### M00B0103 Office of Health Care Quality Maryland Department of Health

# **Operating Budget Data**

(\$ in Thousands)						
	FY 17 <u>Actual</u>	FY 18 <u>Working</u>	FY 19 <u>Allowance</u>	FY 18-19 <u>Change</u>	% Change <u>Prior Year</u>	
General Fund	\$13,367	\$12,978	\$13,875	\$897	6.9%	
Adjustments	0	-154	145	300		
Adjusted General Fund	\$13,367	\$12,823	\$14,020	\$1,197	9.3%	
Special Fund	588	536	536	0		
Adjustments	0	0	0	0		
Adjusted Special Fund	\$588	\$536	\$536	\$0	0.0%	
Federal Fund	6,496	6,800	6,961	162	2.4%	
Adjustments	0	-77	40	117		
Adjusted Federal Fund	\$6,496	\$6,723	\$7,001	\$278	4.1%	
Adjusted Grand Total	\$20,451	\$20,082	\$21,557	\$1,475	7.3%	

Note: FY 18 Working includes targeted reversions, deficiencies, and across-the-board reductions. FY 19 Allowance includes contingent reductions and cost-of-living adjustments.

- After across-the-board actions, the Governor's fiscal 2019 allowance for the Office of Health Care Quality (OHCQ) increases by \$1.5 million over the fiscal 2018 working appropriation.
- The majority of this increase is due to additional personnel costs as the department begins to add positions in accordance with the annual staffing analysis.

For further information contact: Jordan D. More

Note: Numbers may not sum to total due to rounding.

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	FY 17 <u>Actual</u>	FY 18 <u>Working</u>	FY 19 <u>Allowance</u>	FY 18-19 <u>Change</u>
Regular Positions	188.70	191.70	200.70	9.00
Contractual FTEs	<u>3.66</u>	<u>12.00</u>	<u>15.00</u>	<u>3.00</u>
Total Personnel	192.36	203.70	215.70	12.00
Vacancy Data: Regular Positions				
Turnover and Necessary Vacancies,	Excluding New	5.25	2 7 40/	
Positions		5.25	2.74%	
Positions and Percentage Vacant as o	of 12/31/17	9.00	4.69%	

### **Personnel Data**

- The fiscal 2019 allowance includes 9.0 new regular positions for OHCQ. These, in addition to the 3.0 new contractual full-time equivalents (FTE), represent the 12.0 new positions that the department indicated would be added in accordance with the annual staffing analysis.
- Budgeted turnover in the allowance decreases from 9.5% to 2.7%, which would require the agency to maintain an average of 5.25 vacancies throughout the year. As of December 31, 2017, OHCQ had 9.0 vacancies, or 4.7%.

# Analysis in Brief

### **Major Trends**

*Staffing Deficits and Increased Workload Limit the Agency's Efficacy:* OHCQ has faced chronic staffing shortages over the past few years due to the combination of an increased workload, a structural deficiency in positions allotted for survey and inspection activities, and chronic vacancies among surveyor positions. In fiscal 2017, the agency continued to fall short of its Managing for Results performance measures.

#### Issues

**OHCQ Begins to Address the Chronic Staffing Deficit:** Based on a report required by fiscal 2018 budget bill language, OHCQ has developed a seven-year staffing plan to finally address the chronic staffing shortfalls that have plagued agency performance. Fiscal 2018 and 2019 represent years one and two, respectively, of the seven-year plan, which has added a total of 24 new FTEs to the agency. However, not all of the FTEs that have been added are regular positions, even though the staffing analysis indicates that these new FTEs will be required on a permanent basis. The department should comment on why some of the new positions are contractual FTEs as opposed to regular positions.

## **Operating Budget Recommended Actions**

Concur with Governor's allowance. 1.

