

Chapter 817

(House Bill 1122)

AN ACT concerning

Maryland Health Care Commission – Nursing Homes – Acquisitions

FOR the purpose of requiring a person, before ~~making a contractual agreement for the closing on an~~ acquisition of a nursing home, to submit a request for acquisition to the Maryland Health Care Commission and provide certain notice to certain individuals; establishing requirements regarding the approval or denial of a request for acquisition; providing for judicial review of a final decision of the Commission regarding a request for acquisition of a nursing home; requiring a person who acquires a nursing home to submit a certain report to the Commission on a certain basis; and generally relating to the acquisition of a nursing home.

BY repealing and reenacting, without amendments,

Article – Health – General
Section 19–114(a)
Annotated Code of Maryland
(2023 Replacement Volume)

BY adding to

Article – Health – General
Section 19–114(a–1) and 19–120.2
Annotated Code of Maryland
(2023 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 19–115, 19–120(k)(6)(ii), 19–1401.1, and 19–1401.2
Annotated Code of Maryland
(2023 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–114.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(A–1) “ACQUISITION” MEANS:

(1) A TRANSFER OF STOCK OR ASSETS THAT RESULTS IN A CHANGE OF THE PERSON THAT CONTROLS A HEALTH CARE FACILITY; OR

(2) THE TRANSFER OF MORE THAN 25% OF STOCK OR OWNERSHIP INTEREST IN A HEALTH CARE FACILITY.

19–115.

(a) In addition to the duties set forth elsewhere in this subtitle, in this Part II of this subtitle, the Commission shall:

(1) Act as the State agency to represent the State under Title VI of the federal Public Health Service Act; **AND**

(2) Periodically participate in or perform analyses and studies that relate to:

(i) Adequacy of services and financial resources to meet the needs of the population;

(ii) Distribution of health care resources;

(iii) Allocation of health care resources;

(iv) Costs of health care in relationship to available financial resources; or

(v) Any other appropriate matter[]; and

(3) When evaluating a notice of acquisition or transfer of interest of a nursing home in accordance with § 19–120(k)(6)(ii) of this title, provide the Commission’s written findings and recommendations to the Office of Health Care Quality, including:

(i) Quality ratings of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility, based on the most recent Five–Star Quality Rating System established by the Centers for Medicare and Medicaid Services;

(ii) For the immediately preceding 3–year period:

1. Evidence that facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility maintained quality assessment and assurance committees that met at least quarterly;

2. Inspection of care reports and corrective action plans of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility;

3. Licensing and certification surveys and corrective action plans of facilities currently or previously owned, within or outside the State, by the purchaser of the health care facility; and

4. 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;

(iii) The Tax Identification Number of each purchaser; and

(iv) The personal Centers for Medicare and Medicaid Services Certification Number of each purchaser].

[(b) The findings and recommendations required to be provided to the Office of Health Care Quality under subsection (a)(3) of this section shall include a summary of the findings and the basis for the recommendations.]

[(c) (B) In addition to the duties set forth elsewhere in this Part II of this subtitle, the Governor shall direct, as necessary, a State officer or agency to cooperate in carrying out the functions of the Commission.

[(d) (C) This State recognizes the federal act and any amendment to the federal act that does not require State legislation to be effective. However, if the federal act is repealed or expires, this Part II of this subtitle remains in effect.

19–120.

(k) (6) This subsection does not apply to:

(ii) ~~Acquisition~~ AN ACQUISITION of a health care facility if[, at]:

1. AT least 30 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 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; ~~AND OR~~ AND

2. ~~THE FACILITY IS A NURSING HOME AND~~ FOR AN ACQUISITION OF A NURSING HOME, THE ACQUISITION HAS BEEN APPROVED IN ACCORDANCE WITH § 19-120.2 OF THIS SUBTITLE;

19-120.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COMMISSION.

(3) “NURSING HOME” HAS THE MEANING STATED IN § 19-1401 OF THIS TITLE.

(4) “REQUEST FOR ACQUISITION” MEANS A REQUEST FOR THE COMMISSION TO APPROVE THE ACQUISITION OF A NURSING HOME.

