



2024 SESSION
POSITION PAPER

BILL NO: SB 1000
COMMITTEE: Senate Finance Committee
POSITION: Support
TITLE: Health Care Facilities - Nursing Homes - Acquisitions

BILL ANALYSIS

SB 1000 requires a person, before making a contractual agreement for the acquisition of a nursing home, to submit a request for acquisition to the Maryland Health Care Commission (MHCC or Commission). The bill also requires that notice be given to Residents and staff of an impending acquisition of a nursing home. Additionally, *SB 1000* establishes the requirements regarding the approval or denial of a request for acquisition and provides for judicial review of a final decision of the Commission.

POSITION AND RATIONALE

The MHCC is in support of *SB 1000- Maryland Health Care Commission - Nursing Homes – Acquisitions*. *SB 1000* seeks to codify recommendations made by the Nursing Home Acquisitions Workgroup (Workgroup) in its [final report](#).¹ Legislation passed in the 2023 legislative session *SB509/Chapter 288 and HB 702/Chapter 289* required MHCC, in consultation with stakeholders, to study and make recommendations regarding the expansion of the MHCC’s authority over acquisitions of nursing homes. The Workgroup was also charged to assess the elimination of patient rooms with more than two beds and address any other issues related to acquisitions of nursing homes. The Workgroup issued its report in January 2024 which provided recommendations broken out in several categories: pre-acquisition, post-acquisition, statutory changes, and recommendations specific to the Maryland Department of Health, the Office of the Attorney General, and the Long-term Care Ombudsman.

In recent years, Maryland has seen an increase in private equity (PE) acquisitions of nursing homes, and this has raised concerns about how these transactions impact the quality of care. The increase is due to four reasons. The first is that Maryland has a lower penetration of

¹ Nursing Home Acquisitions and Licensures Recommendations Report, January 2024, Maryland Health Care Commission available at https://mhcc.maryland.gov/mhcc/pages/home/workgroups/documents/nh_acq/wkgrp_nh_acq_final_rpt_01102024.pdf

Medicare Advantage plans than most states and more traditional Medicare, which yields higher reimbursement for investors. Secondly, Maryland has a comparatively higher Medicaid reimbursement rate than most states. Third, the regulatory environment in Maryland is not viewed to be overly contentious when compared to other states. Lastly, Maryland seniors have higher incomes making it more likely that residents will pay for a greater share of nursing care out-of-pocket rather than through Medicaid. These four factors make Maryland attractive to PE firms, real estate investment trusts, and high net worth individuals who wish to invest in nursing homes.

Given these concerns, the MHCC added a review of the performance and quality of care track record of those acquiring persons by using the Centers for Medicare and Medicaid Services (CMS) Five-Star Quality Rating System (Nursing Home Compare). The addition of the quality rating analysis was codified in the legislation passed last session. MHCC's review of CMS' quality ratings track record of persons acquiring nursing homes in Maryland has found that the quality ratings would disqualify a proportion of acquiring purchasers from obtaining a certificate of need to establish, relocate, or expand a nursing home however MHCC did not have the authority to deny the transaction. There have been six acquisitions in the year to date in 2024, and three of the six purchasers would not have passed the quality standard in a CON review.

SB 1000 expands the MHCC's authority to consider the track record of a person seeking to acquire a nursing home, including the quality of other facilities. MHCC's review will focus on the quality and compliance history of the acquiring person's other nursing homes. Additionally, this bill retains the elements of the nursing home acquisition review passed during the 2023 legislative session and requires the MHCC to provide a copy of their findings and decision to the Secretary of Health, and the Maryland Department of Health's, Office of Health Care Quality (OHCQ). The MHCC also supports the added protections and transparency for facility Residents and staff with notice requirements of an acquisition and allowing for an opportunity to participate in the review. Based on information compiled by staff or submitted by the purchaser, the MHCC Executive Director or the Commission must conclude that the acquisition is consistent with the State Health Plan; will result in the delivery of more efficient and effective health care services; and is in the public interest.

This bill would also require the acquired facility to submit annual reports for three years post-acquisition, which will provide valuable information to monitor the impact of the acquisition. Finally, the MHCC will adopt regulations to further refine the requirements of *SB 1000*, including the requirement to reduce rooms with 3 or 4 beds, as well as requiring a review and appeal process for parties to the acquisition, and annual report requirements. The MHCC has worked with the industry stakeholders, Department of Health, Office of Health Care Quality, and the Department of Aging, to come to a consensus on amendments to the bill. Therefore, we support the sponsor amendments.



For these reasons we support *SB 1000* and ask the Committee for a favorable report.

