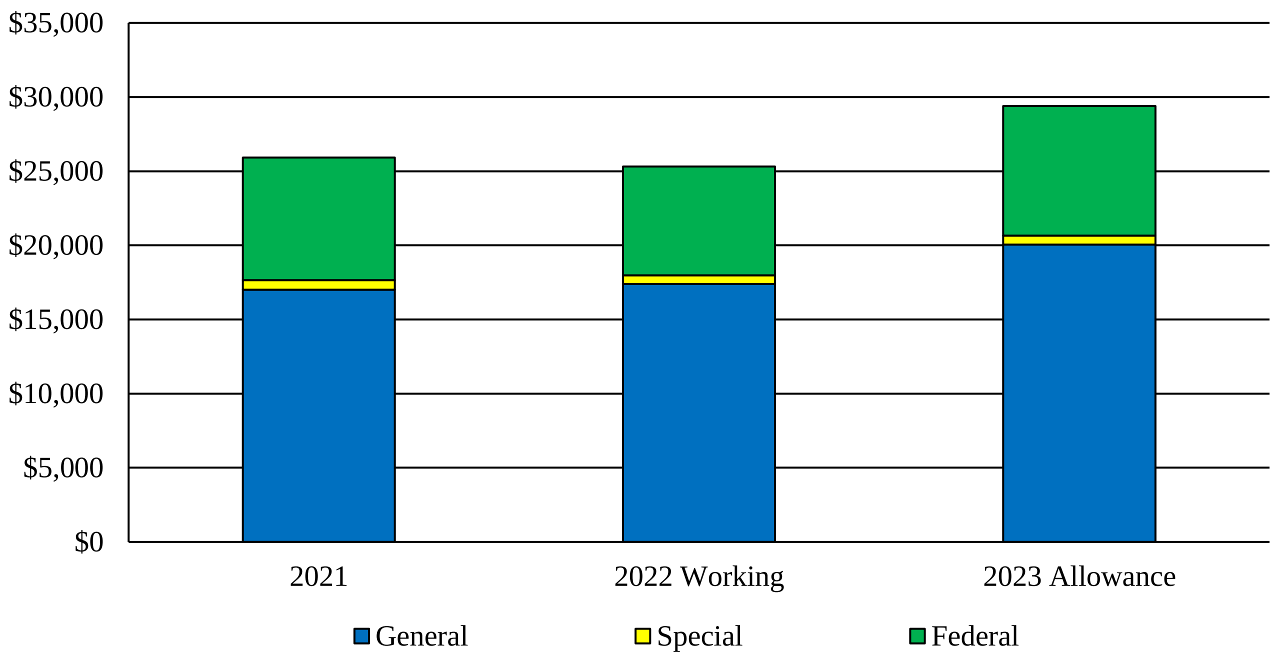
# M00B0103
# Office of Health Care Quality
### Maryland Department of Health

## Program Description

The Office of Health Care Quality (OHCQ) is the agency within the Maryland Department of Health (MDH) mandated by State and federal law to determine compliance with the quality of care and life standards for a variety of health care services and programs. Facilities and services are reviewed on a regular basis for compliance with the State regulations as well as compliance with federal regulations in those facilities participating in Medicare and Medicaid. OHCQ is organized into five major units that have separate facility licensing and regulatory responsibility: Developmental Disabilities Unit (DDU); Ambulatory Care Unit; Assisted Living Unit (ALU); Long Term Care Unit; and Hospital Unit. Smaller regulatory units oversee laboratories, hospice facilities, and adult medical day care.

