

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1475 (Delegate Cullison)
Health and Government Operations

**Health Facilities - Delegation of Inspection Authority - Related Institutions and
Nursing Homes**

This bill requires the Secretary of Health, on request of a unit of local government, to delegate to the unit of local government the authority to (1) inspect related institutions and (2) conduct site visits and full surveys of nursing homes. The bill authorizes a unit of local government to which the Secretary has delegated inspection authority to receive specified civil money penalties imposed on a nursing home and review financial and performance records of an applicant for nursing home license (or a management firm under contract with an applicant) to determine the ability of the applicant or management firm to comply with appropriate laws and regulations. The bill also makes conforming changes related to delegation to a unit of local government.

Fiscal Summary

State Effect: Office of Health Care Quality (OHCQ) general fund expenditures may increase by an indeterminate amount beginning in FY 2025 for additional staff to oversee any local government that requests delegation of authority under the bill, as discussed below.

Local Effect: Local government expenditures increase by a potentially significant amount for a unit of local government that requests and is granted delegated authority under the bill, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary: A related institution must report an unexpected occurrence related to an individual's medical treatment that results in death or serious disability to a unit of local government that the Secretary has delegated inspection authority within 5 days of the related institution's knowledge of the event. A root cause analysis must also be submitted to the unit of local government within 60 days. A related institution may report an unexpected occurrence related to an individual's medical treatment that does not result in death or serious disability to the unit of local government. These notifications are otherwise provided to the Maryland Department of Health (MDH).

When the Secretary of Health issues a final decision upholding a civil penalty, the escrow funds for the penalty will be related to the unit of local government that the Secretary has delegated inspection authority.

Current Law: "Nursing home" means a facility (other than a facility offering domiciliary or personal care) that offers nonacute inpatient 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 and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.

"Related institution" means an organized institution, environment, or home that (1) maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for two or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment and (2) admits or retains the individuals for overnight care. "Related institution" does not include a nursing facility or visiting nurse service that is conducted only by or for adherents of a *bona fide* church or religious organization, in accordance with tenets and practices that include reliance on treatment by spiritual means alone for healing.

State Oversight of Specified Health Care Facilities

The Secretary of Health must adopt reasonable rules and regulations that set standards of services for related institutions, hospitals, and residential treatment centers in the following areas: (1) the care of patients; (2) the medical supervision of patients; (3) the physical environment; (4) disease control; (5) sanitation; (6) safety; and (7) dietary matters.

To ensure compliance with these rules and regulations, OHCQ inspects each related institution, hospital, and residential treatment center. In general, OHCQ inspects facilities for which a license is sought and periodically after a license has been issued. MDH submits

an annual report to the General Assembly regarding the inspections conducted during the immediately preceding year.

Federal Oversight of Specified Health Care Facilities

The 1864 Agreement is an agreement between the federal Centers for Medicare and Medicaid Services (CMS) and the state health facility survey agency to carry out specified provisions of the Social Security Act. Each 1864 Agreement stipulates the functions of the states to, among other things, certify whether or not providers and suppliers within the state comply with all applicable definitions and requirements.

CMS allocates funding to each state for the reasonable costs of performing the functions specified in the agreement and for Medicare's fair share of costs related to Medicare facilities. States that fail to perform survey and certification functions in a manner sufficient to assure the full certification of compliance, may, among other things, receive a revised budgetary allocation. The Medicare and Medicaid certification of providers in a state whose oversight process is substantially deficient may be jeopardized if CMS cannot ensure that the regulatory minimum health and safety standards have been met.

In Maryland, certain long-term care facilities (assisted living programs and developmental disabilities facilities) necessitate compliance with CMS waiver requirements. Additionally, hospice facilities, residential treatment facilities, and other long-term care facilities require adherence to corresponding federal standards.

Nursing Homes

OHCQ 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.

Former Agreement with Montgomery County

On December 14, 2021, the Montgomery County Department of Health and Human Services [requested](#) a new memorandum of understanding (MOU) between Montgomery County and MDH to allow nursing home surveyors employed by the county to conduct and be responsible for all nursing home surveys and investigations in the county. Under the previous MOU, the State supplemented funding for the county's survey activities. MDH did not reinstate the previous MOU.

State Fiscal Effect: OHCQ advises that, under the bill, MDH must continue inspections in specified long-term care facilities to ensure compliance with federal guidance. Thus, the Secretary may likely only delegate authority of *State* functions to a unit of local government under the bill. If a unit of local government requests and receives delegated authority, OHCQ would be required to monitor the unit of local government's inspection activities, which cannot be absorbed within existing OHCQ staff resources. Therefore, OHCQ expenditures increase by an indeterminate amount beginning the first fiscal year a unit of local government requests delegation authority (as early as fiscal 2025) for additional staff to oversee the unit of local government. The number of additional staff depends on the number of units of local government that seek and are granted delegation authority.

Local Fiscal Effect: To the extent a unit of local government requests delegation authority under the bill, expenditures increase by an indeterminate but potentially significant amount beginning in the fiscal year that delegation authority is granted (as early as fiscal 2025). Since OHCQ currently inspects related institutions and conducts site visits and full surveys of nursing homes, units of local government are not likely to have the appropriate staff to absorb the activities authorized under the bill. Several units of local government (including Baltimore City; Howard, Montgomery, and Prince George's counties; and the cities of Frederick and Harve de Grace) advised that their local governments do not have the capability to perform the inspection tasks authorized under the bill.

Additionally, to the extent that a local unit of government has the ability to complete the inspections, site visits, or surveys authorized under the bill, expenditures increase accordingly to reflect the cost of conducting these activities. To the extent a unit of local government delegated inspection authority under the bill receives any civil money penalties, local revenues increase, and expenditures are offset.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See 2022 HB 1351.

Designated Cross File: SB 825 (Senator Kramer) - Finance.

Information Source(s): Maryland Association of County Health Officers; Baltimore City; Calvert, Caroline, Howard, and Prince George's counties; Maryland Association of Counties; cities of Frederick and Havre de Grace; Maryland Municipal League; towns of Indian Head and Rising Sun; Maryland Department of Health; Department of Legislative Services

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