



August 19, 2024

Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Subject: 1199SEIU Comments to COMAR 10.24.20 Draft Regulations

Representing 400,000 healthcare workers across five states, 1199SEIU United Healthcare Workers East is the largest healthcare workers union in the country. 1199SEIU UHWE has long been a leading advocate on behalf of workers and their patients, to improve quality in the Long-Term Care Industry. In Maryland, 1199SEIU represents thousands of nursing home workers across the state. Our advocacy to improve standards in the Nursing Home industry includes participating with the Moving Forward Coalition, a collaboration between industry leaders and advocates dedicated to advancing a series of recommendations of the National Academy of Sciences, Engineering and Medicine (NASEM) to improve the quality of care in nursing homes.

It is with this experience that we respectfully submit the informal comments below, aimed at ensuring that the Maryland Health Care Commission receives the best information available to make determinations concerning changes in ownership and nursing home acquisitions.

Comment 1. 10.24.20.04 (C)(1)(iii): This section currently requires the applicant to provide “a chart that delineates the ownership structure”

1199SEIU recommends that the regulations replicate the requirement from the CMS Federal Rule on Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities.[1] We believe it is important for any submitted chart to capture details about family relationships, REITs or Private Equity ownership.

Proposed Change to 10.24.20.04 (C)(1)(iii): “A chart that when completed delineates the ownership structure and organizational structure, including the relationships of each party to the provider home and to each other.

Comment 2. COMAR 10.24.20 (C)(2) - The draft language on Acquisitions currently exempts changes of ownership among existing owners of the nursing home from Regulation .06 of the chapter.

We are concerned that exempting these changes of ownership potentially allows changes which can materially impact the operations of, and conditions in, a nursing facility. An existing owner of a nursing home could transfer their shares to another existing owner, who could make decisions that result in changes to operations, such as a change in vendor or management company.

We recommend removing this exemption from the Regulations.

Comment 3. 10.24.20.06(A)(1) - The language in this section exempts acquisitions that only involve changes of ownership among existing owners of the nursing home.

For the reason cited in Comment 2, we recommend removing this exemption from the Regulations.

Comment 4. 10.24.20.06(A)(3)(f): ‘Report the acquiring person’s current debt to income ratio’

1199SEIU recognizes that this section is seeking to require upon the acquiring entity a disclosure to include a demonstration of their financial capacity to operate the facility. We have seen other states adopt similar measures; however, we believe that this language could be strengthened. In California, the passage of AB 1502 created a requirement for facilities to provide evidence that they can operate a facility for 90 days. We are concerned that with the absence of audited cost reports in Maryland, providing only a debt-to-income ratio could allow acquiring entities who lack the financial capacity to operate a facility to fall through the cracks.

We recommend these regulations adopt the same language as California, which provides a stronger foundation to demonstrate financial capacity.

Comment 5. 10.24.20.06(A)(3)(g): Provide any additional information requested by the Commission.

Across our union our members have experienced management companies acting in a manner that qualifies them as “controlling persons” of the facility, often with the power to hire and fire employees. Rhode Island’s licensure regulations require submission of contracts with Management Companies, along with a requirement that those companies comply with state regulations.[2]

1199SEIU recommends that the Commission require applicants to submit for review any contracts they are engaged in or entering into with management companies.

Comment 6. 10.24.20.06(C)(1)(b)(iii): “A list of and organizational chart for all related entities that provide any service, facility or supply to the acquired nursing home”

States such as New York have stronger disclosure requirements for related entities, including financial statements of those entities. This is because related party profits can obscure the overall profitability of a nursing home. **1199SEIU recommends that this section add on the end, “and financial statements of those related parties.”**

Comment 7. 10.24.20.06(C)(c)(iv) “Staff turnover and retention strategy;”

1199SEIU agrees with this recommended report on staffing. However, because continuity of care is so crucial to the experience of residents, overdependence on workers employed by staffing agencies, particularly in a nursing facility’s Nursing Department, can have negative impacts on quality for residents. Staffing agency utilization is already reported by nursing homes to CMS in the form of payroll based journal data.

We recommend that the Commission add “Staffing agency utilization” to this disclosure.

We appreciate your consideration of these Comments. Please do not hesitate to reach out to Claudia Balog at claudia.balog@1199.org or Loraine Arikat at loraine.arikat@1199.org with any questions.

Sincerely,

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[1] <https://www.federalregister.gov/documents/2023/11/17/2023-25408/medicare-and-medicaid-programs-disclosures-of-ownership-and-additional-disclosable-parties>

[2] <https://rules.sos.ri.gov/regulations/part/216-40-10-1> See section 1.7.2 - Additional Information Required of all Nursing Facilities