



**General Assembly Legislative Report
Sine Die (End of Session)
April 8, 2024
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The Maryland General Assembly concluded its legislative work at midnight on April 8th. Below are highlights from this Session.

Fiscal Year 2025 Budget

The House Appropriations (APP) Committee and the Senate Budget and Taxation (B&T) Committee concluded the budget negotiations on April 5th after Governor Moore granted a 10-day extension. From the beginning of Session, the two chambers were at odds on how to address Maryland's current budget deficit of \$761 million plus the forecasted structural deficit of \$3 billion. Several factors then complicated an already trying budget cycle. First, the Maryland Department of Health (MDH) announced a \$236 million budget error in Medicaid. Second, the Comptroller's Office announced a revenue decrease of \$255 million (combined current and next FY). Third, the Francis Scott Key Bridge tragically collapsed. To address these issues, the House supported tax increases whereas the Senate opposed tax increases in support of bolstering economic growth. In the end, the General Assembly balanced the budget and sent the \$63 billion budget to Governor Moore using a combination of tactics.

For LifeSpan, the initial budget submitted by Governor Moore included a 3% rate increase for Medicaid providers (i.e., nursing homes and home-and-community based services). Throughout the budget debates, the General Assembly remained steadfast in its support of this increase, and it is included in the final budget. Following the end of Session, the Chairs of the Senate B&T Committee and the House APP Committee release the Joint Chairmen's Report, which is a compilation of all budgetary actions taken this Session, including any reports required by State agencies. In addition, committees will often send letters to State agencies asking them to study priority items. Upon the release of the Joint Chairmen's Report and any other actions taken by the committees, LifeSpan will send out an addendum to this report.

For those interested in other budget actions, in order to increase funding for local road maintenance, public transit, and other transportation projects, the General Assembly, among other measures, increased fines for speeding in a work zone; increased surcharges on plug-in electric and hybrid vehicles (\$62.50 surcharge on zero-emission electric vehicles and \$50 on plug-in electric vehicles); and added a ride-hauling surcharge (.75 cents per trip). In addition, the budget raises an additional \$91 million for education expenses through a new \$1.25 tax on each pack of cigarettes, increasing the sales tax on e-cigarettes and vapes from 12 to 20% and, for other tobacco products (not cigars) increasing the tax from 53% to 60% of the wholesale price. Lastly, vehicle

registration costs will increase by \$23 annually, or \$46 every two years, to fund the State's shock trauma system.

Health Care Facility Regulation

- *Nursing Homes*

Given the heightened scrutiny on both the State and federal level regarding nursing home acquisitions, the Maryland Health Care Commission (MHCC) convened an interim workgroup. **Senate Bill 1000/House Bill 1122: Nursing Home – Acquisitions – Revision** (passed) modifies the authority of the MHCC. Beginning October 1, 2024, a nursing home must provide notice to the MHCC at least 30 days before the closing of a change of ownership that involves at least a 5% transfer of ownership interest but is not an acquisition. For acquisitions, the bill requires the MHCC to adopt regulations on or before January 1, 2025, and the changes made in the bill are only applicable to acquisitions executed after the adoption of those regulations. Under the bill, an acquisition remains a transfer of stock or assets that results in a change of the person that controls a health care facility or the transfer of more than 25% of stock or ownership interest in a health care facility. The bill requires that at least 60 days before the closing date of the acquisition of a nursing home, a person must submit to the Commission a request and provide notice to the residents, resident representatives, and employees of the nursing home. Either the Executive Director or the full Commission must complete the request within 60 days. The request can be approved, denied, or approved with conditions. If an applicant disagrees with the decision, the applicant can appeal to the Commission (if the Executive Director made the determination) or through a direct judicial appeal. The bill also requires that the acquiring entity reduce triples and quads or apply for a waiver if reduction is not possible. LifeSpan will be closely monitoring and working with the MHCC on the development of the regulations.