(B) A PERSON SHALL PROVIDE NOTICE TO THE COMMISSION AT LEAST 30 DAYS BEFORE THE CLOSING OF A CHANGE OF OWNERSHIP OF A NURSING HOME THAT:

(1) INVOLVES AT LEAST A 5% TRANSFER IN OWNERSHIP INTEREST;
AND

(2) IS NOT AN ACQUISITION THAT REQUIRES APPROVAL UNDER SUBSECTION (C) OF THIS SECTION.

~~(B)~~ (C) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACQUISITION THAT INVOLVES ONLY CHANGES OF OWNERSHIP INTERESTS AMONG EXISTING OWNERS OF A NURSING HOME.

(2) AT LEAST ~~120~~ 60 DAYS BEFORE ~~MAKING A CONTRACTUAL ARRANGEMENT FOR~~ THE CLOSING DATE OF THE ACQUISITION OF A NURSING HOME, A PERSON SHALL:

~~(1)~~ (I) SUBMIT TO THE COMMISSION A REQUEST FOR ACQUISITION; AND

~~(2)~~ (II) PROVIDE NOTICE TO THE RESIDENTS, RESIDENT REPRESENTATIVES, AND ~~STAFF~~ EMPLOYEES OF THE NURSING HOME THAT:

~~(H)~~ 1. THE REQUEST FOR ACQUISITION WAS SUBMITTED TO THE COMMISSION; AND

~~(H)~~ 2. THERE WILL BE AN OPPORTUNITY TO SUBMIT COMMENTS IN ACCORDANCE WITH SUBSECTION ~~(H)~~ (F) OF THIS SECTION.

~~(E)~~ (D) (1) THE EXECUTIVE DIRECTOR SHALL REVIEW A COMPLETED REQUEST FOR ACQUISITION WITHIN ~~60~~ 45 DAYS AFTER RECEIVING THE COMPLETED REQUEST FROM THE APPLICANT.

(2) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE SECRETARY OR THE SECRETARY'S DESIGNEE, MAY:

(I) APPROVE THE ACQUISITION;

(II) APPROVE THE ACQUISITION WITH CONDITIONS;

(III) DENY THE ACQUISITION; OR

(IV) REFER THE REQUEST FOR ACQUISITION TO THE COMMISSION FOR A FINAL DECISION.

~~(D)~~ (E) TO APPROVE A REQUEST SUBMITTED UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE EXECUTIVE DIRECTOR MUST FIND THAT THE ACQUISITION:

(1) IS CONSISTENT WITH THE STATE HEALTH PLAN; AND

~~(2) WILL RESULT IN THE DELIVERY OF MORE EFFICIENT AND EFFECTIVE HEALTH CARE SERVICES; AND~~

~~(3)~~ SUBJECT TO SUBSECTION ~~(E)~~ (F) OF THIS SECTION, IS IN THE PUBLIC INTEREST.

~~(E)~~ (F) IN DETERMINING WHETHER AN ACQUISITION OF A NURSING HOME IS IN THE PUBLIC INTEREST, THE EXECUTIVE DIRECTOR SHALL:

(1) SOLICIT AND ACCEPT COMMENTS FROM INDIVIDUALS WHO:

(I) RESIDE IN THE NURSING HOME;

(II) HAVE FAMILY MEMBERS WHO RESIDE IN THE NURSING HOME; OR

(III) ~~ARE EMPLOYED AT~~ EMPLOYEES OF THE NURSING HOME;
AND

(2) CONSULT WITH THE ATTORNEY GENERAL ON WHETHER THE ACQUISITION RAISES PUBLIC INTEREST CONCERNS.

~~(F)~~ (G) IF THE EXECUTIVE DIRECTOR REFERS A REQUEST FOR ACQUISITION TO THE COMMISSION UNDER SUBSECTION ~~(C)(2)(IV)~~ (D)(2)(IV) OF THIS SECTION, THE COMMISSION SHALL USE THE CRITERIA SPECIFIED IN ~~SUBSECTION (D)~~ SUBSECTIONS (E) AND (F) OF THIS SECTION OR AND REGULATIONS ADOPTED BY THE COMMISSION TO MAKE A FINAL DECISION WITHIN 60 DAYS AFTER RECEIVING THE COMPLETED REQUEST FROM THE APPLICANT.