### M00B0103 Office of Health Care Quality Maryland Department of Health

# **Operating Budget Analysis**

### **Program Description**

The Office of Health Care Quality (OHCQ) is the agency within the Maryland Department of Health (MDH) 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. Facilities and services are reviewed on a regular basis for compliance with the *Code of Maryland Regulations* (COMAR), as well as for compliance with federal regulations in those facilities participating in Medicare and Medicaid. The types of facilities licensed and regulated by OHCQ include nursing homes, hospitals, ambulatory surgical centers, endoscopic centers, birthing centers, home health agencies, health maintenance organizations (HMO), hospice care, physical therapy centers, developmental disability homes and facilities, and forensic laboratories. Previously, OHCQ was also responsible for the licensure and regulation of mental health and substance use disorder treatment facilities. However, beginning with fiscal 2018, those responsibilities have been transferred to the Behavioral Health Administration (BHA).

### **Performance Analysis: Managing for Results**

### 1. Staffing Deficits and Increased Workload Limit the Agency's Efficacy

### **Hospitals and Patient Safety**

OHCQ protects the safety of consumers through a survey and enforcement process of a variety of health-related entities. It also protects the public and ensures the health of Marylanders through the timely resolution of consumer complaints. However, staffing deficiencies have hampered the agency's ability to meet its Managing for Results (MFR) performance measures.

In fiscal 2004, OHCQ assumed responsibility for the implementation of the Maryland Patient Safety Program (part of the Hospital and HMO Quality Assurance units at OHCQ), which requires hospitals to establish an internal patient safety program that tracks adverse events and near misses. OHCQ has been increasing the number of reviews. As shown in **Exhibit 1**, the agency reviewed 26 programs in fiscal 2017, up 86% over fiscal 2016, mostly due to the addition of new surveyors as well as gaining new efficiencies. The agency notes that conducting annual reviews of hospital patient safety programs in a certain percentage of all licensed hospitals is not mandated by statute or regulation.

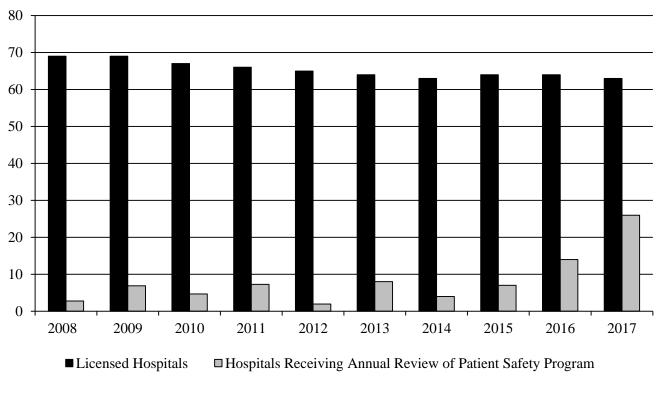


Exhibit 1 Licensed Hospitals and Annual Review of Patient Safety Program Fiscal 2008-2017

Hospitals are required to report to OHCQ Level 1 adverse events, including events that result in death or serious disability, retained foreign bodies after a surgery, and/or wrong-side/wrong-person surgery. For each adverse event, hospitals submit a root cause analysis (RCA) that is reviewed by OHCQ and logged into a database. OHCQ has consistently managed to conduct timely RCA reviews.

#### **Nursing Homes**

Federal and State regulations require the investigation of complaints and incidents (as reported by facilities, consumers, or advocates) alleging actual harm. The OHCQ Long-Term Care Unit evaluates, monitors, licenses, and certifies all nursing homes in the State. One of the performance goals of OHCQ is to minimize delays in handling complaint investigations in nursing homes. While the current MFR goal is to initiate investigations of complaints within 16 working days, previously the goal has been to initiate investigations of complaints alleging actual harm within 10 working days of receipt of the complaint, consistent with the requirements set forth in federal regulations for Medicare and Medicaid. **Exhibit 2** shows the number of complaint investigations alleging actual harm completed by OHCQ annually, as well as the average number of days for OHCQ to initiate an investigation.

