



# Maryland Health Care Commission

UPDATE ON NURSING HOME ACQUISITIONS

MAY 19, 2022



MARYLAND  
Health Care  
Commission

# What is happening with Nursing Home Acquisitions?

FEDERAL INITIATIVES

STATE INITIATIVES

MHCC INITIATIVES



# Federal Initiatives

- ▶ MedPAC Report to Congress, June 2021
- ▶ GAO directed to conduct a study of private equity investments in healthcare
- ▶ Establishment of new database on NH ownership changes: 2016-Present
- ▶ Civil money penalties imposed on owners/operators



# Private Equity

- ▶ “Private equity (PE) refers broadly to any activity where investors buy an ownership, or equity, stake in companies or other financial assets that are not traded on public stock or bond exchanges. One type of PE activity that has drawn growing attention in recent years involves investment firms that purchase companies and then try to improve their operational and financial performance so they can later be sold for a substantial profit.” \*
- ▶ MedPAC found that PE firms own about 4% of hospitals and about 11% of nursing homes

\* MedPAC-- “Congressional Request: Private Equity and Medicare”



# Results from JAMA Study

Table 2. Changes in Quality and Costs for Long-Stay Nursing Home Residents After PE Firm Acquisition Compared With For-Profit Nursing Homes Without PE Firm Ownership<sup>a</sup>

Outcome	Pooled sample, 2012-2018, No. (%) <sup>b</sup>	Preacquisition period, 2012				Postacquisition period, 2018			Differential change		Relative change, % <sup>c</sup>		
		All	PE	For-profit	Unadjusted difference	PE	Non-PE	Unadjusted difference	Unadjusted (95% CI)	P value		Adjusted (95% CI)	P value
Quality measures													
Emergency department visit (n = 2 383 491)	336 072 (14.1)	15.3	15.3	15.3	0	20.1	18.1	2.0	2.0 (1.0 to 4.0)	.01	1.7 (0.3 to 3.0)	.02	11.1
Hospitalization (n = 2 383 491)	412 344 (17.3)	11.5	10.4	11.5	-1.1	14.6	14.5	0.1	1.2 (0.01 to 2.3)	.04	1.0 (0.2 to 1.1)	.003	8.7
Cost measure													
Total costs (n = 2 383 491), mean (SD), \$	8050.00 (9.90)	6972.04 (39.60)	7066.26 (208.72)	6968.43 (40.30)	97.83 (212.60)	8818.60 (126.30)	8626.75 (24.84)	191.85 (28.72)	94.02 (-392.42 to 580.50)	.85	270.37 (41.53 to 499.20)	.02	3.9

Abbreviation: PE, private equity.

<sup>a</sup> Linear regressions were used for estimation. All models included the following covariates: age group (65-69, 70-74, 75-79, 80-84, and ≥85 years), race and ethnicity (Black, White, other non-White race [Asian, Hispanic, North American Native, and other]), sex, dual eligibility for Medicare and Medicaid, indicators for 66 chronic and disabling conditions used for risk adjustment (see eTable 2 in the Supplement for a list of the chronic conditions), activities of daily living score at initial assessment (range, 1-28, where a higher score indicates a greater need for assistance with activities of daily living), and severe cognitive impairment (scores >3 on the 4-point Cognitive Function Scale). Nursing home characteristics included occupancy rate, an indicator for multifacility affiliation, total number of beds, and terciles of the distributions of the percentage of

patients covered by Medicare and the percentage covered by Medicaid. Other covariates included fixed effects for quarter, year, nursing home, Hospital Referral Region, and Hospital Referral Region interaction with year. The unit of analysis is at the resident-quarter level. Standard errors were adjusted for clustering at the level of the nursing home.

<sup>b</sup> The pooled sample consists of all resident observations from 2012 to 2018.

<sup>c</sup> Relative changes were derived from the sample by dividing the adjusted estimates for all outcomes by the unadjusted mean of the outcomes in the preacquisition period (2012).



