

Background information in support of legislation to delegate authority for Nursing Home inspections

Prepared for Delegate Bonnie Cullison by the Montgomery County Commission on Aging

January 2025



Statement of the Problem

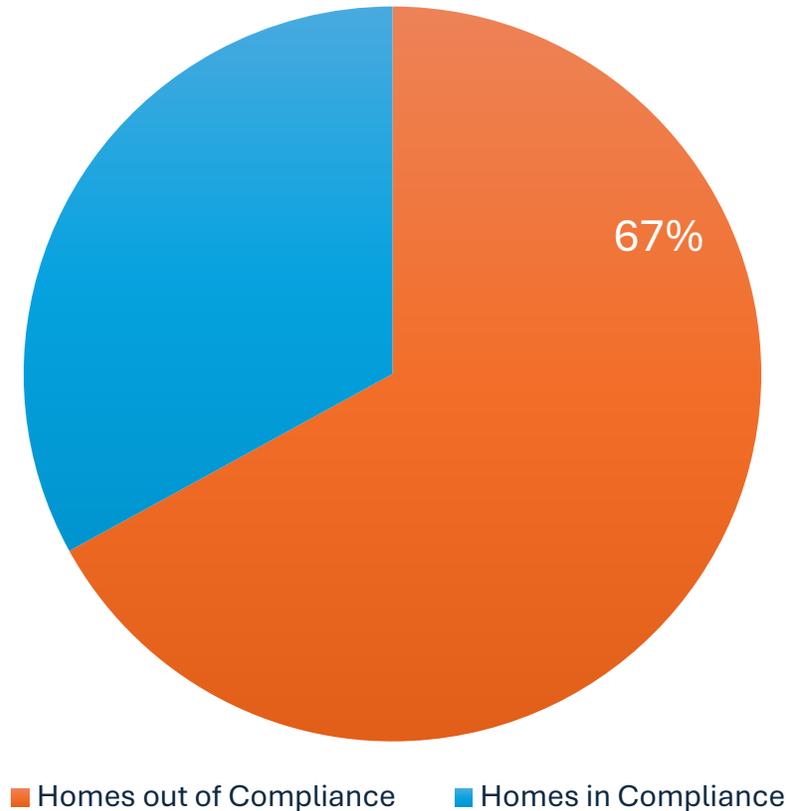
Maryland's Department of Health (MDH) has systematically failed to conduct nursing home inspections, as required by CMS

- More than 2/3 of the state's 222 nursing homes have not had annual inspections in the past 15 months, as required by CMS*
- While inspection rates declined nationally during the pandemic, currently only Kentucky and Alabama have lower statewide rates of inspection than Maryland**

* <https://projects.propublica.org/nursing-homes/state/MD>, accessed 12/06/2024

** <https://projects.propublica.org/nursing-homes/>, accessed 12/06/2024

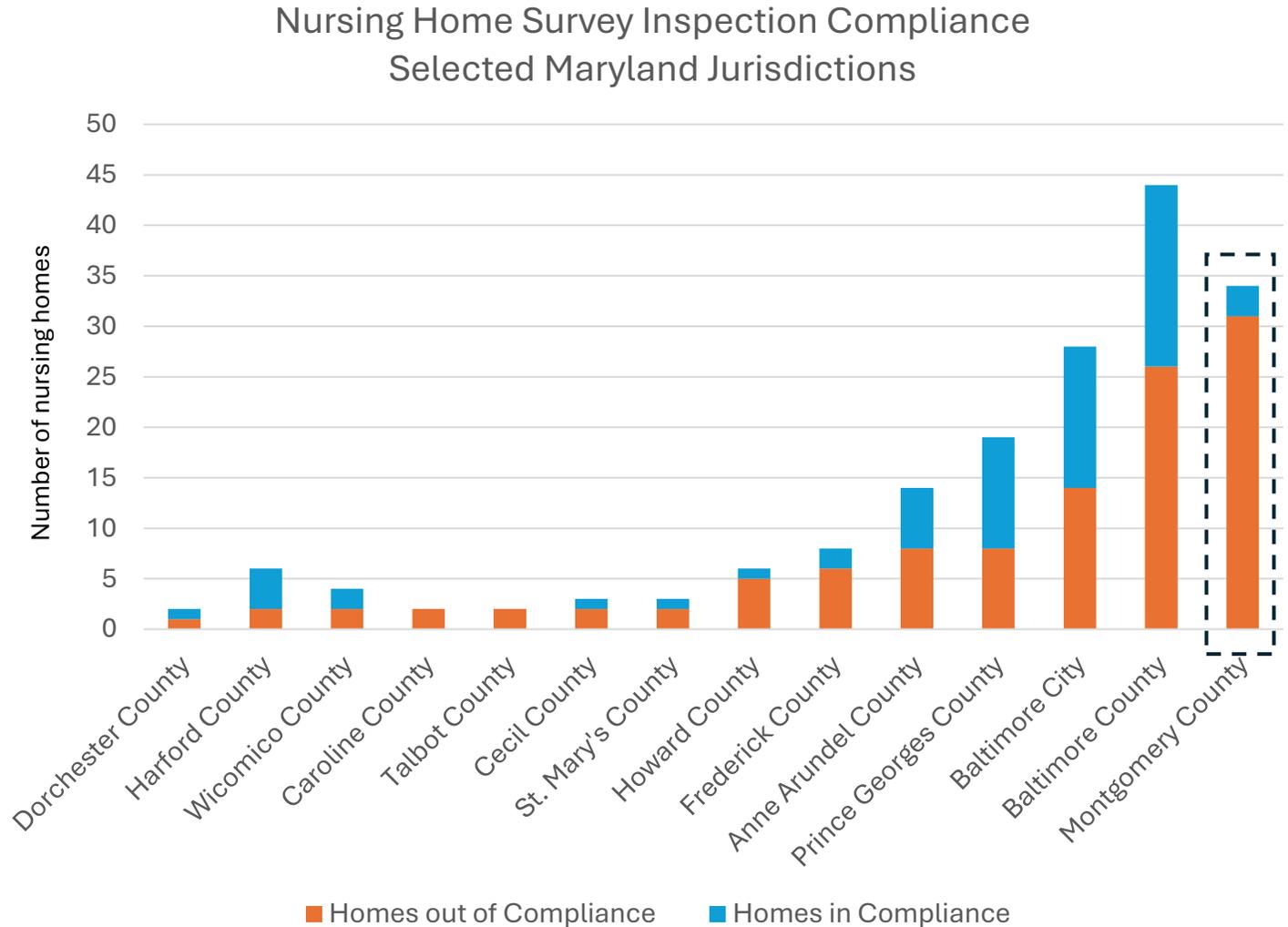
Statewide Nursing Home Compliance (n = 222)



