

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 596

(Chair, Finance Committee)(By Request - Departmental -
Health and Mental Hygiene)

Finance

Health and Government Operations

Health Care Facilities - Surveys, Inspections, and External Reviews

This departmental bill modifies the frequency at which the Office of Health Care Quality (OHCQ) must conduct surveys (or external reviews) of (1) freestanding ambulatory care facilities; (2) freestanding birthing centers; (3) home health agencies; (4) health maintenance organizations (HMOs); and (5) nursing homes.

Fiscal Summary

State Effect: As the bill modifies the survey (or external review) frequency of specified entities to reflect the current practice and staffing realities of OHCQ and to conform to federal survey frequency guidelines, general fund expenditures are not affected. Revenues are likewise not affected.

Local Effect: None.

Small Business Effect: The Department of Health and Mental Hygiene (DHMH) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law: The bill alters the survey (or external review) requirements as shown in **Exhibit 1**.

Exhibit 1
OHCQ Survey/External Review Frequency

<u>Type of Facility</u>	<u>Number of Licensees</u>	<u>Current Required Frequency</u>	<u>Proposed Statutory Frequency</u>
Ambulatory Care Facility	328	Annually	In accordance with federal regulations
Freestanding Birthing Center	2	N/A	Annually
Home Health Agency	55	Annually	Every three years
HMO	7	Periodically	Exempt*
Nursing Home	232	Semiannually	Annually

*When accredited by an accreditation organization approved by the Secretary of Health and Mental Hygiene.

Source: Department of Legislative Services

Ambulatory Care Facilities

Although statute is silent on the frequency of ambulatory care facility surveys, OHCQ advises that it *interprets* statute as requiring such facilities to be surveyed every year, and it has not been able to do so. Federal regulations currently require that these facilities be surveyed *at least* every six years, with 25% of facilities being surveyed every year. There are 328 such facilities in the State; thus, application of the federal standards would require that 82 facilities be surveyed every year.

Freestanding Birthing Centers

There is no federal or State requirement to survey freestanding birthing centers. However, OHCQ currently conducts an annual survey of the two birthing centers in the State, and the provisions of the bill codify this practice.

Home Health Agencies

The bill requires home health agencies to be surveyed once every three years. This provision mirrors the federal survey requirement. State regulations require that home health agencies be surveyed every year.

Health Maintenance Organizations

The bill *exempts* an HMO from external review when the HMO is accredited by an accreditation organization approved by the Secretary of Health and Mental Hygiene. Current law allows for a federally approved professional standards review organization to conduct the annual external review of HMOs. All seven HMOs operating in Maryland are currently reviewed by a federally approved professional standards review organization. OHCQ advises that the standards for a federally approved professional standards review organization are less stringent than the standards for an accreditation organization approved by the Secretary of Health and Mental Hygiene included in the bill.

Nursing Homes

The bill decreases the frequency of surveys of nursing homes from at least two times per year to at least one time per year. The bill also repeals a provision that allows OHCQ to waive the survey requirement for a nursing home that had no deficiencies in its two most recent surveys that would have the potential of causing minimum harm or greater.

Background: OHCQ within DHMH is the agency mandated by State and federal law to determine compliance with the quality of care and life standards for a variety of health care services and programs. OHCQ licenses and regulates more than 14,000 medical facilities, ranging from hospitals and ambulatory surgical centers to nursing homes and facilities for the developmentally disabled. Facilities and services are reviewed on a regular basis for compliance with the Code of Maryland Regulations, as well as for compliance with federal regulations in those facilities participating in Medicare and Medicaid. The agency registers consumer complaints. However, staffing deficiencies have hampered the agency's ability to meet its statutory mandates, including surveys of facilities. OHCQ advises that it has a staffing deficit of approximately 71 surveyors (who would be needed to meet statutory requirements).

At the request of the Secretary of Health and Mental Hygiene, OHCQ performed a review of survey frequency in 2014 to determine if any changes to statute could be made. OHCQ made four principal recommendations addressing the survey frequency with respect to (1) freestanding birthing centers; (2) home health agencies; (3) HMOs; and (4) nursing homes. The bill is the result of those recommendations. OHCQ advises that, by amending the statute, it is more likely to be able to meet survey requirements, despite the continued staffing deficit.

OHCQ advises that there is no evidence that the State requirement for annual surveys of home health agencies is necessary, and it recommends that the State adopt the federal requirements.

Likewise, OHCQ advises that the decrease in survey frequency of nursing homes from twice every year to once every year mirrors the federal requirement. Moreover, OHCQ advises that it maintains additional oversight of nursing homes through complaint inspections.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2015
min/ljm Revised - Senate Third Reader - March 23, 2015
Revised - Enrolled Bill - May 4, 2015

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Health Care Facilities – Survey Frequency

BILL NUMBER: SB 596

PREPARED BY: Chrissy Vogeley, Office of Health Care Quality

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This will not economically impact small business.