~~(G)~~ (H) IF THE EXECUTIVE DIRECTOR DENIES A REQUEST FOR ACQUISITION OR IMPOSES A CONDITION ON THE APPROVAL OF THE ACQUISITION, A PERSON THAT IS ~~AN INTERESTED~~ A PARTY TO THE ACQUISITION MAY SUBMIT A WRITTEN REQUEST FOR THE COMMISSION TO REVIEW THE DECISION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

~~(H)~~ (I) (1) A DECISION OF THE COMMISSION UNDER SUBSECTION ~~(F)~~ OR (G) (G) OR (H) OF THIS SECTION SHALL BE A FINAL DECISION FOR THE PURPOSE OF JUDICIAL REVIEW.

(2) A PERSON THAT IS ~~AN INTERESTED~~ A PARTY TO THE ACQUISITION MAY TAKE A DIRECT JUDICIAL APPEAL WITHIN 30 DAYS AFTER THE COMMISSION MAKES THE FINAL DECISION.

(3) THE COMMISSION SHALL SEND EACH FINAL DECISION TO THE SECRETARY, THE SECRETARY OF AGING, THE OFFICE OF HEALTH CARE QUALITY, ~~AND~~ THE OFFICE OF THE ATTORNEY GENERAL, AND THE STATE LONG-TERM CARE OMBUDSMAN.

~~(I)~~ (J) (1) ON OR BEFORE JULY 1 IMMEDIATELY FOLLOWING THE ACQUISITION OF A NURSING HOME AND ~~EVERY~~ EACH YEAR FOR 3 YEARS THEREAFTER, THE PERSON THAT ACQUIRED THE NURSING HOME SHALL SUBMIT A REPORT TO THE COMMISSION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

(2) THE COMMISSION SHALL PROVIDE THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE SECRETARY, THE SECRETARY OF AGING, THE OFFICE OF HEALTH CARE QUALITY, ~~AND~~ THE OFFICE OF THE ATTORNEY GENERAL, AND THE STATE LONG-TERM CARE OMBUDSMAN.

~~(J)~~ (K) (1) THE COMMISSION SHALL ADOPT REGULATIONS THROUGH AN UPDATE TO THE STATE HEALTH PLAN FOR FACILITIES AND SERVICES TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(2) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL:

(I) REQUIRE THE PERSON THAT ACQUIRED OWNERSHIP OF A NURSING HOME TO:

1. REDUCE THE NUMBER OF RESIDENT ROOMS IN THE NURSING HOME THAT CONTAIN MORE THAN TWO BEDS IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE COMMISSION; OR

2. RECEIVE A WAIVER FROM THE REQUIREMENT ESTABLISHED UNDER ITEM 1 OF THIS ITEM FROM THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE COMMISSION;

(II) 1. IF NECESSARY, ALLOW THE PERSON THAT ACQUIRED OWNERSHIP OF A NURSING HOME TO TEMPORARILY DELICENSE BEDS FOR AT LEAST 3 YEARS IMMEDIATELY FOLLOWING THE ACQUISITION TO REDUCE THE NUMBER OF RESIDENT ROOMS THAT CONTAIN MORE THAN TWO BEDS; AND

2. AUTHORIZE THE COMMISSION TO EXTEND THE PERIOD THE BEDS ARE TEMPORARILY DELICENSED BEYOND 3 YEARS FOR GOOD CAUSE SHOWN, INCLUDING DEMONSTRATED PROGRESS TOWARD ELIMINATING MULTIBEDDED ROOMS BY EXPANDING THE EXISTING FACILITY OR TRANSFERRING THE BEDS TO ANOTHER FACILITY WITHIN A MERGED ASSET SYSTEM IN THE SAME JURISDICTION;

~~(H)~~ (III) ESTABLISH STANDARDS FOR THE EVALUATION OF THE QUALITY OF THE ~~FACILITIES~~ NURSING HOMES CURRENTLY OR PREVIOUSLY OWNED, WHETHER IN THE STATE OR OUTSIDE THE STATE, BY THE PERSON THAT SUBMITTED A REQUEST FOR ACQUISITION; AND

~~(H)~~ (IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ESTABLISH CRITERIA FOR THE EXECUTIVE DIRECTOR AND THE COMMISSION TO CONSIDER WHEN MAKING A DECISION REGARDING A REQUEST FOR ACQUISITION.

