



# Maryland Health Care Commission: Nursing Home Acquisitions Transparency Study

WORKGROUP MEETING 5

NOVEMBER 13, 2023



# Agenda

1. Welcome
2. Meeting Minutes: September 15, 2023
3. Review Recommendations
4. Receive and Review Feedback
5. Tentative Next Steps



# Recommendation # 1

## PRE-ACQUISITION

The Maryland Health Care Commission (MHCC or Commission) staff shall provide the *MHCC Report and Recommendation* to the Office of Health Care Quality (OHCQ) and the Office of the Attorney General for each proposed nursing home acquisition. The findings and recommendations required under Health- General §19-115(a)(3) shall include a summary of the findings and the basis for the recommendations. To implement this recommendation, Commission staff will write a report including the following data for each nursing home acquisition. The report will include Maryland facilities and non-Maryland-based facilities, if appropriate.

- a. Most recent Centers for Medicare and Medicaid (CMS) Overall 5 Star Rating;
- b. Results of the review of Public Access to Court Electronic Records (PACER), including a review of court cases for any violations of the Federal False Claims Act;
- c. Status in the Office of the Inspector General (OIG) Exclusions Program;
- d. Status or existence of a Memorandum of Understanding (MOU) with Medicaid and the percentage of Medicaid patients served in comparison to the threshold in both the jurisdiction and the health planning region (HPR);
- e. The Overall Rating of Satisfaction and the Percentage Who Would Recommend the Nursing Home measures from the most recent results of the Maryland Health Care Commission's Nursing Home Facility Experience of Care Survey; and
- f. The Special Focus Facility and abuse flag status in the most recent refresh of the Centers for Medicare and Medicaid Services Care Compare data.



## Recommendation #2

Commission staff shall continue to provide information on pending nursing home acquisitions in the Maryland Health Care Commission Update of Activities. This update will be provided to Commissioners monthly for each Commission meeting and posted on the Commission website and will include the MHCC Report and Recommendation if completed.



# Recommendation #3

## POST-ACQUISITION

The Commission staff shall update the Commissioners regarding the progress of each nursing home acquisition for two years after the acquisition date using the *Nursing Home Acquisition Follow-Up Report* to collect data on recently acquired nursing homes to study trends that can inform future policy decisions. In this report, the MHCC will include an update of the metrics previously included in the *MHCC Report and Recommendation*. Additionally, the *Nursing Home Acquisition Follow-Up Report* will contain the following metrics on the acquired facility:

- a. Progress toward reduction of multiple-bed rooms;
  - b. Net Operating Revenue;
  - c. Total Operating Expenses;
  - d. Net Income;
  - e. Total Direct Care Staffing FTEs; and
  - f. Hours of Bedside Care per licensed bed per day.
- ▶ The acquiring entity shall submit the above information in the form of end of year financial statements 90 days after fiscal year end. The statements should compare the facility performance to its operating budget at the end of each fiscal year for the first two years after the acquisition date. Failure to comply with providing this information to the Commission will result in the acquiring entity having to appear before the Commission and report on its progress publicly.



# Recommendation #4

## **STATUTORY CHANGES**

The Commission shall request the legislature to expand MHCC's authority to deny an acquisition based on quality metrics and other standards required in Certificate of Need (CON) reviews (COMAR 10.24.20.05(8)) to align CON quality standards with nursing home acquisition regulations.



# Recommendation #5

The Commission shall request the legislature to expand MHCC's authority to increase the timeframe that the acquiring owner must submit all required documents to the Commission to 45 days prior to the transaction closing. MHCC staff will complete its review within 45 days of receiving a complete Notice of Acquisition/Transfer of Ownership Interest of a Comprehensive Care Facility.



## Recommendation #6

The Commission shall request the legislature to expand MHCC's authority to require an acquiring entity of a nursing home to eliminate or reduce, to the maximum extent possible, the number of multiple-bed rooms within three years from the acquisition date. These transitions shall be incremental and implemented with appropriate planning.





# Recommendation #7

## **RECOMMENDATIONS FOR THE DEPARTMENT OF HEALTH**

OHCQ shall implement the current statutory requirements set forth in Health General §19-1408, by conducting a full survey within three months after the date of transfer, followed by an unannounced follow-up for any deficiencies within 120 days. OHCQ shall report the findings of the survey to the Commission and the public.



# Recommendation #8

## **RECOMMENDATIONS FOR THE OFFICE OF THE ATTORNEY GENERAL**

The Office of the Attorney General shall continue to evaluate their authority to play a role in the acquisition process.



# Tentative Next Steps

- ▶ Final draft will be distributed to the workgroup by November 17
  - ▶ Final feedback will be due by November 29
- ▶ Presentation to Commission on December 14
- ▶ Submit report to legislature by January 2, 2024