

Bill: HB 1122 Maryland Health Care Commission – Nursing Homes – Acquisitions

Position: Favorable with Amendments

March 5, 2024

The Maryland Long-Term Care Ombudsman program advocates for residents in nursing homes and assisted living facilities in Maryland including residents that reside in continuing care retirement communities. 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.

This bill is a consumer protection bill. The importance of ownership and fiscal transparency cannot be stressed enough. When long-term care and long-term care residents are viewed as a commodity, it is not about resident care, it is about profit. In these cases, resident care suffers. This has been shown in studies about care provided in private equity companies. In Maryland, there are serious issues in facilities because of a financial based model of care rather than a resident focused model of care. In these cases, individualized care is not provided, corners are cut for profit, and quality is not given which can lead to hospitalization or even deadly consequences.

It is critical to understand who owns and who wants to purchase a nursing home. The information related to who owns the nursing home whether it is an individual, a family, or a corporation should be publicly available and accessible. If there are relationships with related parties (and who owns those businesses), if the nursing home is considered a private equity company, real estate investment trust or has a similar financial model, the public should know. This provides understanding about how the nursing home does business and who the nursing home is fiscally beholden.

This is a national level concern that even the White House is watching. The need for nursing home transparency is crucial right now with the growing rise of private equity companies taking over, cutting costs, and then selling the nursing homes. I have provided a list of resources that provide detailed information related to the need for increased transparency in the acquisition of nursing homes and nursing home finances as a reference to the committee.

I am supporting this bill, but requesting the following amendments:

The definition for acquisition should be changed from 25% to 5% of stock or ownership in a health care facility. This is the requirement in other states. In California, the definition includes the transfer, purchase, or sale of ownership interest in a facility or licensee of 5 percent or more. This is also the minimum requirement in the final rule issued by the Centers for Medicare and Medicaid Services related to nursing home acquisitions. This will allow for greater transparency in the acquisition process.

When evaluating a notice of acquisition or transfer of interest in a nursing home, the Maryland Health Care Commission (MHCC) reviews the applicant including their CMS star-ratings, inspection reports, surveys, and lawsuits. However, this review has been removed from the proposed statute, along with the requirement that the findings and recommendations of the MHCC are transmitted to the Office of Health Care Quality (OHCQ). The omitted language beginning on page two, line 23 through the following page ending at line 21 should not be omitted. The information should be required as part of the vetting process during the acquisition. The Office of Healthcare Quality will consider any findings or recommendations of the MHCC before taking any action on a license.

Additionally, the State Long-Term Care Ombudsman should be consulted during the acquisitions process along with the Attorney General whether the acquisition raises public interest concerns. The Long-Term Ombudsman Program is aware of complaints in nursing homes across the state as well as trends in corporations. Additionally, the State Long-Term Care Ombudsman works on advocacy at both a

local, state and national level and may have information vital to the acquisition process.

Lastly, the recommendations from the Nursing Home Acquisitions and Licensures Recommendations Report should be adopted specifically the pre-acquisition and post-acquisition comments provided on pages 9-10 in that report.

To protect residents in Maryland, this bill is essential. Maryland should be a state where residents want to seek out rehabilitation and long-term care in nursing homes. Maryland should not be a state where private equity firms see an easy cash grab. This bill will help ensure that the nursing homes that do business in Maryland are not just fiscally transparent, but that it is clear who owns the nursing homes and the business relationships that the facilities have. Maryland citizens have a right to know who is doing business in Maryland and who is accountable for the care provided to residents in nursing homes in the state.

Having a more thorough acquisition process will help ensure that the companies that provide care for residents in nursing homes are concerned about providing quality services in Maryland and are not here just to make a profit.

I respectfully ask for my comments to be considered and offer favorable report for this bill with amendments that I have suggested.

Sincerely,

Stevanne Ellis

Maryland State Long-Term Care Ombudsman

Resources:

NASEM Recommendations which include that HHS must ensure accurate and comprehensive real-time data on finances, operations and ownership of nursing homes, and that the data is readily usable and searchable by consumers: [The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff | The National Academies Press](#)

CMS Final Rule on Ownership Disclosure frequently reinforces that 5% is the threshold for ownership disclosure: [2023-25408.pdf \(govinfo.gov\)](#)

California Assembly Bill 1502: [Bill Text: CA AB1502 | 2021-2022 | Regular Session | Amended | LegiScan](#)

Connecticut House Bill 6731: [Bill Text: CT HB06731 | 2023 | General Assembly | Chaptered | LegiScan](#)

OWNER INCENTIVES AND PERFORMANCE IN HEALTHCARE: PRIVATE EQUITY INVESTMENT IN NURSING HOMES <http://www.nber.org/papers/w28474>