

M00A01.03
Office of Health Care Quality
Department of Health and Mental Hygiene

Operating Budget Data

(\$ in Thousands)

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$8,323	\$8,496	\$8,583	\$86	1.0%
Special Fund	508	622	633	11	1.7%
Federal Fund	4,321	4,809	4,894	85	1.8%
Reimbursable Fund	<u>41</u>	<u>68</u>	<u>28</u>	<u>-40</u>	<u>-58.8%</u>
Total Funds	\$13,193	\$13,996	\$14,137	\$141	1.0%
Contingent & Back of Bill Reductions			-71	-71	
Adjusted Total	\$13,193	\$13,996	\$14,066	\$70	0.5%

- The allowance includes four new positions and additional equipment to increase patient safety in hospitals and reduce medical liability.

Personnel Data

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>
Regular Positions	184.40	183.40	182.40	-1.00
Contractual FTEs	<u>3.14</u>	<u>6.40</u>	<u>5.40</u>	<u>-1.00</u>
Total Personnel	187.54	189.80	187.80	-2.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	7.30	4.00%
Positions Vacant as of 12/31/04	12.00	6.54%

- The allowance includes four new health facility surveyor positions to improve patient safety, offset by the elimination of five similar positions in mental health and residential treatment units.

Note: Numbers may not sum to total due to rounding.

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Analysis in Brief

Major Trends

Assisted Living Facilities Continue to Increase: The number of assisted living facilities is growing at nearly 30% each year. Office surveyors have not been able to meet the demand for regular review of these facilities.

Issues

Office Submits Report Addressing Staff Shortages: The office has submitted a report providing a workplan for fiscal 2005 and 2006 inspections and an explanation of how the office is prioritizing its workload in light of staff shortages.

Recommended Actions

1. Concur with Governor's allowance.

Operating Budget Analysis

Program Description

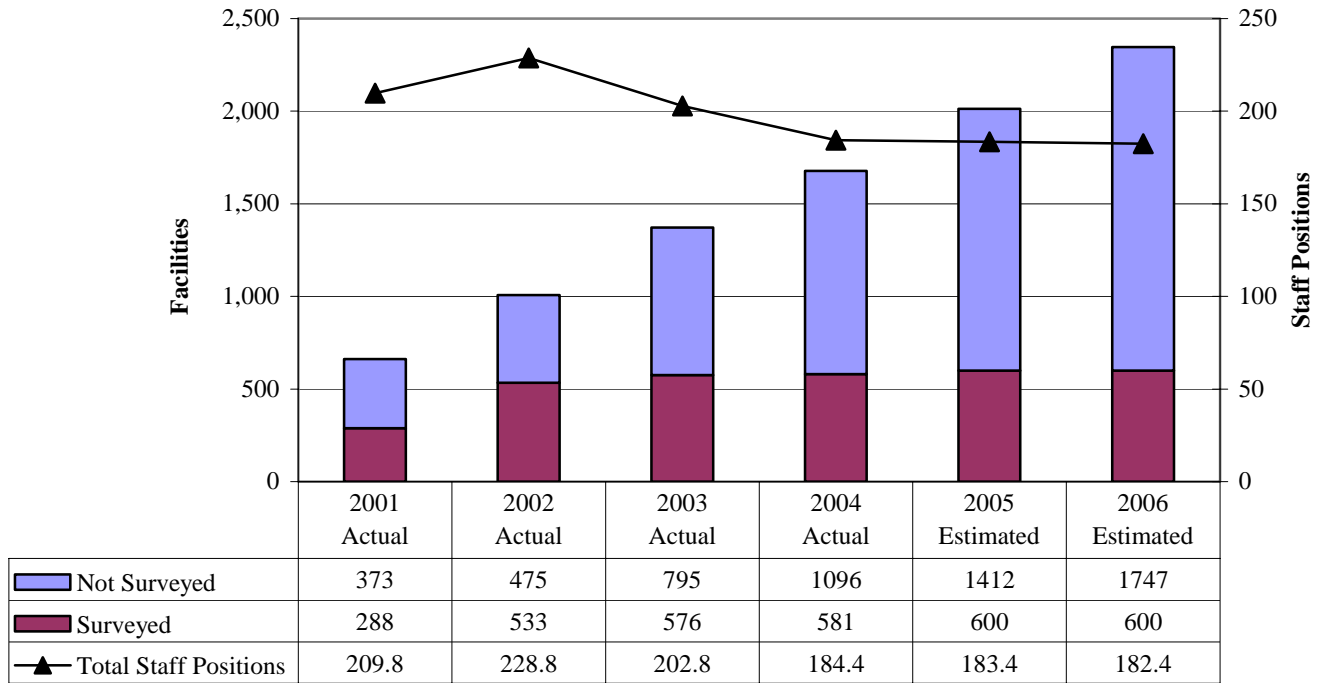
The role of the Office of Health Care Quality (OHCQ), formerly known as Licensing and Certification, is to regulate certain health care facilities. Twelve types of facilities are regulated: nursing homes, hospitals, ambulatory surgical centers, endoscopic centers, birthing centers, home health agencies, health maintenance organizations, hospice care, physical therapy centers, developmental disability homes and facilities, mental health facilities, and substance abuse treatment facilities. Facilities and services are reviewed on a regular basis for compliance with the Code of Maryland Regulations as well as for compliance with federal regulations in those facilities participating in Medicare and Medicaid.

