



June 26, 2022

Dear Members of the Assembly Budget Committee,

On behalf of the Health Care Association of New Jersey, the New Jersey Hospital Association, LeadingAge New Jersey and Delaware, the Fair Share Hospitals Collaborative, the Home Care & Hospice Association of New Jersey, and the New Jersey Business & Industry Association (collectively, the Associations), we write in **opposition to A3684**, sponsored by Assemblyman DeAngelo, which concerns employment security during changes in control of health care entities. The Associations would prefer additional limitations on the scope of the legislation. This legislation narrowly passed the Senate by a vote of 21-14.

As currently drafted, we believe this legislation is very far-reaching, impacting not only the nursing home community, but all healthcare facilities, including hospitals, home health agencies, and healthcare service firms. Anyone under a manager level, unionized or not, small business to our largest employers, those who receive government payments to those that do not, private and non-profit, would be subject to this legislation.

It is our understanding that as currently written the requirements related to retaining or rehiring existing staff would not be limited to a “transition” period, but instead would require their retention or rehiring indefinitely if cause does not exist or if a reduction in workforce is not warranted.

If enacted in its current form, this bill will negatively impact the entire healthcare system by imposing unprecedented restrictions on the sale or transfer of a facility. The bill would unnecessarily restrict normal managerial discretion that may be needed to remedy poor financial conditions that may have necessitated the sale or transfer and thus putting the facility in jeopardy of closing, or unable to improve its operations. In the end, the patients may lose access to care or be impacted.

In summary, our main concerns with this legislation include:

- Applies to all employees below managerial level, unionized or not, employed during a 90-day period immediately preceding a change in control of a health care entity or any person formerly employed at the health care entity who retains recall rights under an agreement with the former healthcare entity employer;
- Not less than 30 days before a change in control, the healthcare entity employer shall provide the successor healthcare entity employer, and any collective bargaining representative the employees may have, a list containing the name, address, date of hire, phone number, wage rate, and employment classification of each eligible employee employed at the affected healthcare entity;
- No contract can take place between the buyer and seller unless the new healthcare entity employer agrees to offer employment during a transitional period of not less than four months following the change in control to each eligible employee, with no reduction of wages or paid time off, and no reduction of the total value of benefits, including healthcare, retirement, and education benefits
  - during the transition period, the successor health care entity shall offer all available employment positions to eligible employees who had previously held the positions until the available employment positions are filled or until no more eligible employees are available; and
  - if, at the time of the change in control and throughout the transition period, the total number of employment positions is less than the total number of eligible employees, the choice of employees to be employed shall be based on seniority and experience;
- An eligible employee retained cannot be discharged without cause during the transitional period, except that a successor employer may lay off eligible employees if the employer reduces the total number of employees, including at the time of the change in control, but only if the choice of employees to be retained is based on seniority and experience, and the laid-off employees are offered any positions they had previously held that are subsequently restored during the transitional period;
- At the end of the transitional period, the successor employer shall perform a written performance evaluation for each retained eligible employee, and offer the employee continued employment if an employee's performance during that period was satisfactory.

This **sets a dangerous precedent for future private transactions in other industries as well**. And, as you know, this policy change already occurred in the hotel industry during the lame-duck session. We are also not aware of any other state that has laws placing restrictions on the sale of a private or non-profit entity.

For these reasons, we ask that you **vote NO** on A3684.

Sincerely,

Andy Aronson, President and CEO  
Health Care Association of NJ

Theresa Edelstein, Senior Vice President  
New Jersey Hospital Association

James W. McCracken, President and CEO  
LeadingAge NJ & DE

Nancy Fitterer, President and CEO  
Home Care and Hospice Association of NJ

Jennifer Mancuso, Executive Director  
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Chrissy Buteas, Chief Government Affairs Officer  
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