



Official Testimony – House Health and Government Operations Committee
Maryland Health Care Commission – Nursing Homes – Acquisitions
SB 1000
Position: **FWA**

Dear Chair Beidle, Vice Chair Klausmeier and Members of the Committee,

My name is Claudia Balog, I am the Assistant Director of Research for 1199SEIU United Healthcare Workers East. We are the largest healthcare workers union in the nation, and represent 10,000 workers in long-term care facilities, hospitals and clinics throughout Maryland and the District of Columbia. 1199SEIU urges this Committee to issue a favorable report on SB1000 with Amendments.

1199SEIU has been sounding the alarm on the lack of transparency in Nursing Home ownership and the rapid pace of transfers of ownership in Maryland’s nursing homes. We are also a member of the Moving Forward Nursing Home Quality Coalition’s Committee on Ownership Data Transparency and Accountability Work Group. Our calls for increased transparency on these transactions have been echoed nationally.

In 2022, the National Academy of Sciences, Engineering and Medicine (NASEM) identified nursing home ownership transparency as a crucial component to improving the quality of care in skilled nursing facilities. In 2023 the Center for Medicare & Medicaid Services (CMS) issued a final rule on nursing home ownership transparency that includes asking states to establish change of ownership reporting requirements and to collect data related to the increasingly complicated ownership structures of skilled nursing facilities. This bill launches a good start for Maryland to join states like California and Connecticut in setting more rigorous review standards for changes in ownership.

Understanding who owns a skilled nursing facility and makes the kinds of operational decisions that impact staffing and care quality, is crucial, and yet, currently, quite challenging. Questions to ask: Who makes the financial decisions that impact staffing levels? Who makes the decisions that impact things like the quality of food that residents receive? Are nursing home operators contracting with related third parties who financially benefit their common owners? Based on the ways that both the Federal Government and some states are attempting to address ownership transparency we believe that SB1000 can be strengthened with the following Amendments:

1. Creating a 5 percent threshold for ownership review.

The bill currently defines acquisition as “the transfer of more than 25 percent of stock or ownership interest.” That threshold may not be high enough to give the Health Care Commission meaningful oversight over the nursing home market. As the nursing home market rapidly constricts – with complex and often highly distributed entities (e.g., REITs and Private Equity firms) playing a big role – states and the federal government are moving to a five percent threshold for reporting, oversight, and intervention of the kind Maryland is considering. We encourage Maryland to consider a similar threshold not only to ensure this bill achieves its goals, but also to ensure Maryland is in line with national standards as licensure and data systems become increasingly integrated across state lines. We are very concerned that setting a threshold of 25 percent will allow many potentially detrimental transactions to fly under the radar of the state. We have discussed the 5 percent threshold with the Maryland Health Care Commission (MHCC) and we understand the challenges in implementing a 5 percent threshold for the Acquisition side of the process while the Office of Healthcare Quality (OHCQ) uses a 25 percent threshold for licensure review. Therefore, we would also support statutory language that would require a nursing home to give the MHCC notice of a 5 percent change of ownership and allow the MHCC to collect additional data around such a transaction. We hope for continued discussion around developing a state review process where a 5 percent threshold is the standard for both acquisition and licensure.

2. Ensure a robust scope of review by the Maryland Health Care Commission.

When evaluating a notice of acquisition or transfer of interest in a nursing home, the Maryland Health Care Commission 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). We understand that the MHCC plans to look at the scope of review in future regulations. However, California and Connecticut have intentionally placed these standards and scope of review in statute. We believe that it is appropriate for Maryland to do so as well. Furthermore, we encourage the state to collect more information from nursing home owners for this review, including any lease agreements and management contracts that would go into effect upon acquisition.

3. Ensure that the Office of Healthcare Quality continues to evaluate the recommendations of the Maryland Health Care Commission.

The current statute states that the Office of Healthcare Quality will consider any findings or recommendations of the MHCC before taking any action on a license. Once again, SB1000 removes this requirement, and we strongly suggest putting this language back into the statute. 1199SEIU has taken notice of activities reports generated by MHCC Staff to MHCC Commissioners detailing information gathered about applicants seeking acquisition of Maryland's skilled nursing facilities. We are impressed with the MHCC's attempts to untangle ownership in our nursing homes, including tracking down the quality records of these applicants in other states.

Speaking as a union research director, my colleagues and I are often asked to identify the ownership of a facility when workers and/or residents inform us of issues related to care quality. There are facilities where ownership is straightforward, and discerning how operational decisions are made is equally straightforward. Unfortunately, ownership of nursing homes is increasingly tangled by design. We look forward to conversations with both MHCC and OHCQ Staff about ways both agencies can improve their scope of review. We urge the state to consider other ways control of nursing homes may change hands that could affect quality of care. Some common examples to consider are exchange of ownership within a family, the sale of real property on which a nursing home is situated, the purchase of debt against the nursing home, change of management companies, and other exchanges of beneficial ownership that may not be classified as acquisition. Legislation in other states has addressed some of these concerns.

Finally, we applaud language in SB1000 that ensures that those who reside in a nursing home, their family members and nursing home employees will be made aware of -and can comment- when an application is submitted for a change in ownership. Workers such as GNAs, housekeepers and dietary aides have reported to us that they often are not even aware that the nursing facility they work for has changed hands until they see a sign on the door, or worse, until they receive a communication from management that their benefits are being changed due to new ownership. Notice to -and input from- the very people whose daily lives are impacted by these decisions are necessary. This language is also in line with the CMS Final Rule, which directs that the public have improved access to ownership data.

For these reasons 1199SEIU urges you to issue a Favorable report on SB1000 with Amendments. I am happy to provide any additional information on this topic and can be reached at claudia.balog@1199.org.

Sincerely,

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