Performance Analysis: Managing for Results

State law requires OHCQ to survey each assisted living facility, residence-like homes for the frail or elderly, at least once each year. With the aging of the population and recent emphasis on providing care in community-based settings, the number of assisted living facilities has grown nearly 30% for each of the last five years, detailed in **Exhibit 1**. OHCQ, with limited staff resources, has not been able to respond to the growth in this area. According to a recent labor/hour study, assisted living is one of the most understaffed units of the office with only 42% of the staff necessary to perform all required licensure surveys and complaint investigations. Managing for Results data further indicate that the office expects to complete one-quarter of licensure surveys in this unit in fiscal 2006.

OHCQ should comment on the effects of staff shortages in the area of assisted living.

**Exhibit 1
Survey of Assisted Living Facilities
Fiscal 2001 – 2006**



Source: Department of Health and Mental Hygiene

Governor’s Proposed Budget

As shown in **Exhibit 2**, the fiscal 2006 allowance increases funding for OHCQ by \$70,308 over the fiscal 2005 working appropriation, an increase of less than 1%. Increases are limited to personnel expenses, including an initiative to increase patient safety in hospitals.

Personnel Expenses

The fiscal 2006 allowance includes an increase of \$100,784 for personnel expenses. Approximately \$206,000 of the increase reflects the inclusion of increments in the Governor’s proposed budget, offset by a \$52,000 reduction in other adjustments to salary. The allowance also includes four new health facility surveyor positions to improve monitoring of patient safety at an estimated cost of \$182,556. The addition of positions is offset by the abolition of five positions in the areas of mental health and substance abuse treatment at savings of \$275,098. The department has indicated that positions in these units were abolished due to relative few violations in these areas.

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Certain assessments are expected to increase in fiscal 2006, including a \$95,159 increase in contributions to the employee retirement system and a \$24,824 increase in accrued leave payout. Workers compensation insurance, costs for which are increasing across agencies, increases \$47,223. Offsetting these increases is a \$127,308 reduction in health insurance costs, as these expenses have been overbudgeted in previous years.

Operating Expenses

Operating expenses decrease \$30,476 in the fiscal 2006 allowance. The sole source of growth is \$17,580 for additional computer equipment to support patient safety investigations. The allowance includes a \$15,000 reduction in grants to provider and advocacy groups, financed from nursing home civil penalty fees, and a \$15,265 reduction in travel and training. The allowance also includes a \$26,643 reduction in contractual personnel expenses, mainly owing to the elimination of a surveyor position for mental health facilities.

Impact of Cost Containment

The fiscal 2006 allowance reflects the elimination of \$70,976, the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in budget reconciliation legislation.

Exhibit 2
Governor's Proposed Budget
Office of Health Care Quality
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimbursable</u> <u>Fund</u>	<u>Total</u>
2005 Working Appropriation	\$8,496	\$622	\$4,809	\$68	\$13,996
2006 Governor's Allowance	8,583	633	4,894	28	14,137
Contingent & Back of Bill Reductions	-51	0	-20	0	-71
Adjusted Allowance	8,532	633	4,874	28	14,066
Amount Change	\$35	\$11	\$65	-\$40	\$70
Percent Change	0.4%	1.7%	1.3%	-58.8%	0.5%
Where It Goes:					
Personnel Expenses					
Increments and other compensation					\$206
Four new positions to monitor patient safety.....					183
Contributions to employee retirement system					95
Workers' compensation premium assessment					47
Accrued leave payout					25
Other adjustments to salary					-52
Employee and retiree health insurance					-127
Five abolished positions					-275
Other Changes					
Computer equipment to improve patient safety.....					18
Grants to provider and advocacy groups					-15
Reduction in conferences and training.....					-15
Elimination of contract health facility surveyor position					-27
Other adjustments					7
Total					\$70

Note: Numbers may not sum to total due to rounding.

Issues

1. Office Submits Report Addressing Staff Shortages

Due to a combination of increased workload and reduced staff levels, OHCQ has not been able to meet all established State and federal survey requirements. Responding to this concern, the budget committees included narrative in the 2004 *Joint Chairmen's Report* requiring the office to provide a workplan for fiscal 2005 and 2006 inspections and an explanation of how the office is prioritizing its workload in light of staff shortages. This report, due in October 2004, was submitted to the committees in January 2005.

