

MA.01.03
Office of Health Care Quality
Department of Health and Mental Hygiene

Operating Budget Data

(\$ in Thousands)

	<u>FY 00</u> <u>Actual</u>	<u>FY 01</u> <u>Working</u>	<u>FY 02</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$6,758	\$8,231	\$9,517	\$1,285	15.6%
Special Fund	139	0	200	200	
Federal Fund	2,933	3,720	4,246	526	14.1%
Reimbursable Fund	<u>68</u>	<u>0</u>	<u>63</u>	<u>63</u>	_____
Total Funds	\$9,898	\$11,951	\$14,025	\$2,074	17.4%

- About 2/3 or \$1.4 million of the requested increase supports higher salary costs for existing personnel.
- \$447,000 of the increase is slated for 20 new positions, including: 15 positions for assisted living; 3 positions for a new technical assistance unit for nursing homes; and 2 positions to staff the Development Disabilities Mortality Review Board.
- \$200,000 of the increase is provided by federal civil penalties monies used for grants to study long-term care issues.
- \$171,000 of the increase supports the establishment of a database to track developmental disability complaints.

Personnel Data

	<u>FY 00</u> <u>Actual</u>	<u>FY 01</u> <u>Working</u>	<u>FY 02</u> <u>Allowance</u>	<u>Change</u>
Regular Positions	175.80	209.80	229.80	20.00
Contractual FTEs	<u>3.06</u>	<u>2.20</u>	<u>2.40</u>	<u>0.20</u>
Total Personnel	178.86	212.00	232.20	20.20

Vacancy Data: Permanent

Budgeted Turnover: FY 02	18.94	8.24%
Positions Vacant as of 12/31/00	32.40	15.44%

- There is an increase of 20 regular positions, as discussed above.
- The number of vacancies should decrease substantially as the office fills new positions.

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

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Analysis in Brief

Issues

Office of Health Care Quality (OHCQ) Begins to Improve Monitoring of Nursing Homes: With 40 new positions added between fiscal 1999 and 2001, OHCQ is making progress in meeting requirements for annual surveys and complaint follow-up.

Licensing of Assisted Living Facilities Requires Additional Staff: With the implementation of new regulations, OHCQ must now survey and conduct complaint investigations for about 1,500 assisted living facilities. OHCQ expects to meet its goals with 8 new positions in the fiscal 2001 budget and 15 new positions in the fiscal 2002 allowance.

Recommended Actions

	<u>Funds</u>
1. Delete the special fund appropriation for grants supported by federal civil penalties monies because the office may not expend the funds, as indicated by the actual history of expenditures.	\$ 200,000
2. Adopt committee narrative that requests the department to develop a more complete Managing for Results plan.	
Total Reductions	\$ 200,000

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Operating Budget Analysis

Program Description

The role of the Office of Health Care Quality (OHCQ), formerly known as Licensing and Certification, is to assure that the citizens of Maryland are receiving the best possible care in a safe and sanitary environment. 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. Twelve types of facilities are regulated: nursing homes, hospitals, ambulatory surgical centers, endoscopy centers, birthing centers, home health agencies, health maintenance organizations, hospice care, physical therapy centers, developmental disability homes and facilities, mental health facilities, and substance abuse treatment facilities.

Governor's Proposed Budget

The Governor's allowance increases by \$2.1 million or 17% over the fiscal 2001 working appropriation, as shown in **Exhibit 1**. About 2/3 of the increase is the result of higher salary costs for existing personnel. The actual vacancy rate of 32.4 positions should approach the budgeted rate of 18.9 positions as the office fills new positions created in fiscal 2001. As described below, there are notable increases for new positions, research grants supported by federal civil penalties, and a new database for developmental disability complaints.

New Positions

OHCQ began a staffing initiative in fiscal 1999. This initiative has addressed the need for more surveyors in several key areas, including nursing homes and assisted living facilities. As demonstrated by **Exhibit 2**, the number of positions has increased by 98 since fiscal 1998. This means that there will have been almost a 75% increase in staff in a four-year period, if all new fiscal 2002 positions are approved.

With 20 new positions, the allowance supports a continuation of the staffing initiative. Positions will be allocated as follows:

- **Assisted Living Program (15 positions - \$332,873 GF):** As discussed in more detail in the Issues Section, the assisted living unit needs a large increase in personnel because of new licensing regulations. OHCQ is now charged with monitoring about 1,500 assisted living facilities. The office plans to designate most of the 15 positions as surveyors. A few of the positions will be assigned administrative or supervisory tasks.

