



Official Testimony, March 30, 2023

SB 509

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

Position: **FAVORABLE**

Chairwoman Pena-Melnyk, Vice Chair Cullison and Members of the 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 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 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.

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. This bill strengthens Maryland’s ability to use any improved disclosures resulting from the Biden administration’s efforts in a proactive manner.**

We also support language added to the bill in Section 2 creating a workgroup to study and make recommendations on issues such as the elimination of patient rooms with more than two beds. We believe that decisions by nursing home owners to invest in quality improvements in facilities - such as eliminating rooms with more than two beds - go to the very essence of what this bill is seeking to accomplish. Too many of our state’s nursing home acquisitions fail to result in improvements that protect the quality of life for residents.

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.

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