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HB 702- Health Care Facilities – Nursing Homes – Acquisitions and Licensure

Hearing of the House Committee on Economic Matters, March 9, 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 HB 702**, 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.¹
- 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

¹ 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.²

- 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.³

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, HB 702 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 HB 702** and urges a **FAVORABLE** report. Should you have any questions, please contact Diana Jarek at jarekd@publicjustice.org or 410-625-9409 ext. 223.

² 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>.

³ 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.