Source: Maryland Department of Health

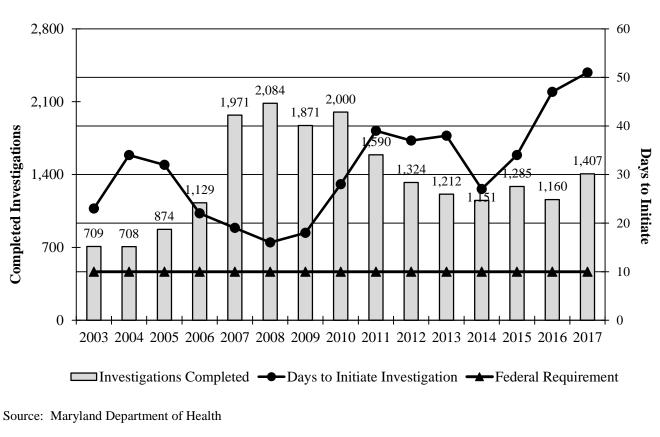


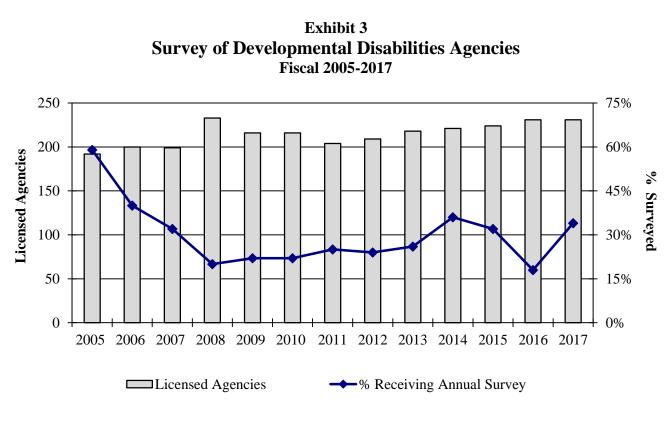
Exhibit 2 Nursing Home Complaint Investigations Fiscal 2003-2017

In fiscal 2017, the number of days to initiate an investigation (51) is higher than any other year. Most of this increase is due to the fact that the Nursing Home Unit was adding additional staff during fiscal 2017, which limited the efficiency of current staff during that time to about 80% to 85% of what they usually can do. Once the new staff are fully trained, however, the efficiency of the existing staff should return to 100%, and the addition of a fully trained surveyor should help improve this metric in the future. However, progress may be slowed by the fact that as of November 2017, a new federal long-term care survey process was initiated, which will slow down the completion of federal complaint investigations.

#### **Developmental Disabilities Facilities**

The OHCQ Developmental Disabilities Unit (DDU) evaluates, monitors, and recommends licensure for all community residential, day habilitation, vocational, and support services provided for individuals receiving funding through the Developmental Disabilities Administration (DDA). In fiscal 2017, there were over 230 agencies operating in more than 3,100 sites throughout the State. The unit's goal is to provide timely and comprehensive relicensure surveys for agencies providing services

to developmentally disabled individuals, as required by COMAR. **Exhibit 3** shows the total number of licensed agencies and the percentage of those receiving an annual survey. All new sites are required to have an initial survey prior to operation.



Source: Maryland Department of Health

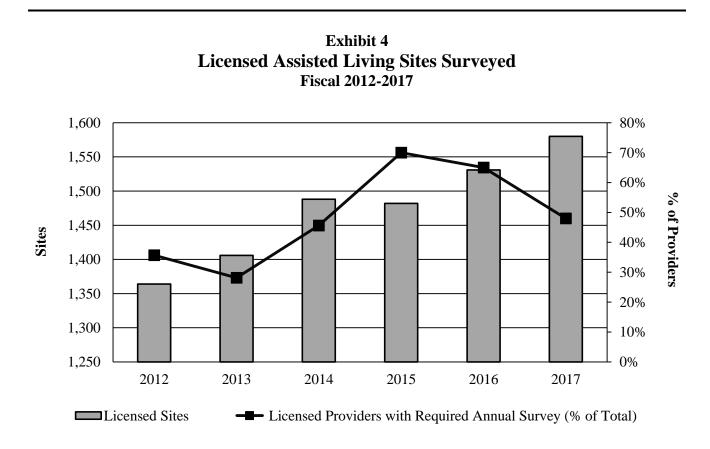
The agency is statutorily mandated to complete annual surveys for the continual protection of individuals with developmental disabilities receiving services from agencies licensed by DDA. The percentage of developmental disabilities facilities receiving annual surveys declined sharply between fiscal 2005 and 2008. Specifically, OHCQ conducted as many as 59% of relicensure surveys in fiscal 2005 but only 20% in fiscal 2008. The agency's DDU has struggled to meet its MFR goal and had previously reduced the goal from 27% to 25% of required annual relicensure surveys. After failing to meet even this reduced goal in fiscal 2012 (during which only 24% of annual relicensure surveys were completed), the agency completed 26% of annual relicensure surveys to meet its goal in fiscal 2013.