Growth in Workload Exceeds Growth in Personnel

OHCQ survey staff support two functions: conducting regular inspections of State programs and facilities and investigating claims of neglect or abuse. The frequency of inspections is determined by State and federal law, with additional investigation performed as needed. The report submitted by OHCQ indicates that increased regulatory requirements and growth in certain programs has resulted in an overall workload level that has more than doubled in the last ten years. Much of the recent growth can be attributed to two factors:

- Increased safety and regulatory expectations on the part of the General Assembly, the Department of Health and Mental Hygiene, and the public have resulted in requirements for the office to survey additional programs and services. According to the report issued by OHCQ, an additional 14 programs with an estimated total of 4,634 facilities have been added to the office's purview since 1996. Most of the increase has been accommodated with existing resources.
- Emphasis on providing care in small, community settings has increased the number of facilities the office must survey. Continuing expansion of community services for the developmentally disabled, for example, has significantly increased the workload for OHCQ. The home-based care favored for this population presents survey challenges as facilities are generally small and geographically dispersed. Regulatory staff levels have not kept pace with expansion in home-based care.

Eighteen survey positions were added in fiscal 2002 to respond to increases in workload, namely in the area of assisted living. Many positions were not immediately filled due to budget constraints and difficulty recruiting nursing personnel; these positions were subsequently abolished in an effort to reduce the size of the State workforce. The actual number of personnel, and survey personnel in particular, has remained fairly static despite efforts to respond to workload increases.

Labor/Hour Survey Reflects Shortages Across Units

The labor/hour analysis included in the report from OHCQ attempts to quantify the magnitude of staff shortages. The analysis includes estimates of staff requirements for routine surveys as well as complaint investigations and compares that number to the actual number of positions. According to the report, summarized in **Exhibit 3**, the office’s current workload requires 151 staff. The office falls below that threshold with only 95 survey positions, 6 of which are currently vacant. Some of the largest units have the greatest staff shortages.

Exhibit 3
OHCQ Staff Requirements by Unit

	<u>Days Required</u>	<u>Surveyors Required</u>	<u>Actual Surveyors</u>	<u>Difference</u>	<u>Staffing Percentage</u>
Assisted Living	7,536	40.7	17.0	-23.7	42%
Nursing Homes	7,304	39.5	32.0	-7.5	81%
Developmental Disabilities	6,837	37.0	26.0	-11.0	70%
Ambulatory Care	3,039	16.4	6.0	-10.4	37%
Laboratories	1,048	5.7	5.0	-0.6	89%
Hospitals and HMOs	656	3.5	3.0	-0.6	83%
Community Mental Health	591	3.2	3.8	0.6	119%
Adult Medical Day Care	440	2.4	1.5	-0.9	63%
HMOs	153	0.8	0.8	0.0	101%
Patient Safety	146	0.8	0.0	-0.8	0%
Nurse Staffing	86	0.5	0.0	-0.5	0%
Residential Treatment	32	0.2	0.1	-0.1	58%
Total	27,867	150.6	95.2	-55.4	63%

Source: Department of Health and Mental Hygiene; Department of Legislative Services

- **Assisted Living:** Only 428 of 2,000 annual assisted living surveys required by State law were completed in fiscal 2004. The report submitted by OHCQ indicates that regulatory requirements for assisted living facilities extend beyond the capacity of many providers of these services, especially those serving fewer than 16 people, leading the office to spend a disproportionate amount of resources on education and technical assistance. A high number of sanctions in this area also reduces the time available for routine survey activity. The department intends to submit legislation in 2005 that would revise assisted living requirements in order to address these concerns.

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- ***Nursing Homes:*** OHCQ has failed to meet federal standards for regular review of nursing home facilities, a deficiency noted in a 1999 report from the General Accounting Office. Since that time, positions were added to the unit but subsequently eliminated in an effort to contain State personnel growth. Due to staff shortages, workload is triaged to make most efficient use of resources in an attempt to meet federal guidelines.
- ***Developmental Disabilities:*** Staff levels have not kept pace with the growth in the number of group homes for the developmentally disabled. Deficiencies in this area have garnered media attention and have been the subject of lawsuits filed by the Maryland Disability Law Center. OHCQ has prioritized surveys of homes with 17 or more residents and those housing older adults for review in fiscal 2005.
- ***Ambulatory Care:*** The growth in this program reflects the move from institutional to community-based care. This unit regulates more than five times the number of facilities it did in 1988. With State discussions continuing on managed long-term care, there is potential for the number of regulated programs to grow further.

Staff shortages in these four largest areas reflect 95% of the need for additional personnel.

