

Chapter 289

(House Bill 702)

AN ACT concerning

Health Care Facilities – Nursing Homes – Acquisitions and Licensure

FOR the purpose of requiring the Maryland Health Care Commission to provide certain information regarding the acquisition of a nursing home to the Office of Health Care Quality; requiring the Secretary of Health to consider the information before taking certain action regarding licensure to operate a nursing home; and generally relating to nursing homes.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 19–115 and 19–1401.2
 Annotated Code of Maryland
 (2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,
 Article – Health – General
 Section 19–120(k)(6)(ii) and 19–1401.1
 Annotated Code of Maryland
 (2019 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Health – General

19–115.

(a) In addition to the duties set forth elsewhere in this subtitle, in this Part II of this subtitle, the Commission shall:

(1) Act as the State agency to represent the State under Title VI of the federal Public Health Service Act; [and]

(2) Periodically participate in or perform analyses and studies that relate to:

(i) Adequacy of services and financial resources to meet the needs of the population;

(ii) Distribution of health care resources;

- (iii) Allocation of health care resources;
- (iv) Costs of health care in relationship to available financial resources; or
- (v) Any other appropriate matter; AND

(3) WHEN EVALUATING A NOTICE OF ACQUISITION OR TRANSFER OF INTEREST OF A NURSING HOME IN ACCORDANCE WITH § 19-120(k)(6)(ii) OF THIS TITLE, PROVIDE THE COMMISSION'S WRITTEN FINDINGS AND RECOMMENDATIONS TO THE OFFICE OF HEALTH CARE QUALITY, INCLUDING:

(i) QUALITY RATINGS OF FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PURCHASER OF THE HEALTH CARE FACILITY, BASED ON THE MOST RECENT FIVE-STAR QUALITY RATING SYSTEM ESTABLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES;

(ii) FOR THE IMMEDIATELY PRECEDING 3-YEAR PERIOD:

1. EVIDENCE THAT FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PURCHASER OF THE HEALTH CARE FACILITY MAINTAINED QUALITY ASSESSMENT AND ASSURANCE COMMITTEES THAT MET AT LEAST QUARTERLY;

2. INSPECTION OF CARE REPORTS AND CORRECTIVE ACTION PLANS OF FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PURCHASER OF THE HEALTH CARE FACILITY;

3. LICENSING AND CERTIFICATION SURVEYS AND CORRECTIVE ACTION PLANS OF FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PURCHASER OF THE HEALTH CARE FACILITY; AND

4. LAWSUITS OR ARBITRATION FILINGS BY ANY PATIENT OR PATIENT REPRESENTATIVE AGAINST FACILITIES CURRENTLY OR PREVIOUSLY OWNED, WITHIN OR OUTSIDE THE STATE, BY THE PURCHASER OF THE HEALTH CARE FACILITY;

~~(iii)~~ (iii) THE TAX IDENTIFICATION NUMBER OF EACH PURCHASER; AND

~~(iv)~~ (iv) THE PERSONAL CENTERS FOR MEDICARE AND MEDICAID SERVICES CERTIFICATION NUMBER OF EACH PURCHASER.

(B) THE FINDINGS AND RECOMMENDATIONS REQUIRED TO BE PROVIDED TO THE OFFICE OF HEALTH CARE QUALITY UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL INCLUDE A SUMMARY OF THE FINDINGS AND THE BASIS FOR THE RECOMMENDATIONS.

[(b)] (C) In addition to the duties set forth elsewhere in this Part II of this subtitle, the Governor shall direct, as necessary, a State officer or agency to cooperate in carrying out the functions of the Commission.

[(c)] (D) This State recognizes the federal act and any amendment to the federal act that does not require State legislation to be effective. However, if the federal act is repealed or expires, this Part II of this subtitle remains in effect.

19–120.

(k) (6) This subsection does not apply to:

(ii) Acquisition of a health care facility if, at least 30 days before making the contractual arrangement to acquire the facility, written notice of the intent to make the arrangement is filed with the Commission and the Commission does not find, within 30 days after the Commission receives notice, that the health services or bed capacity of the facility will be changed, provided that, for a merger with or acquisition of an existing general hospice, the purchaser of the general hospice may only acquire the authority to provide home–based hospice services in jurisdictions in which the seller of the general hospice is licensed to provide home–based hospice services;

19–1401.1.

(a) (1) In addition to the requirements for licensure of a related institution as provided in this title, an applicant for licensure of a nursing home shall include in the application the identity of:

(i) Any person with an ownership interest in the nursing home; and

(ii) Any management company, landlord, or other business entity that will operate or contract with the applicant to manage the nursing home.

(2) (i) The person acquiring a nursing home shall provide the Department with written notice of the acquisition or change in operator at the same time as the notice required under § 19–120(k)(6)(ii) of this title is filed with the Maryland Health Care Commission.

(ii) For other changes to the information required under paragraph (1) of this subsection, the nursing home shall notify the Department within 30 days after the effective date of the change.

(b) An applicant for licensure shall submit to the Secretary or the Secretary's designee evidence:

(1) That affirmatively demonstrates the ability of the applicant to comply with minimum standards of:

- (i) Medical care;
- (ii) Nursing care;
- (iii) Financial condition; and
- (iv) Other applicable State or federal laws and regulations; and

(2) Regarding the regulatory compliance history and financial condition of any health care facility owned or operated by the applicant in other jurisdictions.

19-1401.2.

(A) On review of the information required under § 19-1401.1 of this subtitle and any other information that is relevant to the ability of the applicant to operate a nursing home, the Secretary may:

- (1) Approve an application for a license;
- (2) Deny an application for a license;
- (3) Approve an application for a license subject to conditions; or
- (4) Revoke a license.

(B) BEFORE TAKING ACTION ON A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY SHALL CONSIDER ANY FINDINGS AND RECOMMENDATIONS OF THE MARYLAND HEALTH CARE COMMISSION PROVIDED TO THE OFFICE OF HEALTH CARE QUALITY UNDER § 19-115 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission, in consultation with stakeholders, including the Medicaid Administration, the Office of Health Care Quality, nursing home owners, consumer representatives, and representatives of organized labor, shall study and make recommendations regarding the expansion of the certificate of need program over acquisitions of nursing homes.

(b) The study required under subsection (a) of this section shall:

- (1) assess the elimination of patient rooms with more than two beds; and
- (2) address any other issues related to acquisitions of nursing homes.

(c) On or before December 1, 2023, the Maryland Health Care Commission shall report the findings and recommendations to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2023.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2023.

Approved by the Governor, May 3, 2023.