Exhibit 1

**Governor's Proposed Budget
Office of Health Care Quality
(\$ in Thousands)**

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimbursable Fund</u>	<u>Total</u>
2001 Working Appropriation	\$8,231	\$0	\$3,720	\$0	\$11,951
2002 Governor's Allowance	<u>9,517</u>	<u>200</u>	<u>4,246</u>	<u>63</u>	<u>14,025</u>
Amount Change	\$1,285	\$200	\$526	\$63	\$2,074
Percent Change	15.6%		14.1%		17.4%
Where It Goes:					
Personnel Expenses					
Twenty new positions, including fifteen positions for assisted living, three positions for new technical assistance unit, and two positions for Developmental Disabilities Mortality Review Committee					\$447
General salary increase					186
Increments and other compensation					813
Employee and retiree health insurance					162
Retirement contribution rate reduction					(82)
Workers' compensation premium assessment					22
Turnover adjustments					100
Other fringe benefit adjustments					61
Total Personnel Expenses					\$1,709
Other Operating Expenses					
Reduction in one-time only new vehicle expenses for positions added in fiscal 2001					(302)
Grants supported by federal civil penalties					200
New database to track complaints in developmental disabilities programs					171
Higher travel and rent costs for new personnel added in fiscal 2002					97
New software licenses and computer equipment purchased for general operations					91
Normal growth in contractual services and supplies					86
Other miscellaneous expenditures					22
Total					\$2,074

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

Exhibit 2

**Initiative to Bolster Staff in Key Areas
Office of Health Care Quality
(# of Positions)**

	<u>Nursing Homes</u>	<u>Assisted Living</u>	<u>Developmental Disabilities</u>	<u>Other</u>	<u>Total</u>
Fiscal 1999	10	6	10	0	26
Fiscal 2000	10	0	0	8	18
Fiscal 2001	20	8	6	0	34
Fiscal 2002	<u>3</u>	<u>15</u>	<u>2</u>	<u>0</u>	<u>20</u>
	43	29	18	8	98

Source: Department of Health and Mental Hygiene

- **Technical Assistance Unit (3 positions - \$69,272 GF):** Last session, the General Assembly adopted HB 747 which requires nursing homes to establish quality assurance programs. OHCQ is responsible for reviewing a written plan from each nursing home and providing technical assistance. Based on the fiscal note, the allowance contains funds for a program administrator, research statistician, and nurse. It is possible that the office could obtain some federal funds to cover these positions under its agreement with the Health Care Financing Administration (HCFA). **Therefore, OHCQ should be prepared to comment on the possibility of including the cost of technical assistance personnel in its HCFA application.**
- **Developmental Disability Mortality Review Committee (2 positions - \$44,386 GF):** During the 2000 session, the General Assembly approved HB 1268 which requires the Department of Health and Mental Hygiene (DHMH) to appoint a committee to review all deaths in licensed developmental disabilities programs. As contained in the fiscal note, OHCQ has requested two nurses to support the work of the committee. Since nominations are now being considered by the Secretary, it is expected that the committee could meet as early as spring 2001.

Research Grants Supported by Federal Civil Penalties

The allowance contains \$200,000 in special funds from federal civil penalties. Under its agreement with HCFA, OHCQ is authorized to impose these penalties upon nursing homes for violation of federal regulations. Funds may be used to support projects that improve the overall quality of nursing homes. In prior years, the office has funded an advocacy council project and research on the relocation of nursing home residents.

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The office also has the authority to impose State civil penalties. During the 2000 session, this statute was revised by HB 634 to make it easier for OHCQ to levy and collect such fines. The office has not budgeted these fines for fiscal 2002 because it does not have enough experience to predict collections.

There is no guarantee that OHCQ will spend the \$200,000 appropriation in fiscal 2002, given the expenditure history. Since fiscal 1998, there have been two years in which the office expended no civil penalty funds. This pattern could repeat itself in fiscal 2002 since the office has no concrete plans to use civil penalties to support grants. **Therefore, the Department of Legislative Services (DLS) recommends eliminating the \$200,000 federal civil penalty appropriation. Since these monies are budgeted under special funds, this reduction counts under the spending affordability limit. If OHCQ should develop more concrete plans for the monies, it could appropriate funds through budget amendment.**

Database to Track Developmental Disabilities Complaints

When the State settled the lawsuit *Maryland Disabilities Law Center v. Sabatini*, it agreed to improve the licensing and monitoring of developmental disability decisions. As a result of that agreement, OHCQ has decided to develop a new database to improve the tracking of complaints about developmental disabilities facilities, which range from State residential facilities to small group homes. This database will build upon another database developed by the Developmental Disabilities Administration (DDA) to track client and billing information. For OHCQ, the total software development and equipment cost in fiscal 2002 is \$170,458 in general funds. This figure does not represent the full annual cost because OHCQ has entered into a five-year financing agreement with the State Treasurer's Office. Along with the cost of the financing agreement, OHCQ projects it will spend over \$100,000 in most future years to cover the costs of Oracle licensing fees, hardware maintenance, and equipment replacement.