## *Operating Budget Summary*

**Fiscal 2023 Budget Increases $4.1 Million, or 16.1%, to $29.4 Million**
**($ in Thousands)**




Note: The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

For further information contact: Andrew C. Garrison Phone: (410) 946-5530

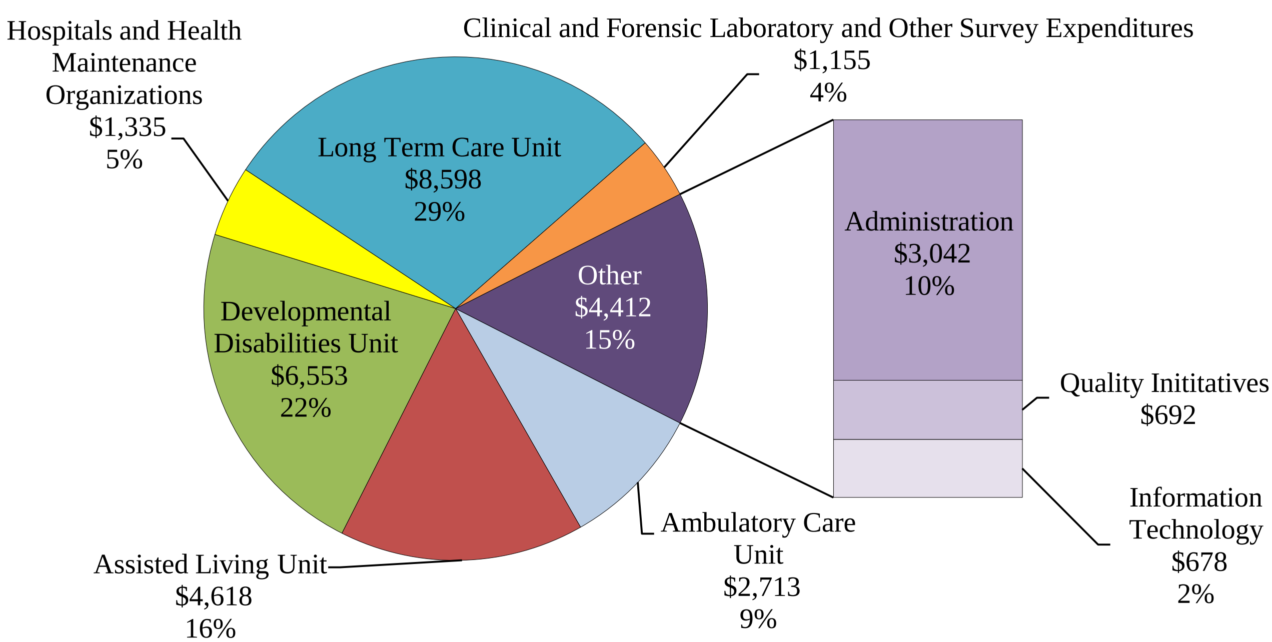
- The increase in OCHQ is driven entirely by personnel adjustments. Specifically, the fiscal 2023 allowance of OHCQ adds 10 new positions. In addition, OHCQ's turnover expectancy was reduced to $0 to assist with OHCQ's ability to hire and retain staff.

- Given personnel expenditures are driving OHCQ' s budget changes, the fund source tracks with agency's existing personnel expenditures, with over two-thirds, or $2.6 million, of the budgeted increase in general funds.

## Fiscal 2023 Overview of Agency Spending

OHCQ's fiscal 2023 proposed budget is $29.4 million. OHCQ is organized into five major units that provide oversight of different health care facilities throughout the State. Additional, smaller regulatory units oversee laboratories, hospice facilities, and adult medical day care. **Exhibit 1** shows how the expenditures are distributed throughout the different units. Additionally, OHCQ dedicates some resources to services that assist all of the different monitoring units, including administrative expenses, information technology solutions, and quality performance measures, also itemized in Exhibit 1.

**Exhibit 1**
**Overview of Agency Spending**
**Fiscal 2023 Allowance**
**($ in Thousands)**




Source: Governor's Fiscal 2023 Budget Books

Considering the regulatory nature of OHCQ, the vast majority of spending in each unit as well as agencywide is personnel related. In fiscal 2023, regular employees' salaries and fringe benefits account for roughly 90% of total expenditures of the agency's total expenditures, or all but $3 million.

## Proposed Budget Change

As shown in **Exhibit 2**, the single largest change in OHCQ's fiscal 2023 allowance (an increase of $1.8 million) is the elimination of any adjustment for turnover expectancy, accounting for approximately 45% of the change compared to the fiscal 2022 working appropriation.

**Exhibit 2**
**Proposed Budget**
**MDH – Office of Health Care Quality**
**($ in Thousands)**

| How Much It Grows: | General Fund | Special Fund | Federal Fund | Total |
|---|---|---|---|---|
| Fiscal 2021 Actual | $17,008 | $639 | $8,280 | $25,928 |
| Fiscal 2022 Working Appropriation | 17,386 | 599 | 7,332 | 25,317 |
| Fiscal 2023 Allowance | 20,052 | 607 | 8,725 | 29,384 |
| Fiscal 2022-2023 Amount Change | $2,666 | $8 | $1,393 | $4,067 |
| Fiscal 2022-2023 Percent Change | 15.3% | 1.3% | 19.0% | 16.1% |

| Where It Goes: | Change |
|---|---|
| **Personnel Expenses** | |
| Turnover adjustments | $1,848 |
| Reclassification for existing employees, driven by additional salary increases for nurses | 903 |
| Salaries for 10 new positions authorized under Chapter 454 of 2018 | 524 |
| Other increases in regular earnings for existing employees | 275 |
| Employee's retirement system | 210 |
| Employee and retiree health insurance | 197 |
| Other fringe benefit adjustments | 81 |
| **Other Changes** | |
| Increase in contractual employee expenditures driven by the additional full-time equivalent administrator for the Assisted Living Unit, offset by other reductions in contractual compensation | 27 |
| Other operating expenditures | 1 |
| **Total** | **$4,068** |

MDH: Maryland Department of Health

Note: Numbers may not sum to total due to rounding. The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

Aside from the significant turnover adjustment and new employees provided to OHCQ, the Governor's fiscal 2023 allowance contains nearly $1 million for reclassification of existing employees. This funding is for the implementation of Chapters 572 and 576 of 2020 which increased pay scales across the direct care and regulatory workforce of MDH.