# JAMA Conclusions

- ▶ “This cohort study suggests that [private equity] firm-owned nursing homes provided somewhat lower quality long-term care than other for-profit homes based on two widely used quality measures and were associated with higher total per-beneficiary Medicare costs.” \*

\*JAMA Health Forum



# OHCQ Initiatives

- ▶ OHCQ Civil Money Penalties and Health Care Quality Account
- ▶ OHCQ CHOW Dashboard data includes:
  - ▶ Principal physician
  - ▶ Director of nursing
  - ▶ Provider ownership and control disclosure
  - ▶ State affidavit
  - ▶ Workers compensation
  - ▶ Certificate of compliance
  - ▶ Evidence of financial ability to operate
  - ▶ Adverse legal actions/convictions
  - ▶ Chain home office information



# OHCQ Health Care Quality Account

- ▶ Under COMAR 10.07.02.70, OHCQ can impose civil money penalties on facilities
- ▶ Monies collected go into Health Care Quality Accounts:
  - ▶ Federal Nursing Home Account (CMS penalties)
  - ▶ State Nursing Home Account (OHCQ penalties)
  - ▶ State Assisted Living Account (OHCQ penalties)
  - ▶ Hospice Account (CMS penalties)
  - ▶ OIG Account (OIG penalties)
- ▶ Monies are used to fund quality initiatives



# MHCC Initiatives/Authority

- ▶ Changes of ownership of health care facilities do not require Certificate of Need approval by MHCC
- ▶ MHCC must be notified on a timely basis of “acquisitions” of health care facilities – includes any transfer of stock or assets that results in a change of the person or persons who control a health care facility or the transfer of any stock or ownership interest in excess of 25 percent
- ▶ The State Health Plan regulations (COMAR 10.24.20) add nursing home-specific requirements related to acquisition of nursing homes (next slide)
- ▶ MHCC Nursing Home Acquisition Reports on Commission Update



# COMAR 10.24.20 Acquisition Rules

These rules require disclosure of the:

- Identity of each person with an ownership interest in the acquiring entity, or a related or affiliated entity;
- Percentage of ownership interest of each such person; and
- History of each person's experience in ownership or operation of health care facilities.

The rules also require an:

- Affirmation that services will not change as a result of the acquisition;
- Affirmation that the commitment to Medicaid participation will not change as a result of the acquisition; and
- Report the number and percentage of NH beds in the jurisdiction and region controlled before and after the acquisition

# COMAR 10.24.20 Affirmation – Felonies, Crimes, and Civil Penalties



The SHP acquisition rules for nursing homes require

- ▶ Affirmation, under penalties of perjury, that within the past 10 years, no owner, former owner, or member of senior management or management organization, or a current or former owner or senior manager of any related or affiliated entity has been convicted of a felony or crime or pleaded guilty, nolo contendere, entered a best interest plea of guilty, received a diversionary disposition regarding a felony or crime, and that the applicant or a related or affiliated entity has not paid a civil penalty in excess of \$10 million dollars that relates to the ownership or management of a health care facility.



# Changes of Ownership (Nursing Home) 2018-2020

	Number of CHOWs	Number of Chains	Comments
2018	22	2	Autumn Lake-3 facilities; Cadia-5 facilities
2019	17	1	Autumn Lake-2 facilities
2020	18	2	Heartland- 2 facilities; Autumn Lake- 3 facilities

Source: Maryland Long Term Care Survey: 2018-2020



# Sample MHCC Commission Update Format

Sample Nursing Home	Cost	Determination Date	All CCFs owned by seller/buyer	Overall average CMS star-rating seller/buyer	Years current ownership	# of rooms >2 beds per room	Medicaid participation MOU/met*	CMS flags**
Smith/Jones Real Estate Partnership currently owns the building and real estate. Janes Partnership owns the CON "bed rights" and Health Care Services operates the facility. The building and real estate will be acquired by Elm Street, LLC. Main Street Oaks Communities, LLC will acquire the bed rights and assets related to the operation of the facility. There will be no changes to staffing, services or bed complement.	\$32 M	pending	0/14	4/2	11	NA	NA	0