In fiscal 2017, the agency completed 34% of annual relicensure surveys, improving on the fiscal 2016 rate of 18%, but still falling short of its latest MFR goal (45%). However, OHCQ has been focusing on hiring and training additional staff for this unit and will continue to request the sufficient surveyor and administrative staff necessary to meet the objective. The addition of the appropriate

amount of staff for this unit will continue to be critical to meeting the MFR goal. Beyond the efficiencies that OHCQ has already implemented, such as the targeted survey process that has increased the number of surveys completed, there are little to no further efficiencies to be gained. It must be noted that, while the agency's current goal is to complete 45% of annual relicensure surveys, it should ultimately be the agency's goal to complete 100% of annual relicensure surveys, consistent with its statutory mandate.

#### **Assisted Living Facilities**

The OHCQ Assisted Living Unit (ALU) surveys all assisted living providers in the State. The unit's goal is to provide timely and comprehensive initial and annual renewal surveys of assisted living sites for the protection of individuals receiving services from assisted living providers. In fiscal 2017, there were 1,580 licensed sites. **Exhibit 4** shows the number of licensed sites in the State receiving short of the agency's goal of 80% and producing the lowest performance since fiscal 2014 at 46%. However, again, part of this decrease is due to current staff time being devoted to training additional staff that were hired during the fiscal year. As more staff are added to the unit, including the 6, new nurse surveyors that are currently being trained, this metric should improve.



Source: Maryland Department of Health

Analysis of the FY 2019 Maryland Executive Budget, 2018

### **Fiscal 2018 Actions**

#### **Cost Containment**

On September 6, 2017, the Board of Public Works reduced appropriations across State government. One of these actions reduced travel costs by 25% across all of MDH. This agency's share of that reduction was \$55,784 in general funds.

### **Across-the-board Employee and Retiree Health Insurance Reduction**

The budget bill includes an across-the-board reduction for employee and retiree health insurance in fiscal 2018 to reflect a surplus balance in the fund. This agency's share of this reduction is \$154,253 in general funds, \$40,624 in special funds, and \$76,880 in federal funds.

### **Proposed Budget**

As shown in **Exhibit 5**, the fiscal 2019 allowance for OHCQ increases by almost \$1.5 million net of fiscal 2018 and 2019 across-the-board adjustments. The majority of this increase is for increased personnel costs due to the addition of 9 new regular positions.

### Exhibit 5 Proposed Budget MDH – Office of Health Care Quality (\$ in Thousands)

How Much It Grows:	General <u>Fund</u>	Special <u>Fund</u>	Federal <u>Fund</u>	<u>Total</u>
Fiscal 2017 Actual	\$13,367	\$588	\$6,496	\$20,451
Fiscal 2018 Working Appropriation	12,823	536	6,723	20,082
Fiscal 2019 Allowance	14,020	<u>536</u>	7,001	21,557
Fiscal 2018-2019 Amount Change	\$1,197	\$0	\$278	\$1,475
Fiscal 2018-2019 Percent Change	9.3%		4.1%	7.3%
Where It Goes:				
Personnel Expenses				
New positions (9 full-time equivale	nts (FTE))			

New position	ons (9 full-time equivalents (FTE))	\$827
Turnover a	ljustments	546
Miscellane	ous salary adjustments	455
General sal	ary increase	185

Where It Goes:	
Health insurance, primarily the impact of the fiscal 2018 health insurance deduction holiday	13
Other fringe benefit adjustments	5
Social Security contributions	-56
Retirement contributions	-138
Salary adjustments	-655
Other Changes	
New contractual positions (3 FTEs)	454
Travel	21
Vehicle replacement	-76
Montgomery County contracts	-143
Other	36
Total	\$1,475

MDH: Maryland Department of Health

Note: Numbers may not sum to total due to rounding.

