



March 28, 2024

The Honorable Joseline Peña-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 825 - Health Facilities – Delegation of Inspection Authority – Related Institutions and Nursing Homes

Dear Chair Peña-Melnyk and Member of the Health and Government Operations Committee:

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate all that you do for Marylanders across the state. We are writing to support the intention of and provide additional context regarding Senate Bill 825– Health Facilities – Delegation of Inspection Authority – Related Institutions and Nursing Homes.

As you may know, HFAM represents skilled nursing centers and assisted living communities in Maryland, as well as associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state. HFAM is affiliated with the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), which is the largest association in the United States representing long-term and post-acute care providers.

There are state and federal annual surveys, complaint surveys, and other types of surveys required by state and federal law. During the pandemic, infectious disease inspections were conducted in Maryland nursing homes regularly and often, subject to federal direction. Also, per federal direction, annual inspections did not occur during the height of the pandemic.

In Maryland and many states across the nation, annual inspections of nursing homes are backlogged. The backlog is frustrating to all. Once inspections do occur, they often take weeks and result in an increased number of deficiencies due to the lapse in time since the last inspection. The increased deficiencies result in repressed Five-Star Ratings of nursing homes by the Centers for Medicare and Medicaid Services (CMS). And, most important of all, these weeks-long surveys are a detriment to staff focused on providing quality care to residents and patients.

While again, these inspection delays are a national problem, according to year-end 2023 data from CMS, only 97 nursing homes in Maryland have received their annual survey since the beginning of 2021 and only 63 facilities have been surveyed since the beginning of 2022.

Regarding Senate Bill 825, we would like to express concern about the risk of duplicative surveys since the legislation refers to state licensing inspections. This legislation 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 conduct site visits and full surveys of related institutions and nursing homes; and requires related institutions and nursing homes to report certain information to a unit of local government if the Secretary has delegated inspection authority.

It is currently unclear whether the Office of Health Care Quality (OHCQ) would still need to do federal surveys. There are also concerns with SB 825 concerning local, state, and federal inspections being duplicative, and we oppose local fines that could be imposed by local, state, or federal governments for the same or related deficiencies.

Nursing home inspections are critical to ensuring that residents and patients are receiving safe, quality care in accordance with state and federal regulations.

In the past, the Maryland Department of Health (MDH) contracted with Montgomery County to conduct nursing home inspections. The Memorandum of Understanding (MOU) between MDH and Montgomery County was clear relative to the issues of duplicative inspections and fines. That MOU has expired and has not been renewed. We humbly propose that the best way forward is for MDH to seek and execute such an MOU again with Montgomery County.

Regular and appropriate nursing home inspections are critical to ensuring the safety and well-being of residents, patients, and staff. We want to ensure that inspections are done regularly and promptly per state and federal requirements. At the same time, we want to avoid duplicative inspections that are overly burdensome on both regulators and providers of care to Marylanders in need.

We hope that this information has been helpful. Again, thank you for all that you do. We look forward to our continued work together to protect quality care for Marylanders in need.

Respectfully submitted,

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