Sample Monthly Report

\*MOU threshold most recently completed year and met/unmet

\*\*List any facilities owned by seller/buyer with CMS flags for Resident abuse or as a Special Focus Facility (SFF)



# Next Steps

- ▶ Continue to monitor federal initiatives
- ▶ Continue to review research results
- ▶ Continue to update Maryland data
- ▶ Monitor and react to 2023 legislative proposals
- ▶ Update Nursing Home regulations reflecting
  - changes in statute and
  - evolving requirements of long-term care



# Appendix

# Results from JAMA Study: Table 1



**Table 1. Characteristics of Residents and Nursing Homes**

Characteristic	2012-2018 Pooled sample (n = 259 403) <sup>a</sup>	Preacquisition period (2012)			Unadjusted difference	Postacquisition period (2018)		
		All (n = 65 670) <sup>b</sup>	PE (n = 2209)	For-profit (n = 63 461)		PE (n = 995)	For-profit (n = 27 804)	Unadjusted difference
Nursing homes, No.	9864	8243	289	7954	NA	295	8323	NA
Nursing home characteristics								
Occupancy rate, % <sup>c</sup>	82.7	83.7	83.5	83.7	0.2	82.5	81.2	1.5
Chain facility, No. (%)	5889 (59.7)	4797 (58.2)	220 (76.1)	4567 (57.4)	18.6	254 (86.1)	5094 (61.2)	6.4
Total beds, mean (SD), No.	130.5 (63.7)	132.5 (62.8)	135.4 (69.5)	132.4 (62.6)	3.0	120.1 (51.8)	129.0 (64.6)	-11.9
Medicare residents by tercile, % <sup>c</sup>								
Lowest	31.2	29.7	20.6	30.0	-9.4	26.5	37.0	-1.1
Middle	33.8	35.7	37.6	36.0	1.6	33.4	31.7	0.1
Highest	35.0	34.6	41.2	34.3	7.5	40.1	31.4	1.2
Medicaid residents by tercile, % <sup>c</sup>								
Lowest	27.0	22.1	25.6	22.0	3.6	25.4	29.4	-7.6
Middle	35.2	35.3	38.5	35.2	3.3	36.7	33.2	0.2
Highest	37.8	42.6	35.9	42.8	-6.9	37.9	37.5	7.3
Resident characteristics								
Age group, No. (%), y								
65-69	48 768 (18.7)	14 119 (21.5)	495 (22.4)	13 644 (21.5)	0.9	169 (17.0)	166 (16.7)	-0.06
70-74	25 681 (9.9)	6567 (10.0)	221 (10.0)	6346 (10.0)	0	131 (13.2)	109 (11.0)	2.2
75-79	32 944 (12.7)	8471 (12.9)	305 (13.8)	8123 (12.8)	1.0	143 (14.4)	134 (13.5)	-0.1
80-84	43 580 (16.8)	11 098 (16.9)	398 (18.0)	10 788 (17.0)	1.0	164 (16.5)	167 (16.8)	-1.3
≥85	108 690 (41.9)	25 414 (38.7)	800 (36.2)	24 750 (39.0)	-2.8	397 (39.9)	421 (42.3)	-0.5
Race, No. (%)								
Black	34 501 (13.0)	10 179 (15.5)	274 (12.4)	9963 (15.7)	-3.3	87 (8.7)	122 (12.3)	-0.3
White	211 154 (81.4)	51 789 (79.0)	1754 (79.4)	50 134 (79.0)	0.4	837 (84.1)	818 (82.2)	1.5
Other non-White <sup>d</sup>	13 748 (5.3)	3481 (5.3)	175 (7.9)	3300 (5.2)	2.7	66 (6.6)	51 (5.1)	-1.3
Female, No. (%)	170 687 (65.8)	44 459 (67.7)	1445 (65.4)	43 027 (67.8)	-2.4	621 (62.4)	638 (64.1)	0.7
Dual eligibility for Medicare and Medicaid, No. (%)	204 928 (79.0)	10 310 (85.5)	1871 (84.7)	54 259 (85.5)	-0.8	776 (78.0)	776 (78.0)	0.8
Baseline ADL score, mean (SD) (range, 1-28)	15.9 (6.7)	15.7 (7.3)	16.3 (7.2)	15.7 (7.3)	0.6	16.4 (5.7)	16.0 (6.2)	-0.3
Severe cognitive impairment, No. (%)	259 (0.1)	131 (0.2)	7 (0.3)	127 (0.2)	0.1	1 (0.1)	1 (0.1)	-0.1