## *Personnel Data*

| | FY 21 Actual | FY 22 Working | FY 23 Allowance | FY 22-23 Change |
|---|---|---|---|---|
| Regular Positions | 221.00 | 230.00 | 240.00 | 10.00 |
| Contractual FTEs | 9.81 | 12.50 | 13.50 | 1.00 |
| **Total Personnel** | **230.81** | **242.50** | **253.50** | **11.00** |

***Vacancy Data: Regular Positions***

| | | |
|---|---|---|
| Turnover and Necessary Vacancies, Excluding New Positions | 0.00 | 0.00% |
| Positions and Percentage Vacant as of 12/31/21 | 42.00 | 18.26% |
| Vacancies Above Turnover | 42.00 | 18.26% |

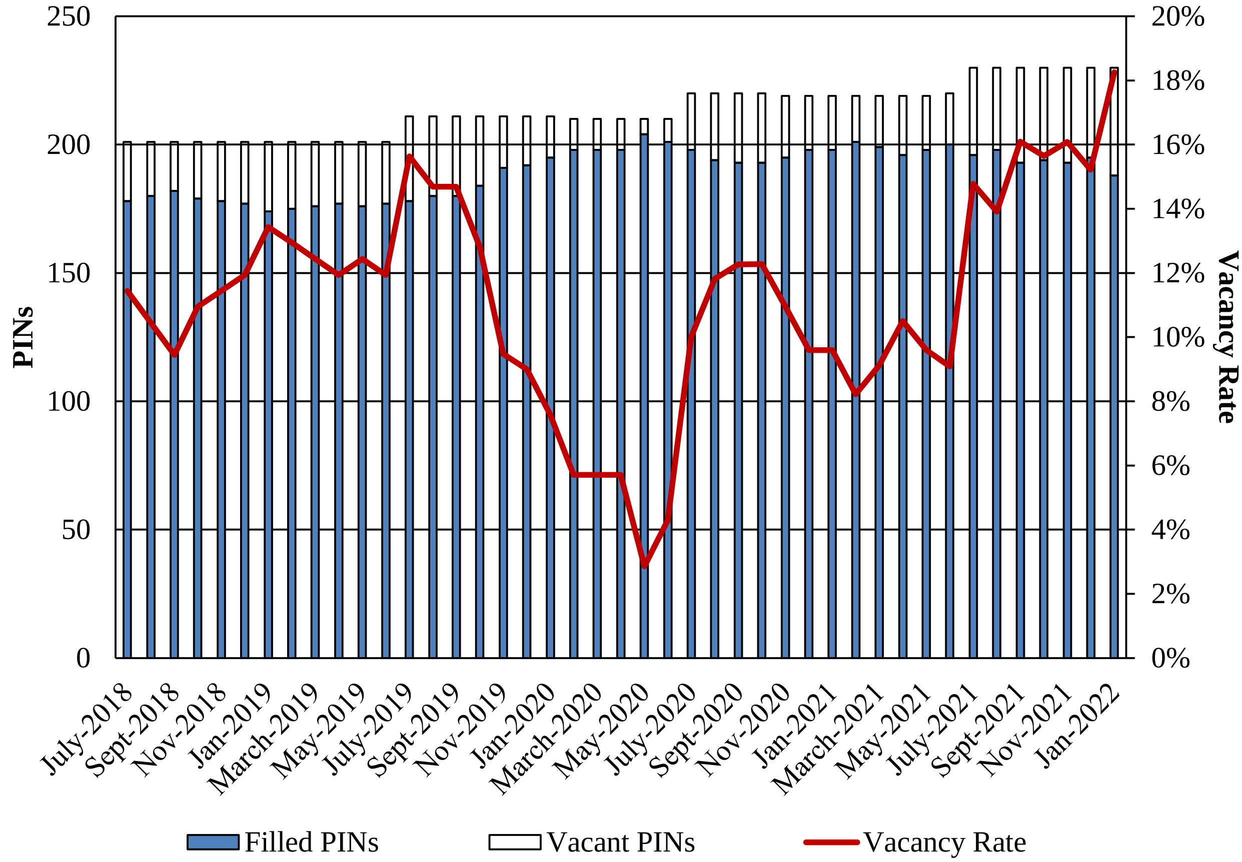
Chapter 454 of 2018, the Maryland Nursing Home Resident Protection Act, mandated the addition of personnel to OHCQ through fiscal 2024, at which time 50 new positions will have been authorized. The fiscal 2023 budget complies with the statute, as did the fiscal 2020, 2021, and 2022 budgets. The new positions are designed to assist OHCQ in meeting mandated inspection goals. OHCQ's difficulties in meeting mandated inspection goals are further discussed in both Key Observations 1 and 2.

### Elimination of Turnover Adjustment, Vacancy Rate, and Employee Retention

As previously mentioned, the elimination of the turnover expectancy singlehandedly accounts for nearly half of the increase in the fiscal 2023 allowance compared to the fiscal 2022 working appropriation. The turnover expectancy for a given agency is a negative adjustment in personnel expenditures that accounts for positions being vacant during a fiscal year and the time that it may take to fill them. The statewide budgeted turnover rate per the Department of Budget and Management's instructions is 6%; however, agencies with higher historical vacancies often have higher budgeted turnover levels. OHCQ, with its historical difficulties filling vacancies, had a budgeted turnover in fiscal 2022 of 9%.

As shown in **Exhibit 3**, OHCQ has had difficulty filling positions since fiscal 2020, with a vacancy rate above 8% in each month and being well above 10% each month of fiscal 2022 thus far. Data as of January 2022 shows that the current vacancy rate in OHCQ is at 18%, more than twice the level budgeted for fiscal 2022.

