



Montgomery County

Office of Intergovernmental Relations

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SB 825

DATE: March 1, 2024

SPONSOR: Senator Kramer

ASSIGNED TO: Finance

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POSITION: FAVORABLE WITH AMENDMENTS (Department of Health and Human Services)

Health Facilities – Delegation of Inspection Authority – Related Institutions and Nursing Homes

Senate Bill 825 requires the Secretary of Health, on request of a unit of local government, to delegate to the unit of local government the authority to inspect and to conduct site visits and full surveys of related institutions and nursing homes. The bill also requires related institutions and nursing homes to report an unexpected occurrence related to an individual's medical treatment that results in death or serious disability that is not related to the natural course of the individual's illness or underlying disease condition to a unit of local government if the Secretary has delegated inspection authority, and it requires that if a civil money penalty is levied against a nursing home, the funds are to be released to the unit of local government if the Secretary has delegated inspection authority.

States conduct nursing home surveys and inspections on behalf of the Centers for Medicare and Medicaid Services (CMS) to determine their compliance with Medicare and Medicaid health and safety standards. Each state has a CMS-designated state survey agency that performs this certification process. The Office of Health Care Quality (OHCQ) in the Maryland Department of Health (MDH) is Maryland's designated state survey agency and is responsible for nursing home licensing, inspections, and certification of compliance. OHCQ uses federal survey guidance to conduct standard onsite inspections of Medicare-or Medicaid-certified nursing homes at least once every 15 months. The agency also investigates any complaints it receives from the public and from within facilities about resident care or safety.¹

Until July 1, 2021, inspections of nursing homes in Montgomery County were conducted by Montgomery County surveyors, not OHCQ surveyors. A long-standing Memorandum of Understanding between MDH and Montgomery County allowed a team of County surveyors to conduct certifications, surveys, and complaint investigations on behalf of the State. The team consisted of 8 to 10 nurses and nurse administrators employed by the Montgomery County Department of Health and Human Services

¹ Kalyandurg, C, & Simmons, K. (2023). *Nursing Homes in Montgomery County: Regulatory Framework and Issues Impacting the Quality of Care*. Accessed on February 28, 2024:
https://www.montgomerycountymd.gov/OLO/Resources/Files/2023_reports/OLO-Report2023-7.pdf

(MCDHHS). The County surveyors would perform annual survey inspections in County nursing homes, report their findings to the state, and then receive the state's recommendations. If violations were found, state and federal regulators would step in to handle enforcement. If the State received complaints about nursing homes, that information would be relayed to the County surveyor team who would then perform the investigation.²

In February of 2021, the State notified MCDHHS that the MOU between MDH and Montgomery County would terminate, citing that "there will be no funding for [the services provided under] the MOU after June 30, 2021." The work previously done by the County surveyors was absorbed by OHCQ, Maryland's designated survey agency. The State also retained the funding that would have supported the County surveyor team, causing MCDHHS to lose those positions. Subsequent attempts to re-engage the State in an MOU to allow the County to resume conducting inspections on behalf of the State have not led to an agreement between the parties.³

Under Senate Bill 825, the Secretary of MDH would be required to delegate inspection authority of "related institutions" if such a request was made by a unit of local government. "Related institutions" has a broader meaning in the statute than only nursing homes: it could include facilities such as group homes for people with developmental disabilities.⁴ MCDHHS support Senate Bill 825 and respectfully requests an amendment to clarify that a unit of local government could request the inspection authority of some types but not all types of related institutions in the jurisdiction- for example, the local jurisdiction could request to inspect nursing homes and the Secretary could grant the inspection authority of nursing homes but not the other types of related institutions in that jurisdiction unless also requested. MCDHHS urges the committee to issue a favorable with amendment report for Senate Bill 825.

² *Id.*

³ *Id.*

⁴ Related institution means an organized institution, environment, or home that:

- (i) Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and
- (ii) Admits or retains the individuals for overnight care. (Health-General 19-301(o))

AMENDMENTS TO SENATE BILL 825
(First Reading File Bill)

AMENDMENT NO. 1

On page 4, in line 4, insert “**(D) ON REQUEST OF A UNIT OF LOCAL GOVERNMENT, THE SECRETARY SHALL DELEGATE TO THE UNIT OF LOCAL GOVERNMENT THE AUTHORITY TO INSPECT NURSING HOMES UNDER THIS SECTION.**”