



# Maryland Health Care Commission: Nursing Home Acquisitions Transparency Study

WORKGROUP MEETING 4

SEPTEMBER 15, 2023 12-2PM



# Agenda

- ▶ Welcome
- ▶ Meeting Minutes: August 25, 2023
- ▶ Multi-Bed Rooms (3+ beds) and Current Requirements
- ▶ Options for Quality Oversight
- ▶ Possible Pathway to Recommendations
- ▶ Tentative Next Steps



# Multi-Bed Rooms (3+ beds) and Current Requirements



# Number of Nursing Homes and Beds in Maryland

Jurisdiction	Triple Beds	Quad Beds	Total Triple/Quad Beds	Total Number of Nursing Home Beds	% of Beds that are Triple/Quad	Number of Nursing Homes
<b>Allegany</b>	9	52	61	908	6.7%	8
<b>Anne Arundel</b>	87	48	135	1,762	7.7%	15
<b>Baltimore County</b>	654	68	722	5,244	13.8%	45
<b>Baltimore City</b>	183	148	331	3,717	8.9%	27
<b>Calvert</b>	15	16	31	292	10.6%	3
<b>Caroline</b>	6	0	6	193	3.1%	2
<b>Carroll</b>	99	168	267	921	29.0%	10
<b>Cecil</b>	0	0	0	442	0.0%	3
<b>Charles</b>	0	0	0	507	0.0%	4
<b>Dorchester</b>	0	0	0	233	0.0%	2
<b>Frederick</b>	9	24	33	1,082	3.0%	8
<b>Garrett</b>	0	0	0	317	0.0%	4



# Number of Nursing Homes and Beds in Maryland

Jurisdiction	Triple Beds	Quad Beds	Total Triple/Quad Beds	Total Number of Nursing Home Beds	% of Beds that are Triple/Quad	Number of Nursing Homes
<b>Harford</b>	15	0	15	817	1.8%	6
<b>Howard</b>	0	0	0	604	0.0%	6
<b>Kent</b>	0	0	0	228	0.0%	3
<b>Montgomery</b>	36	132	168	4,567	3.7%	34
<b>Prince George's</b>	498	76	574	2,973	19.3%	20
<b>Queen Anne's</b>	0	0	0	120	0.0%	1
<b>St. Mary's</b>	0	0	0	571	0.0%	3
<b>Somerset</b>	0	52	52	211	24.6%	2
<b>Talbot</b>	0	0	0	269	0.0%	2
<b>Washington</b>	57	48	105	1,007	10.4%	10
<b>Wicomico</b>	30	88	0	613	19.2%	4
<b>Worcester</b>	0	0		307	0.0%	3



# Current Laws Surrounding Multi-Bed Rooms in Nursing Homes

- ▶ **Comprehensive Care Facility Standards** (4) Appropriate Living Environment. An applicant shall provide to each resident an appropriate living environment that demonstrates compliance with the most recent FGI Guidelines. In addition, an applicant shall meet the following standards: COMAR 10.24.20.15 (a) In a new construction project: (i) Develop rooms with no more than two beds for each resident room; (ii) Provide individual temperature controls for each room; (iii) Assure that no more than two residents share a toilet; and (iv) Identify in detail, by means of architectural plans or line drawings, plans to develop a comprehensive care facility that provides a cluster/neighborhood design or a connected household design, rather than an institutional design, consistent with the most recent FGI Guidelines. COMAR 10.24.20.05A

- ▶ **Facility Guidelines Institute (FGI) Requirements Used for CON**

The most recent FGI Guidelines require no more than two residents per room with a shared toilet in new construction, and no more than four residents per room in renovations. Single resident rooms are encouraged. Comprehensive care facilities will be required to provide an appropriate living environment, consistent with the latest FGI Guidelines. COMAR 10.24.20.03B

- ▶ **Waiver Beds**

The Commission shall not authorize beds for a facility that has patient rooms with more than two beds unless the facility agrees to eliminate or reduce to the maximum extent possible the number of multi-bed rooms as a result of the bed addition. COMAR 10.24.20.04C



# Multi-Bed Rooms: Benefits and Drawbacks

## ▶ Benefits of Multi-Bed Rooms

### ▶ For residents

- Can be helpful with avoiding resident isolation (i.e., loneliness)
- Possibly lower private pay rates for multi-bed rooms