**Exhibit 3**
**Monthly Vacancy Rate**
**July 2018 to January 2022**




Source: Maryland Department of Health

A reduction in the turnover adjustment can be used as a way to provide additional personnel funding for an agency, where surplus from unfilled positions over turnover expectancy can be used for hiring or retention bonuses. However, given OHCQ's historical vacancy rate and prior turnover expectancies, having a turnover at 0% is significantly out of step with the Department of Legislative Services' (DLS) expectations for this agency. **Therefore, DLS recommends an increase to the budgeted turnover for existing positions to 5%. This results in a $1 million reduction to OHCQ's budget; however, it still allows for nearly $800,000 in additional personnel expenditures above the fiscal 2022 working appropriation for hiring and retention.**

# *Key Observations*

## 1. COVID-19's Continued Impact on OHCQ Operation

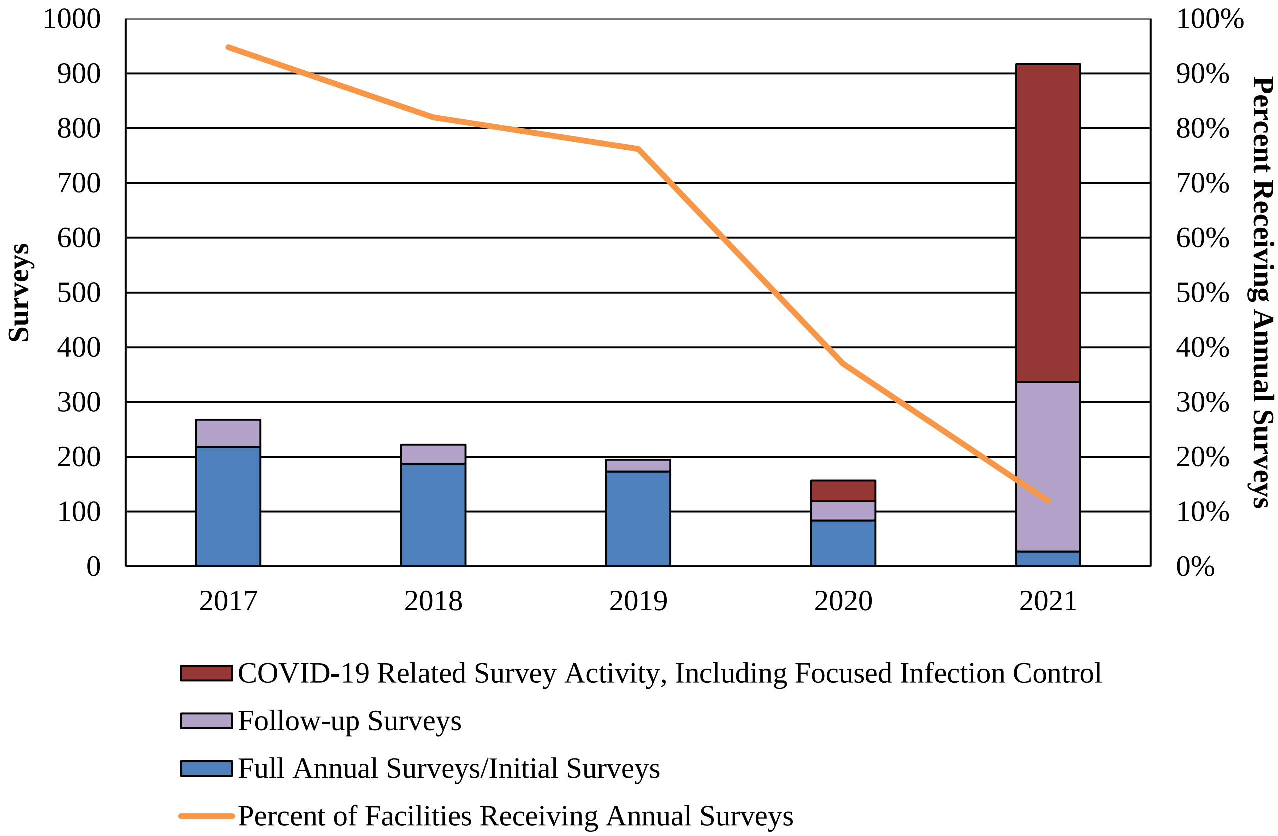
The COVID-19 pandemic and the catastrophic health emergency impacted OHCQ's licensure, certification, and survey activities as both State and federal government reprioritized existing mandates and established new ones to best protect the health and safety of individuals as the pandemic progressed. This required OHCQ to implement new or revised survey processes in many industries during fiscal 2021. Both the State and federal systems of oversight will continue to evolve over the coming years, particularly in the nursing home industry.

Throughout the pandemic, various State and federal health orders limited, reduced, or changed the scope or focus of the surveys that OHCQ was conducting. **Appendix 2** shows these changes throughout the last year and a half. When there were limitations for onsite survey activities, OHCQ surveyors and administrative staff conducted offsite surveys and licensure activities.

