



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 28, 2024

The Honorable Joseline A. Peña-Melnyk
Chair, Health and Government Operations Committee
Room 241, House Office Building
Annapolis, Maryland 21401-1991

RE: SB 825 - Health Facilities – Delegation of Inspection Authority – Related Institutions and Nursing Homes – Letter of Opposition

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of opposition for SB 825 - Delegation of Inspection Authority – Related Institutions and Nursing Homes.

The Office of Health Care Quality (OHCQ) is the agency within the Maryland Department of Health (Department) charged with monitoring compliance in certain health care facilities and community-based programs, including nursing homes. OHCQ is the designated State survey agency in Maryland and is authorized to conduct certification activities on behalf of the Centers for Medicare & Medicaid Services (CMS). Through State and federal authority, OHCQ conducts surveys to determine compliance with State licensure and/or federal certification regulations, which establish the minimum requirements to remain licensed and/or certified.

As amended, SB825 states that by request of a county, the Secretary shall delegate to the county the authority to conduct site visits and full surveys of nursing homes. The Department is ready to engage with any county that is interested in investing in nursing home oversight and legislation is not required to carry out those conversations.

As amended, SB825 states that the Department and the county shall equally share the costs of conducting the site visits and full surveys, when authority is delegated to a county. This would create inequities in nursing home oversight in Maryland as counties with fewer resources would wait longer for their complaints to be investigated as state funding and staffing are preferentially allocated to counties who enter into agreements with the state. Currently, State licensure and federal certification oversight is applied to all nursing homes across the State as a whole. CMS prioritizes certification and recertification activities by defining tiers of surveys and a triage system for complaints. This prioritization of survey activities best protects the health and safety of patients across Maryland. If a nursing home annual survey is due in one area of the State, but

a very serious complaint is received in another area, the surveyors investigate the very serious complaint first. A centralized regulatory system in Maryland administered through OHCQ provides equal protection and regulatory oversight for all of Maryland's nursing home residents. Maryland is one of 49 states with overdue nursing home annual surveys. The Department has developed and is implementing a plan to resolve the overdue and pending nursing home surveys. OHCQ has been successful at filling vacancies over the past year. Currently, the Long Term Care Unit has only 3 nurse surveyor vacancies. The Governor's FY 2025 Allowance includes 11 new nurse surveyor positions for the Long Term Care unit. The allowance also includes \$3.9 million for contractual certified nurse surveyors to complete overdue and pending nursing home surveys. This combination of circumstances - filling the nurse surveyor vacancies, receiving additional nurse surveyor positions, and using contractors - will allow OHCQ to catch up on mandated activities across Maryland.

The Department appreciates local governments' concern regarding nursing home inspections and will work with the sponsor and Committee on implementing and monitoring the three-prong plan described above, as well as to explore additional options.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director, Office of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary