Office of Health Care Quality
Assisted Living Legislative Wrap-Up Report

Overview
The 2006 General Assembly Session was very successful for the Office of Health Care Quality (OHCQ). The FY 2007 allowance for the OHCQ is 15.4 million. In FY 2006, three positions have been transferred to the OHCQ and the FY 2007 allowance includes six PINs transferred to the OHCQ and five new PINs. A total of 14 positions have been assigned to the Office of Health Care Quality to increase oversight of community health facilities, including hospitals, nursing homes, and assisted living facilities. These new resources will begin to address shortages, though additional resources will be needed to match recent increases in workload. The OHCQ has not increased licensure fees in over a decade for many of the programs that it regulates. In FY 2007, we will increase certain licensure fees to more appropriately cover the expenses associated with survey and inspection activities.

Fiscal Year 2007 Budget Allowance House Bill 770—Emergency Plans for Human Service Facilities
This bill requires a human service facility to develop an emergency that includes procedures to be followed before, during, and after an emergency to address: (1) the evacuation, transportation, or shelter-in-place of individuals served at the facility; (2) the notification of families, staff and licensing authorities regarding the action that will be taken concerning the safety and well-being of individuals served at the facility; (3) staff coverage, organization, and assignment of responsibilities; and (4) the continuity of operations. The regulations developed must include guidelines for the creation of an executive summary of the evacuation procedures that will be provided to the family member of the resident or patient in a human service facility.

House Bill 826 - Assisted Living Programs – Services Disclosure Statement
This bill, as amended, authorizes the DHMH, in consultation with stakeholders, to develop a standard Assisted Living Program Services Disclosure Statement. The purpose of the disclosure statement is to provide consumers with information about the actual services an assisted living program provides and to aid consumers in choosing the most appropriate program to meet their needs. The bill also requires the Department, in coordination with the Oversight Committee on Quality of Care in Nursing Homes and Assisted Living Facilities, the Department of Aging, providers, advocates, and other State and local stakeholders, to develop a process to educate consumers regarding the services disclosure statement and to submit a report to the Senate Finance Committee and the House Health and Government Operations Committee addressing specified issues as well as the resources required to make the services disclosure available on-line.

Senate Bill 385/House Bill 204 - Assisted Living Program Facilities – Emergency Electrical Power Generator
This bill, as amended, requires assisted living programs that are licensed to serve 50 or more individuals to have an emergency electrical power generator on premises that meets specified criteria and that provides lighting and supports certain systems. It also requires the Department to adopt regulations regarding the requirements for designating areas of the facility as common areas or areas of refuge. An assisted living program is exempt from the bill’s requirements if the facility can safely transfer residents through an enclosed corridor to a building that is equipped with an electrical power generator. The Department may also grant waivers for this requirement for up to 3 years, but not more than 5 years.

House Bill 1036 Assisted Living Programs – Prohibited Acts, Penalties, and Quality Account
This bill, as amended, prohibits a person from knowingly and willfully operating, maintaining or owning an unlicensed assisted living program, enhances criminal penalty for operating without a license to a felony, and establishes penalties for false advertisement. The bill clarifies that an individual who has applied in good faith, is awaiting a licensure decision, and has not been denied an application may not be subject to the criminal penalty for operating an unlicensed facility. The Department is also required to provide the unlicensed program with 30 days notice before filing criminal charges. In assessing and recommending penalties factors including the nature, number and seriousness of the violation and the ability of the program to pay the penalty must be considered. The bill also creates a Health Care Quality Account for assisted living similar to the account established for nursing homes. The account will be funded through civil money penalties assessed to assisted living programs for violations of standards. Penalties would be assessed when a deficiency exists or if there is an ongoing pattern of deficiencies. The account would be non-lapsing, special funds to be used for training, grant awards, demonstration projects, or other purposes designed to improve the quality of care in Maryland’s assisted living programs.
House Bill 1322 - Assisted Living Programs – Licensure

This bill, as amended, strengthens minimum licensing standards to ensure that assisted living program operators have relevant experience to run a program. It requires applicants to provide the Department with (1) information concerning any license or certification held under the Health Occupations or Health-General Articles; (2) information demonstrating financial and administrative ability to operate an assisted living program; (3) policies and procedures; (4) identification of personnel and relief personnel; and (5) any other information relevant to the provider’s ability to care for assisted living residents. It also authorizes the Department to approve, conditionally approve, or deny an application for licensure. This bill requires the Department, in consultation with various specialists and stakeholders, to develop a methodology based on resident need from criteria in the Resident Assessment Tool to determine when awake overnight staff and on-site nursing should not be required for an assisted living program and to provide a report to the Senate Finance and House Health and Government Operations Committees in a certain specified timeframe. The bill also specifies that an assisted living program does not include those programs certified by the Department of Human Resources as Project Home.

Senate Bill 102 – Health Care Facilities and Laboratories – Accreditation Organizations and Deeming

This bill strengthens accountability of accreditation organizations. It repeals sections of specific statutes relating to accreditation for hospitals, health maintenance organizations (HMOs), ambulatory surgical facilities, assisted living facilities, laboratories, home health agencies, and residential treatment centers (RTCs) and consolidates all language into a single uniform accreditation and deeming law.