One example of the changes in how surveys were conducted is that during the pandemic, OHCQ implemented offsite reviews of new sites for existing community-based providers, such as programs serving individuals with developmental disabilities. The online audiovisual visits allowed for real-time communication between OHCQ and the provider. OHCQ could direct where the provider turned the camera and what areas to focus on during the tour of the physical space. In certain situations, this type of survey was both efficient and effective in determining if the new site met the licensure requirements and could begin operation. While developed as an alternative during the pandemic, this type of survey is now being incorporated into OHCQ's standard processes when appropriate.

Examples of changes in the focus of surveys, including new State and federal requirements on these surveys, are Focused Infection Control surveys and surveys related to COVID-19 testing, COVID-19 CRISP (or Chesapeake Regional Information System from Our Patients) reporting, and review of emergency plans. It is anticipated that these activities will continue through fiscal 2022 but will eventually be discontinued. **Exhibit 4** shows the impact of these additional survey activities on OHCQ's Long Term Care Unit.

**Exhibit 4**
**Long Term Care Unit Additional Activities**
**Fiscal 2017-2021**




Source: Office of Health Care Quality Fiscal 2021 Annual Report

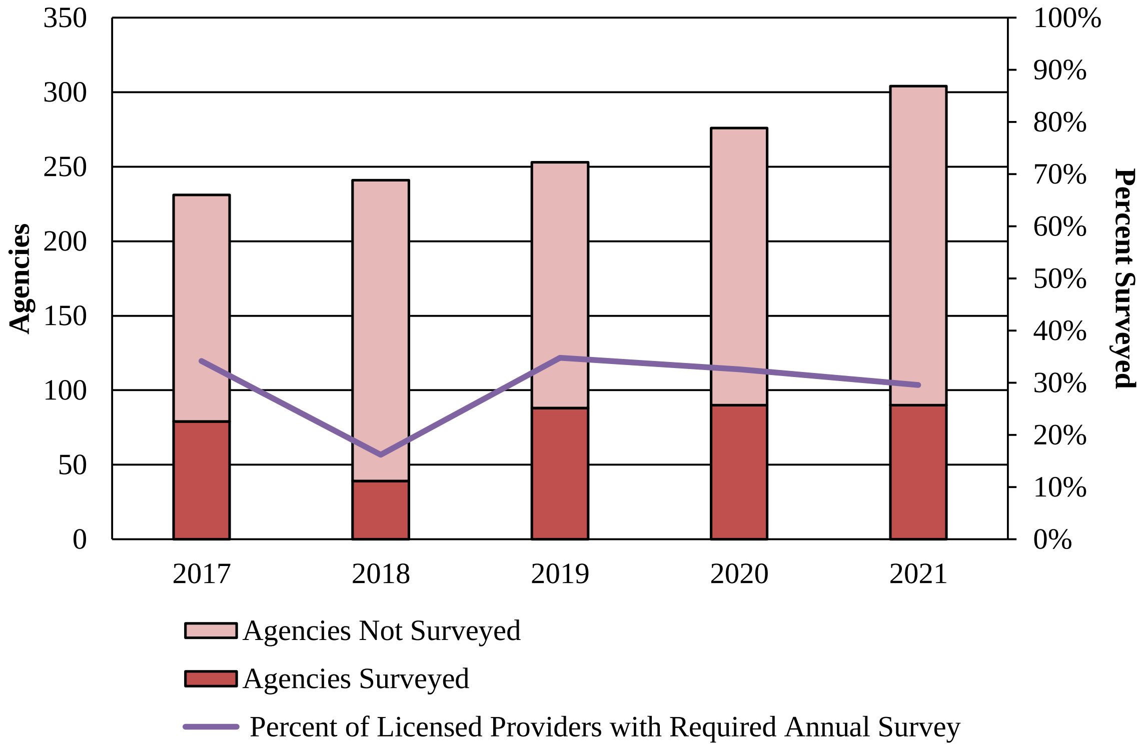
OHCQ also noted that all the focused infection control surveys, which were newly mandated by the Centers for Medicare and Medicaid Services (CMS) were completed within their mandated timeline. In Maryland, focused infection control surveys of all nursing homes were completed in under 75 days. OHCQ also issued more civil money penalty fees in fiscal 2021 than in the last five fiscal years.

## 2. DDU and ALU Experience Difficulties in Meeting Mandates and Further Staffing Support

DDU and ALU also have mandates for conducting surveys of all licensed providers annually. Both units have continued to struggle with meeting these mandates. Although these units had less disruption in their day-to-day survey activity during the pandemic, the onset of the crisis did make conducting in-person surveys more challenging due to safety precautions being taken by the agency and providers.

**Exhibit 5** shows DDU's survey activity over the last five fiscal years. As shown, although this unit has surveyed roughly the same number of providers in each of the last three fiscal years, the rate of those receiving surveys decreased due to more providers in the State.

**Exhibit 5**
**DDU Survey Activities**
**Fiscal 2017-2021**

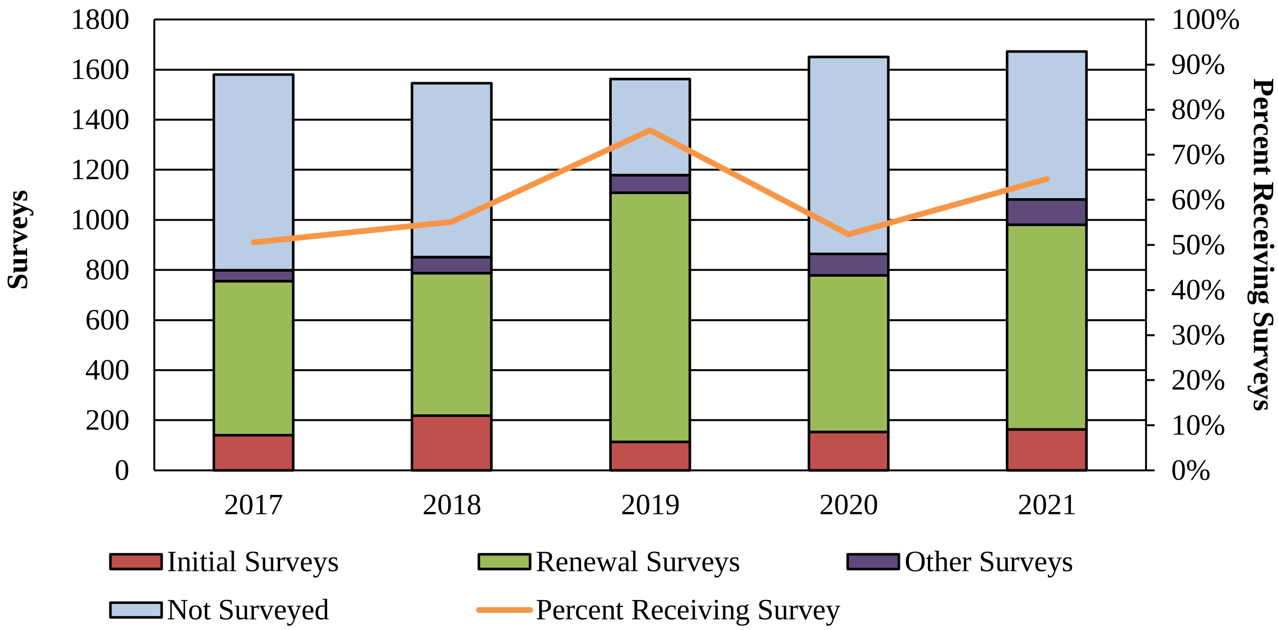



DDU: Developmental Disabilities Unit

Source: Office of Health Care Quality Fiscal 2021 Annual Report

Conversely, ALU has been able to increase its survey activity over fiscal 2020; however, the rate of providers receiving these surveys is still under the mandated rate of 100%, as shown in **Exhibit 6**.

**Exhibit 6**
**ALU Survey Activities**
**Fiscal 2017-2021**




ALU: Assisted Living Unit

Source: Office of Health Care Quality Fiscal 2021 Annual Report

OHCQ's inability to complete all required surveys was once again a repeat audit finding during the May 2021 report issued by the Office of Legislative Audits. This finding is also discussed in **Appendix 1**.

Given these units difficulties in meeting survey mandates, they have regularly received additional surveyors and positions authorized through Chapter 454, as discussed previously. In fact, as shown in **Exhibit 7**, combined, DDU and ALU have been the units within OHCQ that have been receiving the most resources from this statute in efforts to achieve survey mandates.