OHCQ reports that the new complaint database will allow surveyors to prioritize the estimated 4,000 complaints received annually. With access to historical data, OHCQ can determine if a provider has a pattern of problems. If a pattern is indicated, the complaint will receive a higher priority. Those providers with a history of problems can be selected for special focused inspections. OHCQ will share this information with DDA's regional offices because they also conduct complaint investigations. Thus, overlap between the OHCQ and DDA's efforts could be minimized.

Performance Analysis: Managing for Results

Fiscal 2002 marks the fourth year of the Governor's Managing for Results (MFR) initiative. This initiative measures an agency's progress in reaching its goals. This progress should justify the amount in an agency's base budget and any requests for new funding.

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Quality Indicators

OHCQ has significantly revised its MFR to reflect its ultimate goal of improving the quality of care of health care facilities. Working with the University of Baltimore, the office has developed a series of quality indicators, of which a sample is shown in **Exhibit 3**. These indicators measure the long-term impact of OHCQ's monitoring activities. While these indicators could be helpful in evaluating OHCQ, their usefulness is limited because no data is currently available. Thus, OHCQ cannot measure current rates or determine future goals.

Exhibit 3

**Program Measurement Data
Office of Health Care Quality
Fiscal Years**

	<u>Actual 1999</u>	<u>Actual 2000</u>	<u>Est. 2001</u>	<u>Est. 2002</u>	<u>Ann. Chg. 99-00</u>	<u>Ann. Chg. 00-02</u>
<u>Selected Quality Measures</u>						
% of nursing home residents with pressure sores	n/a	n/a	n/a	n/a	n/a	n/a
% of assisted living complaint investigations completed within seven days	n/a	n/a	n/a	n/a	n/a	n/a
% of residents in assisted living homes with severe deficits	n/a	n/a	n/a	n/a	n/a	n/a
# of HMOs with deficiencies in grievance process	n/a	n/a	n/a	n/a	n/a	n/a
% of licenses found with severe deficiencies	n/a	n/a	n/a	n/a	n/a	n/a
<u>Volume Measures</u>						
Nursing Homes	260	258	258	258	-1%	0%
# of surveys	194	188	350	516	-3%	66%
# of complaints	1,013	1,589	1,560	1,560	57%	-1%
Avg. # of days to investigate Priority I complaints (immediate jeopardy)	n/a	n/a	3	n/a	n/a	n/a
Avg # of days to investigate Priority II complaints (actual harm)	n/a	n/a	41	n/a	n/a	n/a
Assisted Living	2,100	1,550	2,100	2,100	-26%	16%
# of on-site visits	679	922	1,100	1,300	36%	19%
# of complaints	159	330	500	700	108%	46%
Developmental Disabilities	165	176	180	184	7%	2%
# of surveys	134	106	115	130	-21%	11%
# of complaints	1,974	3,353	4,000	4,000	70%	9%

Source: Department of Health and Mental Hygiene

Volume and Efficiency Indicators

With advice from the University of Baltimore, OHCQ chose not to include any volume or efficiency indicators in its MFR plan. Without this data, it is difficult to determine the immediate impact of investments in new staff and information systems. For example, data on the number of nursing home surveys is needed to evaluate if OHCQ is meeting State and federal requirements.

Upon the request of DLS, OHCQ provided the volume and efficiency data in Exhibit 3. Although this data may be useful, there are problems with consistency. For example, the OHCQ has current data on the average investigation time for different levels of nursing home complaints, but past data and future estimates are not readily available.

Future MFR Plans

OHCQ has clearly adopted the MFR mindset through developing quality indicators, but the current plan is not yet useful as an evaluation tool. **Therefore, DLS recommends committee narrative on two issues: 1) the need for OHCQ to obtain quality data to complete its MFR plan; and 2) the need to include consistent volume and quality indicators.**

Issues

1. OHCQ Begins to Improve Monitoring of Nursing Homes

Background

OHCQ is responsible for enforcing federal and State regulations for nursing homes. HCFA sets federal regulations for any long-term care facility that receives Medicare payments. Under its federal contract, OHCQ must enforce these regulations by conducting both annual surveys and complaint investigations.