(3) THE CRITERIA ESTABLISHED BY THE COMMISSION UNDER PARAGRAPH ~~(2)(H)~~ (2)(IV) OF THIS SUBSECTION SHALL REQUIRE THAT THE COMMISSION TAKE INTO CONSIDERATION WHETHER ANY ~~FACILITY~~ NURSING HOME CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PERSON SUBMITTING THE REQUEST, FOR THE PERIOD OF 3 YEARS IMMEDIATELY PRECEDING THE SUBMISSION OF THE REQUEST:

(I) MAINTAINED A QUALITY ASSESSMENT AND ASSURANCE COMMITTEE THAT MET AT LEAST QUARTERLY;

(II) WAS THE SUBJECT OF AN ENFORCEMENT ACTION, A SPECIAL FOCUS FACILITY DESIGNATION, SURVEY, OR PLAN OF CORRECTION OR A DEFICIENCY INVOLVING SERIOUS OR IMMEDIATE THREAT, ACTUAL HARM, OR IMMEDIATE JEOPARDY TO A RESIDENT; OR

(III) WAS THE SUBJECT OF A LAWSUIT, ~~A~~ JUDGMENT, OR AN ARBITRATION FINDING, FOLLOWING A COMPLAINT FILED BY A RESIDENT OR, RESIDENT REPRESENTATIVE, OR A GOVERNMENT AGENCY.

19-1401.1.

(a) (1) In addition to the requirements for licensure of a related institution as provided in this title, an applicant for licensure of a nursing home shall include in the application the identity of:

(i) Any person with an ownership interest in the nursing home; and

(ii) Any management company, landlord, or other business entity that will operate or contract with the applicant to manage the nursing home.

(2) (i) The person acquiring a nursing home shall provide the Department with written notice of the acquisition or change in operator at the same time as the notice required under [§ 19-120(k)(6)(ii)] **§ 19-120.2** of this title is filed with the Maryland Health Care Commission.

(ii) For other changes to the information required under paragraph (1) of this subsection, the nursing home shall notify the Department within 30 days after the effective date of the change.

(b) An applicant for licensure shall submit to the Secretary or the Secretary's designee evidence:

(1) That affirmatively demonstrates the ability of the applicant to comply with minimum standards of:

(i) Medical care;

(ii) Nursing care;

(iii) Financial condition; and

(iv) Other applicable State or federal laws and regulations; [and]

(2) Regarding the regulatory compliance history and financial condition of any health care facility owned or operated by the applicant in other jurisdictions; **AND**

(3) THAT A REQUEST FOR ACQUISITION FOR THE NURSING HOME WAS APPROVED IN ACCORDANCE WITH § 19-120.2 OF THIS TITLE.

19-1401.2.

~~¶(a)¶~~ On review of the information required under § 19-1401.1 of this subtitle and any other information that is relevant to the ability of the applicant to operate a nursing home, the Secretary may:

- (1) Approve an application for a license;
- (2) Deny an application for a license;
- (3) Approve an application for a license subject to conditions; or
- (4) Revoke a license.

~~¶(b)¶~~ Before taking action on a license under subsection (a) of this section, the Secretary shall consider any findings and ~~recommendations~~ **DECISIONS** of the Maryland Health Care Commission provided to the Office of Health Care Quality under ~~§ 19-115~~ **§ 19-120.2** of this title.¶

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission shall adopt the regulations required under § 19-120.2(j) of the Health – General Article, as enacted by Section 1 of this Act, on or before January 1, 2025 to be applicable to acquisitions executed after the adoption of the regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 16, 2024.