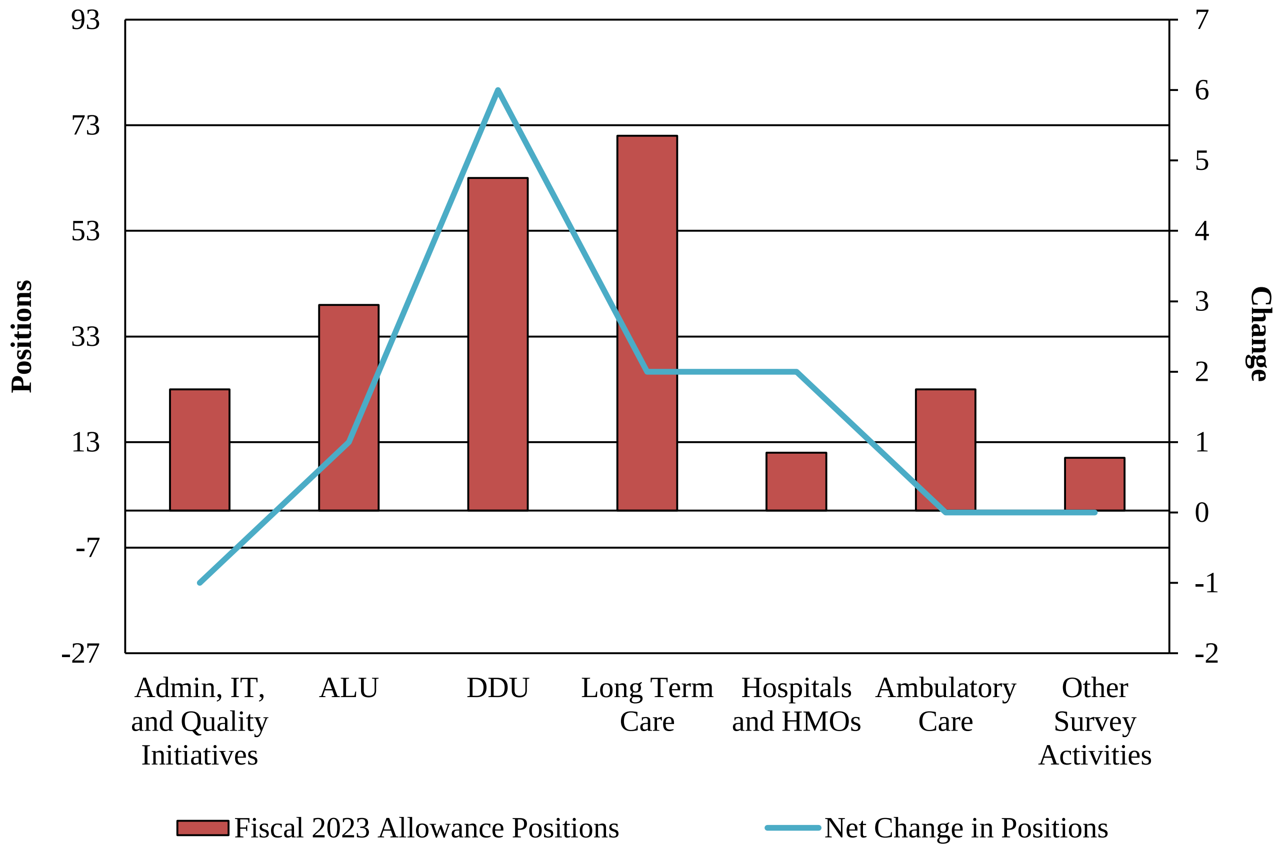
**Exhibit 7**
## Distribution of New Employees under Chapter 454 of 2018
**Fiscal 2020-2023**

| Unit | 2020 | 2021 | 2022 | 2023 | Cumulative |
|---|---|---|---|---|---|
| Ambulatory Care Unit | 1 | 1 | 1 | 1 | 4 |
| Assisted Living Unit | 1 | 1 | 1 | 1 | 4 |
| Developmental Disabilities Unit | 4 | 3 | 4 | 4 | 15 |
| Long Term Care Unit | 4 | 5 | 4 | 4 | 17 |
| **Total** | **10** | **10** | **10** | **10** | **40** |

Source: Governor's Fiscal 2023 Budget Books

In addition to the 10 new positions, the fiscal 2023 allowance indicates that OHCQ reallocated staffing resources among functional areas provided additional resources to these two units. Three areas had positions transferred out: 2 positions from the Long Term Care Unit, 1 position from the administrative function, and 1 position from the Ambulatory Care program. DDU and the Hospital inspection units of OHCQ each received 2 of these positions to their employee compliment. **Exhibit 8** shows the overall staffing profile of the agency, when considering both new positions and transfers within OHCQ, and demonstrates that DDU received the most additional PINs over the prior appropriation.

**Exhibit 8**
## Change in the Office of Health Care Quality Employee Distribution
**Fiscal 2023 Allowance**




ALU: Assisted Living Unit
DDU: Developmental Disabilities Unit
HMO: Health Maintenance Organization
IT: information technology

Source: Governor's Fiscal 2023 Budget Books; Department of Legislative Services

## *Operating Budget Recommended Actions*

1. Add the following language:

   Provided that $788,715 in general funds, $4,447 in special funds, and $287,596 in federal funds are reduced to increase the turnover rate to 5%.

   **Explanation:** The fiscal 2023 allowance for the Office of Health Care Quality (OHCQ) assumes a 0% turnover, despite having a vacancy rate of 18% as of January 2022. This action provides for a 5% turnover, lower than levels budgeted in fiscal 2022, and still provides additional funding over fiscal 2022 funding to allow for additional hiring and employee retention strategies. In order to exceed this turnover rate, OHCQ would need to fill 30 of its 42 vacancies.

## Appendix 1
# Audit Findings

| | |
|---|---:|
| Audit Period for Last Audit: | July 1, 2017 – March 8, 2020 |
| Issue Date: | May 2021 |
| Number of Findings: | 1 |
| Number of Repeat Findings: | 1 |
| % of Repeat Findings: | 100% |
| Rating: (if applicable) | |

***Finding 1:*** This finding pertains to the Health Professional Boards and Commissions (HPBC).

***Finding 2:*** **OHCQ did not conduct required annual inspections of all assisted living facilities and development disabilities service providers. As discussed earlier in this analysis, this has been a reoccurring issue for the agency, of which staffing increases are intended to address.**

***Finding 3:*** This finding pertains to HPBC.

***Finding 4:*** This finding pertains to HPBC.

***Finding 5:*** This finding pertains to HPBC.

***Finding 6:*** This finding pertains to HPBC.

***Finding 7:*** This finding pertains to HPBC (policy issue).

*Bold denotes item repeated in full or part from preceding audit report.

Note: OHCQ is audited in conjunction with HPBC – M00B0104 under the Regulatory Services Audit Report. This appendix only addresses the one finding that pertained to OHCQ. Further discussion of the Regulatory Services audit findings can be found in the HPBCs analysis.

