

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 704
 Finance

(Senator Beidle, *et al.*)

Health and Government Operations

Nursing Homes - Transfer of Ownership - Surveys

This bill specifies actions the Maryland Department of Health (MDH) must take if ownership of a licensed nursing home is transferred to a person that does not own or operate another nursing home in the State at the time of the transfer. MDH must conduct (1) the first full survey of the licensed nursing home within three months after the date of transfer and (2) an unannounced, on-site follow-up survey of the licensed nursing home that covers any deficiencies noted in the initial full survey within 120 days after the initial survey was completed.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$81,600 to hire one additional health facility surveyor nurse in FY 2022. Future years reflect annualization and ongoing operating costs. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	81,600	96,700	99,600	103,100	106,700
Net Effect	(\$81,600)	(\$96,700)	(\$99,600)	(\$103,100)	(\$106,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A nursing home is a facility that offers non-acute care to patients suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services.

MDH licenses all nursing home facilities in the State. To apply for a nursing home license, an applicant must submit evidence (1) that affirmatively demonstrates the ability to comply with minimum standards of medical care, nursing care, financial condition, and other applicable State or federal laws and regulations and (2) regarding the regulatory compliance history and financial condition of any health care facility owned or operated by the applicant in other jurisdictions.

On the application for a nursing home license, an applicant must also include the identity of any person with ownership interest in the nursing home, and any management company, landlord, or other business entity that will operate or contract with the nursing home to manage the facility. The person acquiring a nursing home must notify MDH in writing of the acquisition or change in operator. At the same time, the person acquiring the nursing home must provide the Maryland Health Care Commission with a certificate of need (CON). In general, a CON is required before a person acquires a health care facility. A CON is intended to ensure that new health care facilities and services are developed only as needed.

The Office of Health Care Quality (OHCQ) within MDH generally makes an unannounced site visit and conducts a full survey of each licensed nursing home at least once per year. After a nursing home complaint alleging actual harm, OHCQ must initiate an investigation within 10 business days. If MDH receives a complaint alleging immediate jeopardy to a resident, it must make every effort to investigate the complaint within 24 hours, and no later than 48 hours, after receiving the complaint.

State Expenditures: OHCQ advises that its long-term care unit currently does not have a sufficient number of nurse surveyors to complete the federal and State mandates for nursing home oversight within the required timeframes. Although OHCQ anticipates receiving three additional surveyor positions annually in fiscal 2022 through 2024, even with this additional staffing, OHCQ will only have enough staff to meet current law survey mandates. Thus, OHCQ notes that additional staff are required to conduct (1) the initial full survey *within three months of the transfer of ownership* and (2) any follow-up surveys to cover any deficiencies *within 120 days after the initial full survey* as required under the bill. Otherwise, annual surveys would be conducted on the regular schedule; the bill accelerates surveys for these facilities.

MDH general fund expenditures increase by *at least* \$81,263 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost of hiring one health facility surveyor nurse to ensure that surveys of nursing homes that have transferred ownership to a person that does not own or operate another nursing home in the State at the time of the transfer are conducted within three months of the transfer, and that any follow-up surveys are conducted within 120 days after the initial survey. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses (including travel). The information and assumptions used in calculating the estimate are stated below:

- On average, 19 nursing homes in Maryland change ownership to an entity outside of the State annually (and as many as 30 are anticipated to change ownership in calendar 2021).
- OHCQ estimates that 6 nursing homes transfer ownership as specified under the bill in fiscal 2022 (that is, to an entity that does not already own or operate another nursing home in Maryland).
- For each of these nursing homes, OHCQ must conduct one full survey within three months of the transfer of ownership (approximately 240 hours), and one follow-up survey (approximately 45 hours) within 120 days after the full survey, for a total of up to 285 survey hours per facility.
- OHCQ projects up to 1,710 total additional survey hours to meet the requirements of the bill in fiscal 2022.
- Each health facility surveyor nurse can complete approximately 1,500 hours of surveys each year.
- Thus, one additional health facility surveyor nurse is required in fiscal 2022.

Position	1.0
Salary and Fringe Benefits	\$74,036
Operating Expenses	<u>7,587</u>
Minimum FY 2022 State Expenditures	\$81,623

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

OHCQ notes that, to become certified as a health facility surveyor nurse, an individual must complete one year of training and pass a national exam in order to work independently. MDH advises that the cost of training is approximately \$251,200 per individual. The cost of such training has not been accounted for in this estimate.

The Department of Legislative Services advises that the actual increase in general fund expenditures depends on the number of nursing homes that transfer ownership as specified under the bill. To the extent fewer nursing homes transfer ownership as specified, the health

facility surveyor nurse may be redirected to other OHCQ survey responsibilities. However, to the extent that more nursing homes do so, additional resources are required.

Additional Comments: This analysis reflects only out-of-state owners who do not already own or operate a nursing home in the State at the time of transfer are surveyed under the bill. To the extent the bill is instead interpreted to include *all* nursing home changes of ownership in the State to an out-of-state owner, general fund expenditures increase significantly to hire additional health facility surveyor nurses in order to ensure that the initial full survey and any follow-up surveys are conducted within the time periods specified under the bill (for as many as 24 more facilities in fiscal 2022).

Additional Information

Prior Introductions: None.

Designated Cross File: HB 674 (Delegate Valentino-Smith) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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