland. We estimate that from 2019 to January 1, 2022, 103 skilled nursing centers were sold, with a few being sold more than once. Such extreme turnover in ownership can present challenges to consistent quality care.

However, it is important to note that in healthcare – and specifically in skilled nursing facilities – sales are not inherently negative and not all new operators are of poor quality. Often, a sale can be a positive step toward new capital improvements and investments in quality care.

At unprecedented levels, most nursing home sales that have taken place in Maryland have been financially backed by private equity, family businesses, or Real Estate Investment Trust (REIT) financing. Not all REITs operate under the same parameters and one would have to go back to the Great Recession of 2008 to understand the entry of REITs into various enterprises, including skilled nursing facilities.

The increase of transactions in our sector began about six years ago and sales have recently slowed. These sales have been driven primarily by personal family business wealth and only somewhat by REITs. Nationally, there has been much media coverage about hedge-fund ownership of skilled nursing facilities but I know of just one such owner in Maryland that perhaps fits that definition – The Portopiccolo Group.

In my experience, healthcare operational challenges after a sale are less about the funding source and more about an organization becoming over-leveraged while not adequately investing in quality care. This can be true across traditional and non-traditional funding sources.

There are current statutory and regulatory requirements for the change of ownership of skilled nursing facilities and other healthcare entities in Maryland with oversight from the Maryland Health Care Commission (MHCC), the Office of Health Care Quality (OHCQ), and the Maryland Department of Health (MDH).

Senate Bill 509 requires the Maryland Health Care Commission to provide certain information regarding the acquisition of a nursing home to the Office of Health Care Quality, and requires the Secretary of Health to consider the information before acting regarding licensure to operate a nursing home.

While well-intentioned, there are several technical flaws in this legislation. For example, owner-operators of skilled nursing facilities do not have personal Medicare and Medicaid numbers – those numbers are assigned to facilities.

HFAM has never advocated that the Centers for Medicare and Medicaid Services (CMS) Five-Star Rating System should be the sole measure of quality care. While the CMS rating system can be a helpful tool, it should not be relied on exclusively to make care decisions. That is especially true coming out of the COVID-19 pandemic at a time when the State has a backlog in annual inspections and when inspections often take weeks to complete at a single center when they are conducted.

In addition, some provisions are similar or redundant to current change of ownership requirements.

**A few final points:**

- In advocating and advising on regulatory issues, HFAM’s traditional stance is that regulations should uniformly apply across settings. This would mean that if the ownership of skilled nursing facilities is to be more heavily scrutinized, then the same should be true of other settings, just as an example, Med Surge centers.
- Skilled nursing facilities are amongst the most regulated healthcare entities in Maryland and across the nation.
- MDH, MHCC, and OHCQ already have regulatory tools in place to require more transparency regarding transactions in healthcare generally and skilled nursing facilities specifically.
- Lastly, I worry about a time in the future when these well-intentioned steps could make it difficult for new and better operators to assume ownership of underperforming centers.

All of this said, we agree that the recent sales history of healthcare entities does warrant a closer look. In partnership with the long-term care sector, the State government will review aspects of financing and, most importantly, direct measures of quality and care delivery. Quality care and people must remain our steadfast focus.

*Respectfully submitted,*

Joseph DeMattos, MA  
President and CEO  
(410) 290-5132