Recent legislation has expanded the OHCQ's role in enforcing State regulations. The office must now conduct an annual State survey, ensure that nursing homes have a quality assurance program, and impose State civil penalties for any violations.

Meeting Federal and State Requirements with New Personnel

With the implementation of new federal and State requirements, the OHCQ's workload has increased substantially. If all the requirements are met, OHCQ would have to accomplish the following:

- in a 12 to 15 month time period, conduct a federal survey for each of the 261 nursing homes;
- conduct an annual State survey for each of the 261 nursing homes; and
- investigate all complaints in a timely manner, particularly ones which indicate that actual harm has occurred or could occur.

Since past staffing levels were inadequate, the General Assembly approved 10 new positions in fiscal 1999, 10 new positions in fiscal 2000, and 20 new positions in fiscal 2001. Most of these positions have been classified as nurse surveyors, while a few positions have been reserved for administrative support.

Eight of the new positions are vacant because of the same problems in recruitment that other areas of DHMH face. With the nursing shortage and low unemployment, OHCQ has experienced difficulty in attracting nurses to the survey positions. To address this problem, OHCQ increased hiring salaries, which could create a \$300,000 deficit in general funds by the end of fiscal 2001. This deficit would have to be covered by a transfer of funds from another area of DHMH.

Out of the positions added in fiscal 2001, five remain vacant because of a delay in federal funding. These positions are supported by federal funds because they will assist OHCQ in meeting federal requirements. Since federal funding was not assured, the General Assembly prohibited OHCQ from filling these positions until the federal funds were awarded. OHCQ just received word of its grant award for federal fiscal 2001 and is in the process of determining its impact on the nursing home program. **DLS recommends that OHCQ comment upon how the award will affect its ability to pay for new surveyor positions added in fiscal 2001.**

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OHCQ may not feel the full impact of the new positions until fiscal 2003 because of delays in hiring and the time required for training. Nevertheless, the office has reported that the new positions have already produced some positive results:

- OHCQ increased the federal survey completion rate from 75% in fiscal 1999 to 100% in fiscal 2000, although some of the surveys were late. The office expects it will be able to complete all surveys in a timely manner in fiscal 2001.
- OHCQ has reduced its average complaint investigation time from about six months in fiscal 1998 to 24 days in fiscal 2000. Investigation time has risen to 41 days in fiscal 2001 because HCFA has asked OHCQ to shift its efforts to annual surveys.
- OHCQ began conducting annual State surveys in November 2000. It expects to be able to conduct an annual survey for each facility in fiscal 2002.

Although OHCQ has already made some progress in meeting the enhanced federal and State requirements, there is still much work to be done because new personnel need to be recruited and trained. As noted in the Managing for Results discussion, OHCQ's plan needs to be expanded to include volume and efficiency indicators. These indicators should facilitate the evaluation of the impact of the new nursing home surveyors.

2. Licensing of Assisted Living Facilities Requires Additional Staff

Background

As mandated by legislation in 1996, OHCQ fully implemented regulations for licensing assisted living facilities in July 2000. The regulations create uniform standards for all facilities, regardless of size. Although OHCQ retains ultimate responsibility, some of the monitoring of small group homes is conducted by the Departments of Aging (DOA) and Human Resources (DHR).

New Staffing in Fiscal 2001 and 2002

Under the new regulations, OHCQ expects to conduct initial licensing surveys, annual surveys, and complaint follow-up for about 1,500 facilities. The office will also need to conduct about 700 initial licensing surveys for facilities monitored by DOA and DHR. So far, OHCQ has licensed about 500 facilities. The process has been intensive because small group homes sometimes lack the knowledge or resources to comply with regulations. Once the initial licenses are issued, OHCQ will shift focus to annual surveys and complaint investigations.

It is difficult to determine OHCQ's staffing needs because its assisted living experience is so limited. Given preliminary estimates on efficiency and workload, DLS estimates that it would take between 25 and 30 nurse surveyors and nurse supervisors to perform this function. With the 8 positions added in fiscal

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2001 and the 15 positions in the fiscal 2002 request, OHCQ will have 28 nurses and 11 administrative positions.

The full impact of the new positions will not be felt in fiscal 2002. With a 50% turnover rate built into the allowance, the office will not be able to hire most positions before January 2002. Then, the new surveyors will need to undergo about a two- to three-month training. Once trained, their ability to operate independently in the field may be compromised because the allowance only contains funding for two cars as opposed to the 12 cars requested by OHCQ.