#### Personnel

The largest change for personnel is an additional \$827,000 for 9 new regular positions for OHCQ. Of these new positions, 8 are for nurse surveyors and 1 is a physician program specialist. These positions, in addition to the 3 contractual full-time equivalents (FTE), are added in accordance with the most recent staffing analysis and seven-year staffing plan that was submitted in December 2017. More information on this staffing plan can be found in Issue 1.

The next largest personnel change is a \$546,000 increase for turnover. Due to a more robust and efficient hiring process by the department, turnover is expected to drastically decrease in fiscal 2019. Whereas last year's budgeted turnover rate was 9.5%, this year it is 2.7%. There is also an increase of \$455,000 to align budgeted salaries with actual salaries.

The fiscal 2019 allowance includes funds for a 2% general salary increase for all State employees, effective January 1, 2019. These funds are budgeted in the Department of Budget and Management's statewide program and will be distributed to agencies during the fiscal year. This agency's share of the general salary increase is \$145,306 in general funds and \$39,871 in federal funds.

There are some significant decreases in personnel costs this year as well. Most of this has to do with the transfer of the Behavioral Health Unit from OHCQ to BHA at the beginning of fiscal 2018. While the positions themselves have transferred, the funding in the working appropriation has not, resulting in what appears to be significant decreases for various personnel categories.

### **Other Changes**

The most significant nonpersonnel change for OHCQ is the addition of \$454,000 in new contractual position costs. Most of this funding is for 3 new contractual FTE nurse surveyor positions. Offsetting this increase, there is a decrease of \$143,000 in costs for a contract with Montgomery County. Historically, Montgomery County had 1 nurse surveyor who surveyed large assisted living facilities in the county on behalf of OHCQ. However, when the employee retired, it was mutually decided that OHCQ would assume all assisted living functions once again.

### Issues

### 1. OHCQ Begins to Address the Chronic Staffing Deficit

As previously mentioned in this analysis, OHCQ has faced a chronic and persistent staffing shortfall, particularly for nurse surveyors who do the bulk of the survey and investigation duties of the agency. This shortfall was a direct result of a persistent inadequacy in the number of authorized positions within OHCQ. However, the department indicated in past budget testimony that it was also having difficulty retaining nurse surveyors, compounding the staffing issues. In response to these concerns, the General Assembly included budget bill language for fiscal 2018 requiring MDH to submit a three-year staffing plan that would bring OHCQ into compliance with the amount of positions necessary to fulfill the need indicated in the statutorily mandated staffing analysis. In addition, this report was to include (1) an analysis of appropriate compensation for recruitment and retention of nurse surveyors; and (2) an assessment of strategies other than salary that the federal government and other states use to retain nurse surveyors. The report was due on October 7, 2017. On December 12, 2017, MDH submitted the report within OHCQ's annual report.

### A Seven-year Staffing Plan

In the report, OHCQ and MDH noted that the fiscal 2018 projected surveyor staffing deficit for OHCQ is currently 36.49 positions, which is a decrease from the fiscal 2017 deficit of 46.05. The decrease in the deficit is due to both a decline in the number of needed surveyors in fiscal 2018 and the lack of the projected need in the Behavioral Health Unit being included in the report, since that unit was transferred to BHA at the beginning of fiscal 2018. Beyond the number of nurse surveyors required, the report also outlined that OHCQ needs a number of support personnel, including coordinators, office secretaries, and other positions. Altogether, the report indicates that OHCQ needs to add an additional 73.0 new FTEs in order to be fully staffed. Since it is unrealistic that a single agency would be able to hire and train this large number of staff in a single year, the report presents a plan to add all of these positions over a seven-year time span, from fiscal 2018 through 2024, as presented in **Exhibit 6**.