House Bill 462/Senate Bill 328: Funding for Wages and Benefits for Nursing Home Workers (Nursing Home Staffing Crisis Funding Act of 2024) (failed) would have required the State to increase Medicaid rates for nursing homes by 8% in fiscal years 2026, 2027, and 2028, while at the same time requiring nursing homes to use 75% of each reimbursement increase to increase wages for direct and indirect workers. The MDH estimated that the bill would cost approximately \$400 million in future years. Given this fiscal note as well as the concerns raised by LifeSpan, the bill failed to advance.

Senate Bill 825/House Bill 1475: Health Facilities – Delegation of Inspection Authority – Related Institutions and Nursing Homes (failed) would have allowed counties to request from the MDH the ability to conduct inspections for nursing homes. The bill would have required that the requesting county and the State equally share in the cost. This bill originated from the expiration of the Memorandum of Understanding between the MDH and Montgomery County, which allowed Montgomery County to conduct nursing home inspections. While the bill passed the Senate, it failed to advance in the House Health and Government Operations (HGO) Committee. It is our understanding that the MDH and Montgomery County are continuing negotiations to complete a new Memorandum of Understanding.

- *Assisted Living*

LifeSpan requested the introduction of **House Bill 874/Senate Bill 613: State Board of Long-Term Care Administrators – Requirements for Assisted Living Managers** (passed). Chair Pamela Beidle (Senate Finance Committee) and Chair Joseline Pena-Melnyk (House HGO Committee) introduced the legislation. The bill extends the time for licensure of managers by the State Board of Long-Term Care Administrators from October 1, 2024, to July 1, 2026, and extends the time for small providers (4 beds and less) to take the 80-hour course to July 1, 2026. The course requirements have also been altered to allow both in person, virtual, and a combination of both. LifeSpan will be working closely with the Board on the implementation of this new requirement.

- *Nursing Homes/Assisted Living*

Beginning July 1, 2024, **House Bill 723/Senate Bill 863: Office of the Attorney General – Rights of Residents of Health Care Facilities – Injunctive Relief and Penalties** (passed), authorizes the Attorney General to seek injunctive relief in a court to prevent irreparable harm to a resident on the basis of an imminent or ongoing violation of a basic right in a nursing home or in an assisted living community (as specified in the bill). Attorney General (AG) Athony Brown testified at the hearing and stated that this bill was his “number one priority.” Regardless, concerned with an overreach of authority and duplicity between the AG’s Office and the MDH, LifeSpan testified at the hearings in opposition to the bill. As introduced, the bill would have also allowed the AG to impose financial penalties on nursing homes and assisted living programs. LifeSpan successfully had the fines eliminated from the bill and had language adopted that the AG may not duplicate any corrective action imposed by the MDH for the same violation.

Senate Bill 813/House Bill 1153: Health Care Facilities – Use of Telephones (failed) would have required a health care facility to provide access to a telephone, including in a patient/resident room. Note: During the HGO Committee hearing, the Chair did ask the sponsor to convene a meeting during the interim to further discuss and ensure that residents/patients have sufficient phone access.

- *Residential Service Agencies*

Two bills passed that affect residential service agencies (RSAs) and personal care aides. **Senate Bill 371/House Bill 189: Maryland Medicaid Assistance – Personal Care Aides – Wage Rates** (passed) requires RSAs, beginning September 1, 2025, and each year thereafter, to report wage data for personal care aides to the Maryland Department of Labor (MDL) (average wage rate and highest/lowest wage). In addition, on or before the 180th day after the release of the final federal Ensuring Access to Medicaid Services rule, the MDH must report to the committees of the General Assembly on an overview of the final rule and plans or steps that MDH will take to operationalize the rule, including (1) the process that MDH will use to review wage reports of personal care aides; and (2) how the data will be used to review Medicaid reimbursement rates as outlined in the rule.

Moreover, beginning January 1, 2026, **House Bill 39: Residential Service Agencies – Reimbursement – Personal Assistance Services (Homecare Worker Rights Act of 2024)** (passed) requires RSAs that hire personal care aides and participate in the Medicaid program to only hire W2 and not 1099 workers.