Abbreviations: ADL, activities of daily living; NA, not applicable; PE, private equity.

<sup>a</sup> The pooled sample consists of all resident observations from 2012 to 2018.

<sup>b</sup> The complete sample consists of all resident observations in 2012.

<sup>c</sup> This is a facility-level measure; numerator and denominator data are not available.

<sup>d</sup> Other non-White is defined as a category for all other race and ethnicity categories in Medicare claims (Asian, Hispanic, North American Native, and other).

# Results from JAMA Study: Table 3



**Table 3. Changes in Quality Measures for Long-Stay Nursing Home Residents After PE Firm Acquisition Compared With For-Profit Nursing Homes Without PE Firm Ownership Examined in Secondary Analyses<sup>a</sup>**

Minimum data set quality measure	Pooled sample, 2012-2018, No. (%) <sup>b</sup>	Preacquisition period (2012)				Postacquisition period (2018)			Differential change			Relative change, % <sup>c</sup>	
		All	PE	For-profit	Unadjusted difference	PE	Non-PE	Unadjusted difference	Unadjusted (95% CI)	P value	Adjusted (95% CI)		P value
Antipsychotic medications (n = 230 687)	49 598 (21.5)	22.1	20.8	22.2	-1.4	16.8	19.3	-2.5	-1.1 (-4.8 to 2.4)	.53	-0.2 (-1.7 to 1.4)	.83	-0.9
Pressure ulcer (n = 278 188)	13 631 (4.9)	3.6	3.8	3.6	0.2	5.0	5.6	-0.6	0.8 (-2.4 to 0.7)	.26	0.5 (-0.4 to 1.3)	.30	13.5
Severe pain (n = 217 284)	16 731 (7.7)	9.4	9.1	9.4	-0.3	4.9	5.3	-0.4	-0.1 (-2.5 to 2.3)	.94	0.2 (-1.1 to 1.4)	.79	-0.2

Abbreviation: PE, private equity.

<sup>a</sup> Linear regressions were used for estimation. All models included the following covariates: age group (65-69, 70-74, 75-79, 80-84, and ≥85 years), race and ethnicity (Black, White, and other non-White race [Asian, Hispanic, North American Native, and other]), sex, dual eligibility for Medicare and Medicaid, indicators for 66 chronic and disabling conditions used for risk adjustment (see eTable 2 in the [Supplement](#) for a list of the chronic conditions), activities of daily living score at initial assessment (range, 1-28, where a higher score indicates a greater need for assistance with activities of daily living), and severe cognitive impairment (scores >3 on the 4-point Cognitive Function Scale). Nursing home characteristics included occupancy rate, an

indicator for multifacility chain affiliation, total number of beds, and terciles of the distributions of the percentage of patients covered by Medicare and the percentage covered by Medicaid. Other covariates included fixed effects for quarter, year, nursing home, Hospital Referral Region, and Hospital Referral Region interaction with year. Standard errors were adjusted for clustering at the level of the nursing home.

<sup>b</sup> The pooled sample consists of all resident observations from 2012 to 2018.

<sup>c</sup> Relative changes were derived from the sample by dividing the adjusted estimates for all outcomes by the unadjusted mean of the outcomes in the preacquisition period (2012).