Addition of Personnel Does Not Respond to Identified Needs

The Governor's proposed budget adds four surveyor positions to OHCQ's patient safety unit, offset by the elimination of five positions in the mental health and residential treatment units. Three surveyor positions will be abolished from the mental health unit, reducing the reported staffing percentage from 119% to 25%. The staffing percentage for the residential treatment unit will not change, as the positions identified are non-survey personnel. The elimination of personnel reflects the small number of complaints in these two areas.

The personnel changes in the fiscal 2006 budget will increase the total number of survey positions; however, the addition of four personnel in the patient safety unit raises questions about the efficient allocation of staff resources. According to the data in Exhibit 3, patient safety requires a 0.8 appointment to fulfill its mission; with the addition of four survey positions, the unit will have 500% of the staff required in fiscal 2006. The overallocation of resources for patient safety contrasts with staffing shortages in other critical units. Assisted living, for example, requires an additional 24 staff to meet its legal mandates.

The office should comment on the workload report and the areas most in need of additional personnel.

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budgets Office of Health Care Quality (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2004					
Legislative Appropriation	\$9,785	\$350	\$3,953	\$68	\$14,156
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-873	358	764	0	250
Cost Containment	-589	0	0	0	-589
Reversions and Cancellations	0	-201	-397	-27	-624
Actual Expenditures	\$8,323	\$508	\$4,321	\$41	\$13,193
Fiscal 2005					
Legislative Appropriation	\$8,380	\$572	\$4,809	\$68	\$13,829
Budget Amendments	116	50	0	0	166
Working Appropriation	\$8,496	\$622	\$4,809	\$68	\$13,996

Note: Numbers may not sum to total due to rounding.

Fiscal 2004

The general fund appropriation decreased \$1.5 million. Of that amount, \$0.2 million was reduced to realign health insurance expenses among departmental units. An additional reduction of \$0.7 million resulted from higher-than-anticipated turnover rates and inability to earn federal fund participation on developmental disability program salaries and benefits. Cost containment reduced the appropriation by \$0.6 million. Reductions were possible because of the availability of special and federal funds.

The special fund appropriation increased \$0.4 million for surveys of nursing homes. Civil monetary penalties totaling \$0.2 million were cancelled for use in fiscal 2005.

The federal fund appropriation increased \$0.8 million. Of that amount, \$0.2 million in federal Medicaid matching funds was used for mental hygiene licensing unit costs. Funds also increased \$0.6 million to recognize increased matching funds for developmental disability program activities. Funds were cancelled due to lower-than-anticipated salary and operating costs in the nursing home and developmental disability units.

Fiscal 2005

The general fund appropriation increased \$0.1 million to recognize the fiscal 2005 cost-of-living adjustment.

Audit Findings

Audit Period for Last Audit:	July 1, 2000 – July 9, 2003
Issue Date:	August 2004
Number of Findings:	1
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	N/A

Finding 1: The OHCQ had not inspected various health care facilities as required.

**Object/Fund Difference Report
DHMH Office of Health Care Quality**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	184.40	183.40	182.40	-1.00	-0.5%
02 Contractual	3.14	6.40	5.40	-1.00	-15.6%
Total Positions	187.54	189.80	187.80	-2.00	-1.1%
Objects					
01 Salaries and Wages	\$ 10,955,461	\$ 11,668,209	\$ 11,839,969	\$ 171,760	1.5%
02 Technical & Spec Fees	138,205	228,491	201,848	-26,643	-11.7%
03 Communication	56,993	71,360	59,819	-11,541	-16.2%
04 Travel	305,239	324,654	309,399	-15,255	-4.7%
07 Motor Vehicles	101,011	90,198	87,901	-2,297	-2.5%
08 Contractual Services	943,609	1,000,246	1,019,610	19,364	1.9%
09 Supplies & Materials	83,911	87,473	91,081	3,608	4.1%
10 Equip - Replacement	93,901	7,687	8,703	1,016	13.2%
11 Equip - Additional	20,352	4,831	22,411	17,580	363.9%
12 Grants,Subsidies,Contr	199,219	215,000	200,000	-15,000	-7.0%
13 Fixed Charges	294,848	297,512	296,204	-1,308	-0.4%
Total Objects	\$ 13,192,749	\$ 13,995,661	\$ 14,136,945	\$ 141,284	1.0%
Funds					
01 General Fund	\$ 8,322,887	\$ 8,496,449	\$ 8,582,622	\$ 86,173	1.0%
03 Special Fund	507,631	622,023	632,659	10,636	1.7%
05 Federal Fund	4,320,771	4,808,923	4,893,552	84,629	1.8%
09 Reimbursable Fund	41,460	68,266	28,112	-40,154	-58.8%
Total Funds	\$ 13,192,749	\$ 13,995,661	\$ 14,136,945	\$ 141,284	1.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.