

**Department of Legislative Services**  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1326 (Chairman, Health and Government Operations Committee)  
 (By Request – Departmental – Health and Mental Hygiene)

Health and Government Operations

Finance

**Health - Hospitals, Related Institutions, and Housing Programs for Individuals  
 in Need of Assistance**

This departmental bill alters the definition and licensure requirements for assisted living programs to establish three categories of assisted living: (1) adult care home, which is certified to serve four or fewer individuals in a private residence where the primary caregiver is also the primary resident; (2) residential care program, which is licensed to provide housing for 1 to 9 individuals and is not an adult care home; and (3) assisted living program, which is licensed to serve 10 or more individuals.

The bill takes effect June 1, 2006. The provisions relating to penalty changes, the Health Care Quality Account, and housing programs take effect October 1, 2006.

**Fiscal Summary**

**State Effect:** Office of Health Care Quality (OHCQ) general fund expenditures could increase by \$1.1 million in FY 2007. Any special fund revenues from the bill’s penalty provisions are assumed to be minimal.

(\$ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	\$0	-	-	-	-
GF Expenditure	0	1.1	1.1	1.2	1.2
Net Effect	\$0	(\$1.1)	(\$1.1)	(\$1.2)	(\$1.2)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** The Department of Health and Mental Hygiene (DHMH) has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

---

## Analysis

**Bill Summary:** All three categories are “housing programs,” which provide housing and supportive services, supervision, personalized assistance, and health-related services to individuals who are unable to perform or who need assistance in performing the activities of daily living. DHMH must define different care levels that may be provided in housing programs and require residential care homes to be licensed prior to operating.

The bill specifies licensure and certification requirements for various programs and specifies disclosure and reporting requirements for a housing program with an Alzheimer’s special care unit. Further, it specifies that DHMH may suspend, revoke, or impose restrictions on a license or certificate. DHMH may restrict or close the operation of an Alzheimer’s special care unit if a resident’s health or safety is at risk. The bill specifies hearing and appeal rights for an applicant, licensee, or certificate holder.

The bill specifies that a person may not operate or engage in the business of providing housing and other services that would require licensure or certification as a housing program unless the individual is in fact licensed or certified. A violator is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$10,000 fine for a first offense and \$20,000 for each subsequent offense. The bill also changes current criminal penalties related to housing programs. It increases the criminal penalty for a person that operates a hospital or related institution without licensure or registration.

DHMH must conduct an annual unannounced on-site inspection of each residential care home and assisted living program. Further, it must conduct periodic unannounced on-site inspection of adult care homes.

The bill requires DHMH to collect information on best practices identified during the inspection of nursing homes and facilities, and on at least an annual basis, disseminate a report on the information collected to providers. By December 1 of each year, DHMH must report to the House Health and Government Operations Committee and the Senate Finance Committee on the best practices identified during inspection.

The bill also specifies that the Health Care Quality Account, which is currently funded by civil money penalties paid by nursing homes, also be funded by civil money penalties paid by housing programs. DHMH must report to the House Health and Government Operations Committee and the Senate Finance Committee on the status of the Health Care Quality Account by December 1 of each year.

DHMH, in consultation with various stakeholders, must conduct an evaluation of need for housing programs for individuals with mental illness. DHMH must submit interim reports on specified dates and a final report regarding the evaluation to the House Health and Government Operations Committee and the Senate Finance Committee by June 30, 2007.

**Current Law:** An assisted living program is a residential or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination that meets the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence. DHMH must license all assisted living programs prior to operating and conduct periodic inspections.

**Background:** There are currently 1,575 licensed assisted living providers. Of these, 767 have 4 or fewer beds, 461 have 5 to 9 beds, and 347 have 10 or more beds.

Maryland's definition of "assisted living" is one of the most expansive in the nation. When the State's regulation of assisted living programs was developed, proponents recommended that all programs be subject to uniform requirements. This type of regulatory oversight has created an inappropriate regulatory burden on smaller providers while larger providers are under-regulated.

**State Fiscal Effect:** DHMH general fund expenditures could increase by an estimated \$1,116,059 in fiscal 2007, which reflects the bill's June 1, 2006 effective date. This estimate reflects the cost of hiring 15 health facility nurse surveyors, one coordinator, and one office secretary to conduct required inspections of residential care homes and assisted living programs, and to collect best practices information from nursing homes. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$937,904
Mileage	66,175
Other Operating Expenses	<u>111,980</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$1,116,059</b>

OHCQ currently conducts annual inspections of each nursing home in the State, as required by federal law. While the bill requires DHMH to collect data on best practices identified during this annual survey, the federal Centers for Medicare and Medicaid Services have deemed the collection of best practice information to be consultative in nature and a function that cannot be conducted by staff who conduct the survey required by federal law. Accordingly, additional staff are needed to carry out this data collection.

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (Office of Health Care Quality, Medicaid), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2005  
 ncs/jr Revised - House Third Reader - April 8, 2005

---

Analysis by: Susan D. John

Direct Inquiries to:  
 (410) 946-5510  
 (301) 970-5510