

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 4048

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2021

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 4048.

This bill provides that contracts or agreements for the sale or transfer of a health care entity will not affect the wages, benefits, or terms of a collective bargaining agreement in place for a certain period following the sale or transfer. As used in the bill, "health care entity" means a licensed health care facility, a staffing registry, or a home care services agency.

Specifically, the bill provides that any contract or agreement that provides for the sale or transfer of ownership or control of a health care entity will provide:

1) if employees of the health care entity are covered by an unexpired collective bargaining agreement, that the provisions of the collective bargaining agreement will remain in effect until the existing expiration date of the agreement or a date six months after the full effectuation of the sale or transfer, whichever is later; and

2) that the wages and benefits, including health care, paid time off, retirement, and education benefits, of non-managerial employees of the health care entity who are not covered by an unexpired collective bargaining agreement will not be reduced or diminished during the period ending six months after the full effectuation of the sale or transfer.

All parties to a contract or agreement for the sale or transfer of a health care entity will be required to comply with all provisions that are required under the bill to be included in the contract or agreement, regardless of whether those provisions are expressly included in the contract or agreement.

Action taken pursuant to and in compliance with a collective bargaining agreement entered into by an exclusive representative of employees of a health care entity sold or transferred pursuant to a contract or agreement to which the bill applies will not be considered a violation of the requirements of the bill.

An employee who has been affected by a violation of the requirements of the bill may bring an action in any court of competent jurisdiction against any party to a contract or agreement that is subject to the requirements of the bill, including a health care entity that is

being sold or transferred pursuant to the contract or agreement. The court may order injunctive relief to prevent or remedy a violation of the requirements of the bill and, if the court finds the plaintiff suffered a loss of wages or benefits, the court is to award back pay for all losses of wages and benefit pay, the costs of benefits the health care entity or other defendant would have incurred for benefits lost by the plaintiff, expenses incurred by the plaintiff as a result of the lost benefits, and an amount equal to back pay as liquidated damages. Courts are also to award a prevailing plaintiff reasonable attorneys' fees.

The bill will take effect immediately and apply to contracts or agreements for the sale or transfer of health care entities entered into on or after the effective date of the bill.