

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 429

(Delegate Cullison, *et al.*)

Health and Government Operations

Rules

Health Facilities - Augmentation of Survey Staff - Nursing Homes

This bill requires the Secretary of Health, on request of a county, to delegate to the county the authority to augment State nursing home survey staff using county funds if, by July 1, 2026, the Maryland Department of Health (MDH) is 6 months or more behind the federal requirement of conducting nursing home surveys every 15.9 months (according to MDH's most recent data). Within 45 days after a county makes a request for delegated authority, MDH must (1) initiate a memorandum of understanding (MOU) with the county to use county funds to conduct surveys and complaint investigations of nursing homes and (2) develop a plan with the county on how to implement the augmentation of staff. Beginning July 1, 2025, and every 6 months thereafter, MDH must submit a specified report to each area agency on aging (AAA). **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: MDH can initiate MOUs, develop plans to implement augmentation of staff, and report to AAAs using existing budgeted resources. Revenues are not affected.

Local Effect: Expenditures increase by an indeterminate potentially significant amount for a county that is delegated authority to augment State nursing home survey staff using county funds, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary: An MOU initiated or plan of action developed under the bill may not restrict a county's progression to the next survey tier if an exemption from the tiers is

authorized by the federal Centers for Medicare and Medicaid Services (CMS) for nursing homes. MDH must include, as part of the specified reporting requirements, each MOU initiated under the bill and the number of surveys completed under those MOUs.

By July 1, 2025, and every 6 months thereafter, MDH must report to each AAA (1) the names of each nursing home surveyed by the State and the dates of each State survey completed in the county during the immediately preceding 6 months and (2) the average statewide interval in months between required recertification surveys as compared with the federal requirement of 15.9 months.

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, MDH’s Office of Health Care Quality (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. Additionally, OHCQ must submit an annual report to the Oversight Committee on Quality of Care in Nursing Homes and Assisted Living Facilities regarding the status of quality of care in nursing homes.

The oversight committee – within the Maryland Department of Aging (MDOA) – comprises several members, including the Secretary of Aging, the Secretary of Health, and the Director of OHCQ. In general, the oversight committee evaluates progress in improving the quality of nursing home and assisted living facility care in the State.

Area Agencies on Aging

MDOA administers programs and activities under the provisions of the federal Older Americans Act. Most of the direct services funded by MDOA are delivered through AAAs.

In Maryland, each of the 23 counties and Baltimore City designate an AAA. The agency may be a unit of local government or a private, nonprofit corporation. AAAs provide a variety of adult services, incorporating assisted living, protective services, and temporary disability programs.

Federal Oversight of Specified Health Care Facilities

The 1864 Agreement is an agreement between 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 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.

Local Fiscal Effect: To the extent that a county requests MDH to delegate authority to augment State nursing home survey staff under the bill, expenditures increase by an indeterminate but potentially significant amount beginning in the fiscal year that an MOU is executed to use county funds to conduct surveys and complaint investigations (as early as fiscal 2026). Since OHCQ currently inspects nursing homes, counties are not likely to have the appropriate staff to augment State nursing home survey staff, as authorized under the bill.

Montgomery County advises that if the county were to seek delegation authority to augment State survey staff under the bill, additional staff would be required and county expenditures likely increase by an indeterminate but potentially significant amount beginning as early as fiscal 2026. There are 34 nursing homes licensed in the county.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1475 of 2024 and HB 1351 of 2022.

Designated Cross File: SB 376 (Senator Kramer, *et al.*) - Finance.

Information Source(s): Maryland Association of County Health Officers; Harford, Montgomery, and Wicomico counties; Maryland Association of Counties; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2025
caw/jc Third Reader - April 4, 2025
Revised - Amendment(s) - April 4, 2025

Analysis by: Amberly E. Holcomb

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