- *Continuing Care Retirement Communities*

After almost a decade of silence, the Maryland Continuing Care Residents Association requested the introduction of **House Bill 68/Senate Bill 76: Continuing Care Retirement Communities – Transparency, Grievances, and Unit Reoccupancy** (passed). As introduced, the bill would have changed the composition of the continuing care retirement community (CCRC) governing boards to require additional resident members and would have required that refunds be returned using a sequential refund process rather than directly connected to the selling of a resident’s individual unit. LifeSpan, in collaboration with Leading Age, worked to amend the bill to remove both of those requirements. In their place, beginning October 1, 2024, the bill requires CCRCs to: 1) post their most recent disclosure statement on its website; 2) hold quarterly, rather than annual meetings with the residents and, at the last quarterly meeting, provide a summary of the aggregated, deidentified internal grievances filed under Section 10-428 of the Human Services Article (NOTE: This same information will need to be submitted to the Maryland Department of Aging on an annual basis, most likely during the registration process); and 3) rather than requiring a sequential refund policy, if a refund is conditioned on the sale of a unit, send a report to the resident or the resident’s beneficiary after nine months stating that the resident’s unit has not been reoccupied and the steps being taken by the CCRC to assist in its reoccupation. (NOTE: This must then be done every six months until the unit is reoccupied).

Workforce Development

Beginning July 1, 2024, **Senate Bill 221/House Bill 146 Health Occupation Boards – Reciprocal Licensure and Certification** (passed) authorizes a health occupations board to adopt regulations to establish reciprocity for individuals who are licensed or certified in another state that offers similar reciprocity to individuals licensed or certified by the health occupations board.

Senate Bill 718: Maryland Pathway to Nursing Pilot Program and Advisory Committee – Establishment (passed) creates, within the Maryland Higher Education Commission, a Maryland Pathway to Nursing Pilot Program to support students in licensed practical nursing education programs who intend to practice licensed practical nursing as a career in the State or continue to become a registered nurse (RN) in the State by facilitating student applications for financial resources that provide tuition assistance, loan repayment, and support for other educational costs and provide program participants with financial assistance to cover the cost of computers, textbooks, and other supplies and additional education support services as well as wraparound support services that provide assistance with transportation, child care, elder care, and other living expenses that pose a barrier to students successfully completing their educational requirements. In consultation with the new statutorily created advisory committee, the Commission must determine the time and steps necessary to establish the pilot program and, by July 1, 2025, the Commission must issue grants to at least two pilot sites located in diverse areas. LifeSpan is a named entity on the advisory committee.

At the request of LifeSpan, **Senate Bill 999/House Bill 1125: Certified Nursing Assistants – Licensing Requirements and Administrative Updates** (passed), was introduced by Chair Pamela Beidle and Delegate Ken Kerr. This bill seeks to align Maryland with all other states regarding the education and examination requirements for nursing assistants. In the late 1980’s, federal rules passed requiring nursing assistants to meet certain education requirements to work in nursing homes. While other states incorporated these requirements across the board, Maryland created two tracks – geriatric nursing assistants and certified nursing assistants. As such, certified nursing assistants who have not been trained in programs that meet the federal requirements and/or

who have not taken the national exam (provided by Credentia) are not able to work in nursing homes. Because of Maryland's bifurcated system, the ONLY way to end the bifurcation is to require that all NEW graduates of a nursing assistant program be trained in programs that satisfy the federal requirements and successfully pass the national exam. Therefore, under this bill, beginning October 1, 2025, all nursing assistant training programs will need to comply with the federal requirements for nursing assistants. For those currently working as certified nursing assistants, this bill will not require them to make any changes to their scope. However, unless these individuals proactively take the national exam (and have graduated from a program that complies with the federal requirements), they will still be unable to work in a nursing home. This bill is about making changes proactively so that the State will eventually have one category of nursing assistants who can work in all settings.