## Appendix 2
# Regulatory Changes during COVID-19

| CMS Action | Date | State Action |
|---|---|---|
| CMS suspends nursing home surveys. → | 3/4/2020 | |
| | 3/16/2020 | ←Maryland Secretary of Health issued an order limiting OHCQ's licensing, oversight, and inspection activities to the following activities for all provider types: (1) administrative review and triage of all complaints and facility-reported incidents; (2) onsite investigations of those complaints and facility-reported incidents that are triaged as an immediate jeopardy and any follow-up visits necessary to confirm abatement of the immediate jeopardy situation; (3) offsite processing of initial licensure applications and requests to increase capacity – an onsite visit will be conducted only if required for providers to seek reimbursement; and (4) other investigations if determined by OHCQ's Executive Director or designee to be imperative to protect the health and safety of Marylanders. |
| CMS permitted immediate jeopardy and focused infection control surveys in nursing homes if states had sufficient resources to perform the surveys→ | 3/20/2020 | |
| CMS outlines a plan to restore survey activities based on the state's phase of the COVID-19 pandemic. Generally, states could perform surveys to investigate alleged immediate jeopardy, revisits for immediate jeopardy, focused infection control surveys, initial surveys, and COVID-19 hot spots. → | 5/18/2020 | |
| CMS requires states to conduct focused infection control surveys of all nursing homes.→ | 6/1/2020 | |
| | 8/14/2020 | ←OHCQ completes all of the required focused infection control surveys. |

| **CMS Action** | **Date** | **State Action** |
|---|---|---|
| CMS authorized states to perform recertification surveys after completing investigations of alleged immediate jeopardy and actual harm, focused infection control surveys, initial certification, and COVID-19 hot spots.→ | 8/17/2020 | |
| | 10/1/2020 | ←March 2020 order rescinded. |
| CMS limited hospital survey activities for 30 days by suspending hospital recertification surveys and limiting complaint surveys to immediate jeopardy complaint allegations. CMS prioritized onsite complaint investigations based on the following factors: (1) imminent danger to patients at the hospital, (2) noncompliance with Medicare hospital conditions of participation likely exists, and (3) if immediate action must be taken to protect the health and safety of patients. → | 1/20/2021 | |
| Directive extended additional 30 days.→ | 2/18/2021 | |

Source: Office of Health Care Quality; Department of Legislative Services

**Appendix 3**
**Object/Fund Difference Report**
**MDH – Office of Health Care Quality**

| Object/Fund | FY 21 Actual | FY 22 Working Appropriation | FY 23 Allowance | FY 22 - FY 23 Amount Change | Percent Change |
|---|---|---|---|---|---|
| **Positions** | | | | | |
| 01 Regular | 221.00 | 230.00 | 240.00 | 10.00 | 4.3% |
| 02 Contractual | 9.81 | 12.50 | 13.50 | 1.00 | 8.0% |
| **Total Positions** | **230.81** | **242.50** | **253.50** | **11.00** | **4.5%** |
| **Objects** | | | | | |
| 01 Salaries and Wages | $ 22,178,561 | $ 22,314,290 | $ 26,353,349 | $ 4,039,059 | 18.1% |
| 02 Technical and Spec. Fees | 700,786 | 791,468 | 818,297 | 26,829 | 3.4% |
| 03 Communication | 337,736 | 258,099 | 246,748 | -11,351 | -4.4% |
| 04 Travel | 124,074 | 256,566 | 229,467 | -27,099 | -10.6% |
| 06 Fuel and Utilities | 1,873 | 0 | 1,873 | 1,873 | N/A |
| 07 Motor Vehicles | 223,522 | 137,433 | 101,838 | -35,595 | -25.9% |
| 08 Contractual Services | 821,316 | 76,611 | 63,908 | -12,703 | -16.6% |
| 09 Supplies and Materials | 62,964 | 60,598 | 76,534 | 15,936 | 26.3% |
| 10 Equipment – Replacement | 9,111 | 6,000 | 37,747 | 31,747 | 529.1% |
| 11 Equipment – Additional | 41,821 | 15,000 | 15,000 | 0 | 0% |
| 12 Grants, Subsidies, and Contributions | 542,987 | 506,388 | 506,388 | 0 | 0% |
| 13 Fixed Charges | 882,883 | 894,305 | 932,971 | 38,666 | 4.3% |
| **Total Objects** | **$ 25,927,634** | **$ 25,316,758** | **$ 29,384,120** | **$ 4,067,362** | **16.1%** |
| **Funds** | | | | | |
| 01 General Fund | $ 17,008,089 | $ 17,385,618 | $ 20,051,940 | $ 2,666,322 | 15.3% |
| 03 Special Fund | 639,137 | 598,808 | 606,751 | 7,943 | 1.3% |
| 05 Federal Fund | 8,280,408 | 7,332,332 | 8,725,429 | 1,393,097 | 19.0% |
| **Total Funds** | **$ 25,927,634** | **$ 25,316,758** | **$ 29,384,120** | **$ 4,067,362** | **16.1%** |

Note: The fiscal 2022 working appropriation does not include deficiency appropriations. The fiscal 2023 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.