DLS recommends that OHCQ comment upon the progress in implementing assisted living regulations in fiscal 2001 as well as how restricted resources might delay progress in fiscal 2002. DLS also recommends that OHCQ develop volume and efficiency indicators that measure the impact of the new assisted living surveyors in future MFR plans.

Recommended Actions

- | | <u>Amount
Reduction</u> |
|---|------------------------------------|
| 1. Delete the special fund appropriation for grants supported by federal civil penalties monies because the office may not expend the funds, as indicated by the actual history of expenditures. It is the intent of the General Assembly that the department could increase the special fund appropriation by budget amendment if it develops concrete plans for grant awards. | \$ 200,000 SF |
| 2. Adopt the following narrative: | |

The Need for a Complete Managing for Results Plan: The committees are concerned that the Office of Health Care Quality's (OHCQ) Managing for Results plan does not contain the data that is necessary to evaluate its activities. Therefore, the committees request that the department ensure that future plans meet the following requirements: 1) OHCQ should strive to develop the data collection systems that are necessary to report on quality indicators; and 2) OHCQ should include the volume and efficiency indicators that reflect the impact of new staffing and information technology initiatives, such as the staffing initiatives in the nursing home and assisted living units.

Total Special Fund Reductions

\$ 200,000

Current and Prior Year Budgets

Current and Prior Year Budgets Office of Health Care Quality (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2000					
Legislative Appropriation	\$6,493	\$0	\$2,731	\$0	\$9,224
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	299	140	203	68	710
Reversions and Cancellations	(35)	(1)	(1)	0	(37)
Actual Expenditures	\$6,757	\$139	\$2,933	\$68	\$9,897
Fiscal 2001					
Legislative Appropriation	\$8,231	\$0	\$3,720	\$0	\$11,951
Budget Amendments	0	0	0	0	0
Working Appropriation	\$8,231	\$0	\$3,720	\$0	\$11,951

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

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Fiscal 2000

The general fund appropriation increased by \$298,824 in fiscal 2000. About \$124,000 of this increase stemmed from higher salary costs associated with the new pay plan and deferred compensation. The remaining increase was primarily the result of new computer equipment and moving expenses. Since operating costs were slightly lower than expected, there was a reversion of \$34,516.

The \$140,300 increase in special funds supported two grant studies related to long-term care. The administration collected these funds because they imposed civil penalties on several nursing homes that violated federal law.

The \$203,478 increase in federal funds was the result of a higher award to support salary and moving expenses.

		Object/Fund Difference Report					
		DHMH - Office of Health Care Quality					
		FY01		FY02		FY01 - FY02	
Object/Fund	Actual	Working Appropriation	Allowance	Amount Change		Percent Change	
Positions							
01 Regular	175.80	209.80	229.80	20.00	0.20	9.5%	
02 Contractual	3.06	2.20	2.40	0.20	0.20	9.1%	
Total Positions	178.86	212.00	232.20	20.20		9.5%	
Objects							
01 Salaries and Wages	\$ 7,896,756	\$ 9,941,113	\$ 11,649,930	\$ 1,708,817		17.2%	
02 Technical & Spec Fees	151,617	82,979	101,888	18,909		22.8%	
03 Communication	124,136	132,413	148,454	16,041		12.1%	
04 Travel	291,564	351,170	390,165	38,995		11.1%	
07 Motor Vehicles	298,894	453,979	152,096	(301,883)		(66.5%)	
08 Contractual Services	553,231	473,694	733,107	259,413		54.8%	
09 Supplies & Materials	123,145	37,167	59,601	22,434		60.4%	
10 Equip - Replacement	0	0	53,693	53,693		N/A	
11 Equip - Additional	165,210	103,658	103,583	(75)		(0.1%)	
12 Grants,Subsidies,Contr	139,125	0	200,000	200,000		N/A	
13 Fixed Charges	154,286	374,634	432,299	57,665		15.4%	
Total Objects	\$ 9,897,964	\$ 11,950,807	\$ 14,024,816	\$ 2,074,009		17.4%	
Funds							
01 General Fund	\$ 6,757,704	\$ 8,231,203	\$ 9,516,676	\$ 1,285,473		15.6%	
03 Special Fund	139,125	0	200,000	200,000		N/A	
05 Federal Fund	2,933,262	3,719,604	4,245,528	525,924		14.1%	
09 Reimbursable Fund	67,873	0	62,612	62,612		N/A	
Total Funds	\$ 9,897,964	\$ 11,950,807	\$ 14,024,816	\$ 2,074,009		17.4%	

Note: Full-time and contractual positions and salaries are reflected for operating budget programs only.