

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 825

(Senator Kramer)

Finance

Health and Government Operations

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**Health Facilities - Delegation of Inspection Authority - Nursing Homes**

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This bill requires the Secretary of Health, on request of a county, to delegate to the county the authority to conduct site visits and full surveys of nursing homes. The Maryland Department of Health (MDH) and the county must equally share the costs of conducting site visits and full surveys delegated by the Secretary.

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**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 county that requests delegation authority under the bill and to equally share the costs of conducting site visits and full surveys, as discussed below.

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

**Small Business Effect:** Minimal.

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**Analysis**

**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.

### *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 nursing homes to ensure compliance with federal guidance. Thus, the Secretary may likely only delegate authority of *State* functions to a county under the bill. If a county requests and receives delegated authority, OHCQ would be required to monitor the county'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 county requests delegation authority (as early as fiscal 2025) for additional staff to oversee the county. The number of additional staff depends on the number of counties that seek and are granted delegation authority.

Additionally, the bill requires MDH to equally share the cost of conducting site visits and full surveys with a county that is granted delegation authority. Therefore, OHCQ general fund expenditures further increase by an indeterminate amount beginning the first fiscal year a county requests delegation authority (as early as fiscal 2025) to equally share the costs associated with site visits and full surveys of nursing homes conducted by a county with delegated authority.

**Local Fiscal Effect:** To the extent a county 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 conducts site visits and full surveys of nursing homes, counties are not likely to have the appropriate staff to absorb the activities authorized under the bill. Several counties (including Howard, Montgomery, and Prince George's counties) advised that their local governments do not have the capability to perform the tasks authorized under the bill.

Additionally, to the extent that a county has the ability to complete the site visits or surveys authorized under the bill, expenditures increase accordingly to reflect the cost of conducting these activities. However, the bill requires that these costs must be shared equally with MDH.

## **Additional Information**

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

**Designated Cross File:** HB 1475 (Delegate Cullison) - Health and Government Operations.

**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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