Statement of the Problem, cont'd

As of December 20, 2024, more than 90% of Montgomery County's 34 nursing homes have not received an annual inspection in the prior 15 months*

- This means, that by a conservative estimate, based on number of beds and average occupancy, several thousands of our most vulnerable older residents are currently living in unknown conditions in nursing homes that have not been inspected



* CoA analysis of Centers for Medicare and Medicaid Services data, <https://data.cms.gov/provider-data/dataset/4pq5-n9py>, accessed 1/26/25

Prior to the State extinguishing the MOU with Montgomery County, Montgomery County conducted nursing home inspections and complaint inspections in compliance with Federal regulations

Montgomery County Performance (during the most recent period of performance)

- Annual inspections: 100% compliance (as of 3/30/2021)
- Focused inspection surveys: 100% compliance (as of 8/4/2020)
- Immediate jeopardy complaints
 - FY 2020: n=6, 83% compliance
- High priority complaints:
 - FY 2019: n=75, 66% compliance
 - FY 2020: n=63, 43% compliance (Due to COVID, State ordered a stop to in-person visits on March 30, 2020)

Timeline of Montgomery County's Efforts to Secure a new MOU with OHCQ/MDoH

- **March 2021:** CoA requested information on the plans and strategies of OHCQ to successfully enact transition after end of MOU. Copied County delegation and other selected legislators (MOU to end 6/20/21)
- **December 2021:** CoA requested new MOU from Secretary (no response)
- **August 2022:** CoA requested help from legislators accessing data on OHCQ nursing home oversight (received partial response from OHCQ in September)
- **February 2023:** MDoH was asked to consider reestablishing MOU in Budget hearing
- **May 2023:** CoA requested the Secretary of MDoH to respond to our May 2023 letter
- **July 2023:** Montgomery County Office of Legislative Oversight issues Report on Nursing Homes Regulatory Framework
- **January 2024:** Sen. Kramer and Del. Cullison sponsor legislation to mandate option for MOU
- **February 2024:** CoA requested the Secretary of MDoH to respond to our May 2023 letter

Timeline of Montgomery County's Efforts to Secure a new MOU with OHCQ/MDoH (cont'd)

- **April 2024:** CoA, Montgomery County DoH, and OHCQ staff meet via Zoom
 - CoA follows up with MDoH with 4 key concerns: survey timeliness improvement process and timeline, stakeholder engagement, staffing, and transparency/reporting
 - CoA informs County Executive and County Council of ongoing concerns
- **May 2024:** CoA meets with County Council and State delegation
- **June 2024:** CoA send update to Sen. Kramer and Del. Cullison
- **July 2024:** CoA sends update to County Council, County Executive, Secretary Carmel Roques includes the 6-26-24 letter to Kramer/Cullison, reference to article in Post on lawsuit, reference to Dr. Nay departure, and a Baltimore news report
- **October 2024:** CoA chair testifies to County Council with ongoing concerns
- **November 2024:** MDoH and MCDoH officials meet to discuss MOU
- **December 2024:** CoA meets with Del. Cullison to review legislative strategy for 2025 General Assembly session

The Current Dilemma

- The MDoH decision to end the MOU was not predicated on Montgomery County's performance, but strictly on management and budgetary issues.
- The Montgomery County DoH decision to pursue a new MOU is based solely on the State's failure to conduct annual survey and complaint inspections timely, i.e. 31 of 34 nursing homes have not been inspected in at least 2 years.
 - *Feb. 2023: "Currently OHCQ has a statewide backlog of 173 annual nursing home surveys and 9,351 complaints and facility-reported incidents." Laura Herrera Scott, MD, MPH Secretary letter to Kirill Reznick, Chairman, HHS Subcommittee, House Appropriations Committee*
- The State received about \$3.2 million/yr. from CMS to do nursing home surveys. **Where did the money go?**

Legislative Requests

1. Enabling legislation that would compel OHCQ to delegate authority for annual inspections and complaint inspections via an MOU to Counties that request it and a mandate that State funds would be allocated to each County to cover at least 40% of the costs of inspections (FY 2026 and beyond)
2. Additional funds to be included in the Budget bill to support Counties that request an MOU get up to speed