Labor and Employment

Several bills passed affecting labor and employment laws. **House Bill 385/Senate Bill 38: Wage Payment and Collection – Pay Stubs and Pay Statements – Required Information** (passed), beginning October 1, 2024, alters the requirements governing information that must be on pay stubs/pay statements. The Commissioner of Labor is required to create and make available to an employer, at no charge, a pay stub template that may be used by the employer to comply with these requirements. The bill carries with it penalties for non-compliance. Under this bill, the pay stub or pay statement must include:

- (i) the employer's name registered with the state, address, and telephone number;
- (ii) the date of payment and the beginning and ending dates of the pay period for which the payment is made;
- (iii) unless the employee is exempt from overtime under federal and state law, the number of hours worked during the pay period;
- (iv) the rates of pay;
- (v) the gross and net pay earned during the pay period;
- (vi) the amount and purpose of all deductions;
- (vii) a list of additional bases of pay, including bonuses, commissions on sales, or other bases; and
- (viii) for each employee paid at a piece rate, the applicable piece rates of pay and the number of pieces completed at each piece rate.

Senate Bill 525/House Bill 649: Labor and Employment – Equal Pay for Equal Work – Wage Range Transparency (passed), beginning October 1, 2024, this bill requires an employer to disclose in each public or internal posting for each position the wage range and a general description of benefits and any other compensation offered for the position. If a public or internal posting for a position was not made available to an applicant for the position, an employer must disclose the information before a discussion of compensation is held with the applicant and at any other time upon request of the applicant. The wage range must be disclosed in good faith. The Commissioner of Labor is required to develop and make available to employers a form that an employer may use for compliance. The bill requires that each employer must keep a record of compliance for each position for at least three years after the position is filled or, if the position is not filled, the position was initially posted.

Senate Bill 485/House Bill 571: Family and Medical Leave Insurance Program – Revisions (passed), among other amendments, delays the contribution rate that must be paid into the Family and Medical Leave Insurance Fund by employees/employers to July 1, 2025, (rather than October

1, 2024). The bill requires the MDL to set the initial contribution rate by February 1, 2025, and then for each year thereafter by November 15th. Employees may start taking leave on July 1, 2026. LifeSpan still needs to work with MDH and MDL on how they will implement the provision currently in the law that requires the State to pay the pro rata share of the employer contribution for employers who participate in the Medicaid Program. Additional information on the Program can be found at [Paid Family and Medical Leave \(maryland.gov\)](https://maryland.gov).

House Bill 998/Senate Bill 846: Maryland Department of Labor – Unemployment Insurance – Study on Actively Seeking Work Requirements (passed) requires the MDL to conduct a study on the actively seeking work requirements of the unemployment insurance (UI) system in the State and other states to evaluate the effects of “ghosting” on those requirements. “Ghost” means the failure of a claimant for UI benefits who is scheduled for a job interview with an employer to attend the interview or maintain contact with the employer after the interview is scheduled. By December 1, 2024, MDL must report its findings and recommendations to the General Assembly.

House Bill 1388: Labor and Employment – Noncompete and Conflict of Interest Clauses – Veterinary and Health Care Professionals (passed) prohibits the use of non-compete clauses for veterinarians and those licensed or certified under the Health Occupations Article whose position requires them to be licensed and involved in direct patient care and who makes less than \$350,000 in total annual compensation. For those who make more than \$350,000 in total annual compensation, is licensed/certified under the Health Occupations Article, and engages in direct patient care, a non-compete is allowable provided that it is only for one year and ten miles from the primary place of employment. This is prospective and does not affect any current non-compete agreements. The bill is effective July 1, 2025.

As a subset of the labor and employment bills, there were two bills regarding medical cannabis. Neither passed. **House Bill 525/Senate Bill 513: Employment Discrimination – Use of Cannabis Products** (failed) would have prohibited an employer from being able to take an adverse employment action against an employee for legal use of medical cannabis. LifeSpan opposed, given the need for flexibility in determining whether an employee is under the influence and able to safely provide care. **House Bill 790/Senate Bill 347: Medical Cannabis – Employees in Health Care Settings Caring for Qualifying Patients** (failed) would have authorized a qualifying patient to obtain medical cannabis through “designated medical personnel” and authorizes the “designated medical personnel” to administer medical cannabis to qualifying patients.

**THANK YOU TO ALL WHO PARTICIPATED ON LIFESPAN’S
LEGISLATIVE POLICY COMMITTEE**