Exhibit 6 OHCQ Seven-year Staffing Plan Fiscal 2018-2024								
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>Tota</u>
Coordinators	4	2	2	1	2	0	1	12
Nurse Surveyors	4	10	7	9	7	9	8	54
Other Personnel	4	0	2	1	0	0	0	7
Total	12	12	11	11	9	9	9	73

Source: Maryland Department of Health

Even though the budget language requested a three-year staffing plan, the department noted in the report that OHCQ only has the ability to onboard new staff at a rate of 5% to 6% a year. Hence, the plan only projects adding between 9 to 12 positions in any given year. Further, as shown in the exhibit, the plan to add 73 new FTEs will add a total of 54 nurse surveyors. This number takes into account a projection of how many surveyors will be needed by fiscal 2024, given the ever increasing number of facilities that OHCQ must survey and license; as well as additional positions that will be required to conduct specialized surveys and investigations, including sanitarians, medical laboratory technicians, special program coordinators, and nurse surveyor trainers.

Further, the report contained an analysis of appropriate compensation levels for nurse surveyors as well as new opportunities that MDH and OHCQ will pursue to improve nurse surveyor retention rates. For salaries, the report recommends that the starting salaries for nurse surveyors be increased by three steps, or \$3,364, in order for those salaries to more closely approach the twenty-fifth percentile of the median nursing salary in the State. Further, the report proposes additional salary increases after both one and two years of successful employment, where currently there is only a salary increase after one year. For improved retention, the department proposes a number of new strategies in areas such as candidate selection, culture, the onboarding process, training and education, individual and career development, administrative support, and feedback and evaluation. Further, these strategies will be pursued not just for nurse surveyors but for all employees of OHCQ.

For fiscal 2018, in order to add the 12 new FTEs, the department added 3 new regular positions from elsewhere in the department, provided an additional 6 new contractual FTEs, and reclassified internally within OHCQ an additional 3 regular positions. For fiscal 2019, the department is adding 9 new regular positions and 3 contractual FTEs. While it is laudable that the department is following through on its report, the use of contractual FTEs to fulfill this need is somewhat concerning. State budget policy has traditionally been that contractual FTEs are only to be used for those positions that are either temporary or seasonal in nature, or that will no longer be needed after three years. Based on the staffing analysis, none of these positions appear to be only temporary at this point, given that these are just the first 24 of a total of 73. The department should comment on why some of the new positions are contractual FTEs as opposed to regular positions.

# **Operating Budget Recommended Actions**

1. Concur with Governor's allowance.

### Appendix 1 **Current and Prior Year Budgets** Maryland Department of Health – Office of Health Care Quality (\$ in Thousands)

Fiscal 2017	General <u>Fund</u>	Special <u>Fund</u>	Federal <u>Fund</u>	Reimb. <u>Fund</u>	<u>Total</u>
Legislative Appropriation	\$12,396	\$535	\$7,277	\$0	\$20,208
Deficiency Appropriation	0	0	0	0	0
Cost Containment	0	0	0	0	0
Budget Amendments	1,293	152	97	0	1,542
Reversions and Cancellations	-322	-99	-878	0	-1,299
Actual Expenditures	\$13,367	\$588	\$6,496	\$0	\$20,451
Fiscal 2018					
Legislative Appropriation	\$13,034	\$536	\$6,800	\$0	\$20,369
Cost Containment	-56	0	0	0	-56
Budget Amendments	0	0	0	0	0
Working Appropriation	\$12,978	\$536	\$6,800	\$0	\$20,313

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. Numbers may not sum to total due to rounding.

#### Fiscal 2017

Actual expenditures for the Office of Health Care Quality (OHCQ) were \$242,193 above the legislative appropriation. Budget amendments added a total of \$1,541,652, including \$1,292,930 in general funds, \$151,846 in special funds, and \$96,876 in federal funds. This included \$993,360 in general funds due to lower federal matching claims than budgeted, \$262,753 (including \$165,192 in general funds, \$685 in special funds, and \$96,876 in federal funds) for the transfer of funds for the fiscal 2017 increment, \$151,031 in special funds to reflect higher costs associated with the Centers for Medicare and Medicaid Services Civil Monetary Penalty funds, and \$144,334 (including \$144,204 in general funds and \$130 in special funds) to realign salary expenditures to implement Section 20 of the fiscal 2017 budget bill. There was also a decrease of \$9,826 in general funds to correct a budgeting error.

