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To: Members of the Senate Health, Human Services and Senior Citizens Committee

From: Christine Buteas, Chief Government Affairs Officer

Date: February 3, 2022

Re: NJBIA's Request to Vote "No" on the Release of Senate Bill No. 315

On behalf of the New Jersey Business & Industry Association, whose members employ one million people in the State of New Jersey, we ask you to vote no on the release of Senate Bill No. 315. This bill, with proposed amendments, places unfair conditions on transfer of ownership of healthcare facilities by mandating all employees who are not managers must be maintained by the next owner unless a reduction in staff is needed; however, requirements to hire back based on seniority kicks in. If enacted, this bill could force the closure of essential healthcare facilities and disrupt the market in the healthcare industry.

While we all may want every employee to be protected when a business or entity changes ownership, the law already provides for such protections through collective bargaining. This bill, however, changes the rules of the game and forces a new owner to accept the employees, both unionized and at-will employees, and wage and benefit terms negotiated by the former owner. Such a legislative mandate can have serious consequences for the healthcare industry.

Some of the unintended consequences of this bill include:

- Essential healthcare facilities may be forced to close because the current owners cannot keep them open and potential purchasers may be dissuaded by the conditions being imposed by this bill. During a pandemic, when these facilities are more essential than ever and struggling to survive, is not the time to make it even more difficult for them to remain open.
- Given the continued consolidation in the healthcare industry, this bill can have a devastating effect on the market forcing certain facilities to close. This may be particularly problematic in our urban areas, where healthcare facilities have struggled to remain open.
- By requiring that future layoffs of employees be based on a seniority system, you would be removing the necessary flexibility to maintain the best staff, ensuring that a business can prosper. No for profit or non-profit business should be forced to accept those conditions on their management.
- If enacted, it will remove the needed confidentiality around the sale of a health care business.
- If an employee is laid off, they must be re-hired based on seniority. There is no end date for such an offering of employment to take place.
- Even beyond the transition period, the bill mandates that workers be retained indefinitely, making it nearly impossible for an employer to hire the most qualified workers.
- The attorney fee-shifting component will encourage lawsuits.

- There is no employee threshold in this legislation; thus, also applies to small businesses.

We also worry about what is next. If the Legislature can mandate the continuation of collective bargaining agreements and employee retention in the healthcare industry, it is only a matter of time until other industries fall prey to this intrusive mandate. We note there is already another bill signed into law during the lame duck session with almost identical language pertaining to the hotel industry. The time to stop these mandates is now. Let's not make New Jersey an even worse place to do business.

Given the negative potential impacts of this bill on the essential health care industry, we ask that this bill not be released from the committee.