



March 26, 2024

Susan R. Donovan, Chairwoman  
House Committee on Health and Human Services  
State House  
Providence, RI 02903

**RE: H 7819 -- An Act Relating to Health and Safety -- Licensing of Healthcare Facilities**

Dear Chairwoman Donovan:

Please accept this letter of strong support for H 7819, legislation introduced by the Rhode Island Department of Health (RIDOH) that would require the disclosure of the transfer of certain assets of nursing home facilities and would provide penalties for failing to file nursing home facility ownership information. This Act would take effect upon passage.

H 7819 would prevent nursing home facility owners from withdrawing more than three percent (3%) of their total reported annual revenue in any given year without prior approval from RIDOH. H 7819 also includes a change to the penalties section of a related statute that would allow RIDOH to impose penalties for owners who violate the proposed law.

RIDOH has taken regulatory action to address issues related to the financial solvency of Rhode Island's nursing home facilities. Specifically, RIDOH's regulations have been amended to clarify the following provisions established in statute:

1. The owner of a nursing facility is the person who holds title to the real property;
2. The operator of a nursing facility is the person who is responsible for the operation of the facility and answering to its governing body, which is ultimately responsible for compliance with the regulations and the health and safety of the nursing facility's residents;
3. Historically, the owner of a nursing facility was its operator; however, in recent years, ownership has often been separated from operation;
4. Managers, contracted by the operator of a nursing facility, should only assist the operator of the nursing facility;
5. A lessee usually operates a nursing facility under a lease from the owner or operator;
6. A lessee can be the operator of a nursing facility; and
7. A nursing facility license is usually held by the operator.

The adoption of the proposed three percent (3%) equity cap will enable RIDOH to monitor the fiscal situation of nursing homes before there is a significant loss of nursing home patient quality care and/or severe financial distress. A large percentage of Rhode Island's nursing home residents are supported by Medicaid dollars which indicates that, in addition to being elderly, the residents are financially vulnerable. This proposal would work toward ensuring access to quality health services for this particularly vulnerable population. In addition, the proposed legislation will serve to safeguard taxpayer-funded Medicaid dollars.

Other states have adopted similar legislation. Specifically, New York enacted a similar statute that has withstood a constitutional challenge in the New York court system. See *People v. Abraham Operations Assocs.*, 2023 N.Y. Slip Op. 32592 (N.Y. Sup. Ct. 2023).

This proposed bill will work in conjunction with the recently enacted *Rhode Island Transparency of Ownership in Healthcare Facilities Law* (R.I. Gen. Laws Section 23-17-65) which requires nursing home facility owners to disclose post-licensing changes in ownership interests in their facilities. Together, these two (2) laws will enable State regulators to identify and monitor the amount of funds being withdrawn from nursing homes and the financial solvency of such nursing homes to ensure the health and safety of vulnerable residents.

Both the Rhode Island Executive Office of Health and Human Services (EOHHS) and RIDOH will work together to implement the provisions of H 7819. Thank you for the opportunity to comment on this important legislation.

Sincerely,

Handwritten signature of Utpala Bandy in cursive, with the word "for" written below it.

Utpala Bandy, MD, MPH  
Interim Director

Handwritten signature of Richard R. Charest in cursive.

Richard R. Charest, R.Ph., MBA  
Secretary, EOHHS

CC: The Honorable Members of the House Committee on Health and Human Services  
The Honorable June Speakman  
Nicole McCarty, Chief Legal Counsel  
Lynne Urbani, Director of House Policy