### ▶ For nursing homes

- Possibly more efficient for staffing patterns/requirements

## ▶ Drawbacks of Multi-Bed Rooms

### ▶ For residents and nursing homes

- Presents barriers to infection prevention (e.g., COVID)

### ▶ For residents

- Lack of privacy and dignity for the resident

## ▶ Additional considerations for requiring elimination of multi-bed rooms during the acquisition process:

- Need for nursing homes to incur the expenditure of reducing multi-bed rooms
- Possibility of incomplete acquisition



# Multi-Bed Rooms: Solutions to Consider (3-Year Time Frame)

- ▶ Options for changing the acquisitions regulation
  - All multi-bed rooms are removed
  - To the extent possible, reduce multi-bed rooms
  - Make no changes
  - Other options?





# Options for Quality Oversight



# Bill Requirements Beginning October 1, 2023

- ▶ Beginning October 1, 2023, MHCC is required to provide certain information regarding the acquisition of a nursing home to OHCQ; requiring the Secretary of Health to consider the information before taking certain action regarding licensure to operate a nursing home
  - The quality ratings of facilities currently or previously owned by the purchaser within or outside the State as specified;
  - For the immediately preceding three-year period, for facilities currently or previously owned, within or outside the State, by the purchaser: (1) evidence that facilities maintained quality assessment and assurance committees that met at least quarterly; (2) inspection of care reports and corrective action plans; (3) licensing and certification surveys and corrective action plans; and (4) lawsuits or arbitration filings by any patient or patient representative against facilities;
  - The tax identification number of each purchaser;
  - The Centers for Medicare and Medicaid Services certification number of each purchaser; and
  - A summary of MHCC findings and the basis for the recommendations.



# Possibilities for Robust Quality Oversight

- ▶ Actions MHCC could take to regulate nursing home acquisitions
  - Align MHCC CON quality standards\* regulations with nursing home acquisitions
  - Add performance requirements derived from the MHCC Nursing Home Family Experience of Care Survey for existing Maryland nursing homes
  - Track abuse flags and Special Focus Facility status before and after acquisition

\* CON quality standards will undergo a review



# Possibilities for Quality Oversight Through Financial Requirements

- ▶ Require newly acquired facilities to spend a defined % of revenue on patient care
  - Establish a benchmark based on data from strong performing facilities on Medicaid Cost Reports
- ▶ Require the facility operator to submit operating budgets for the first two years after acquisition
  - Align increased revenues with increased expenditures on the facility and staff
  - Monitor increases in Medicare revenue and track evidence of upcoding
- ▶ Require disclosure of current debt levels and plans to incur additional debt
- ▶ Require a letter of credit/bond at the time of acquisition to pay for any future judgments
- ▶ Create a ceiling on rent levels and increases if the facility is renting its property back
- ▶ Check for violations of the False Claims Act



# Possibilities for Quality Oversight Through Staffing and Legislative Requirements

- ▶ Create a barrier to laying off staff
  - ▶ Define a timeframe
  - ▶ Include provisions for poor-performing staff
- ▶ Prohibit NDAs with staff and residents
- ▶ OHCQ should implement current legislative requirements (e.g., surveys/inspections soon after acquisitions) and publicly report findings
- ▶ Publish the results of the MHCC acquisition review and allow residents, families, staff, and community members to comment prior to the transaction closing



# Possible Pathway to Recommendations



# Possible Pathway to Recommendations

- ▶ **Proposal for Increase in Transparency, Accountability and Quality: Nursing Home Acquisitions**
  - ▶ 60 days prior to the transaction closing, the applicant shall submit the required documentation for an acquisition
  - ▶ In the following monthly report, the Commission will post a summary of the transaction
- ▶ **Comprehensive Review Process**
  - ▶ The Commission shall review documentation and write a comprehensive summary examining any factors that are required by regulation and in the public interest
  - ▶ Report to OHCQ/Health Secretary
  - ▶ The Secretary shall approve, approve with conditions, or deny the acquisition request, weighing benefits against any adverse effects of the transaction
- ▶ **Post Transaction Oversight**
  - ▶ **Quarterly** Report to the State (OHCQ or MHCC) on Compliance



# Tentative Next Steps

- ▶ Draft recommendations to workgroup September 29
  - ▶ Feedback from workgroup due by October 9
- ▶ Presentation to Commission
- ▶ Meeting 5 if necessary
- ▶ Report due to the General Assembly on December 1, 2023