Cancellations and reversions accounted for a decrease of \$1,299,459, including \$322,115 in general funds, \$99,099 in special funds, and \$878,245 in federal funds. These cancellations and reversions were mainly due to either higher than expected vacancies or a lower than expected federal fund matching revenue.

#### Fiscal 2018

The only change between the fiscal 2018 legislative and working appropriation for OHCQ is the reduction of \$55,784 in travel costs due to the cost containment actions previously mentioned in this analysis.

### Appendix 2 Audit Findings

Audit Period for Last Audit:	March 25, 2013 – September 27, 2015
Issue Date:	April 2017
Number of Findings:	1
Number of Repeat Findings:	1
% of Repeat Findings:	100%
Rating: (if applicable)	n/a

# <u>Finding 1:</u> The Office of Health Care Quality did not conduct annual inspections of certain health care facilities as required.

\*Bold denotes item repeated in full or part from preceding audit report.

#### Appendix 3 Object/Fund Difference Report MDH – Office of Health Care Quality

		FY 18			
	FY 17	Working	FY 19	FY 18 - FY 19	Percent
Object/Fund	Actual	Appropriation	Allowance	Amount Change	<u>Change</u>
Positions					
01 Regular	188.70	191.70	200.70	9.00	4.7%
02 Contractual	3.66	12.00	15.00	3.00	25.0%
Total Positions	192.36	203.70	215.70	12.00	5.9%
Objects					
01 Salaries and Wages	\$ 17,615,947	\$ 17,459,339	\$ 18,225,886	\$ 766,547	4.4%
02 Technical and Spec. Fees	181,381	249,110	703,192	454,082	182.3%
03 Communication	100,704	67,998	76,633	8,635	12.7%
04 Travel	381,506	249,236	270,410	21,174	8.5%
07 Motor Vehicles	148,517	267,531	184,543	-82,988	-31.0%
08 Contractual Services	928,650	1,034,907	921,993	-112,914	-10.9%
09 Supplies and Materials	80,618	60,580	67,672	7,092	11.7%
10 Equipment – Replacement	36,466	14,171	19,723	5,552	39.2%
11 Equipment – Additional	20,083	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	587,803	535,871	535,871	0	0%
13 Fixed Charges	368,839	374,433	366,260	-8,173	-2.2%
Total Objects	\$ 20,450,514	\$ 20,313,176	\$ 21,372,183	\$ 1,059,007	5.2%
Funds					
01 General Fund	\$ 13,366,667	\$ 12,977,738	\$ 13,875,136	\$ 897,398	6.9%
03 Special Fund	587,803	535,871	535,871	0	0%
05 Federal Fund	6,496,044	6,799,567	6,961,176	161,609	2.4%
Total Funds	\$ 20,450,514	\$ 20,313,176	\$ 21,372,183	\$ 1,059,007	5.2%

MDH: Maryland Department of Health

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.

#### Appendix 4 Fiscal Summary MDH – Office of Health Care Quality

Program/Unit	FY 17 <u>Actual</u>	FY 18 <u>Wrk Approp</u>	FY 19 <u>Allowance</u>	<u>Change</u>	FY 18 - FY 19 <u>% Change</u>
03 Office of Health Care Quality	\$ 20,450,514	\$ 20,313,176	\$ 21,372,183	\$ 1,059,007	5.2%
Total Expenditures	\$ 20,450,514	\$ 20,313,176	\$ 21,372,183	\$ 1,059,007	5.2%
General Fund	\$ 13,366,667	\$ 12,977,738	\$ 13,875,136	\$ 897,398	6.9%
Special Fund	587,803	535,871	535,871	0	0%
Federal Fund	6,496,044	6,799,567	6,961,176	161,609	2.4%
Total Appropriations	\$ 20,450,514	\$ 20,313,176	\$ 21,372,183	\$ 1,059,007	5.2%

MDH: Maryland Department of Health

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.