



## COMMISSION ON AGING

March 29, 2021

Dr. Patricia Tomsko Nay, Executive Director  
Office of Health Care Quality  
7120 Samuel Morse Drive, Second Floor  
Columbia, MD 21046-3422

Dear Dr. Nay:

I am writing on behalf of the Montgomery County Commission on Aging (CoA) to express our grave concern regarding surveys and inspections, and ultimately care of residents, in nursing facilities in Montgomery County. We are aware that the Memorandum of Understanding between Montgomery County and the State of Maryland, which has been in effect for decades and allowed ten County surveyors to inspect and survey the 34 nursing homes in Montgomery County, will not be renewed by the State. How the Office of Health Care Quality (OHCQ) plans to replace the County surveyors and to continue to assure timely and thorough inspections and quality care in nursing facilities in Montgomery County is of utmost importance to us.

The Montgomery County CoA is authorized by the Older Americans Act, P.L. 116-131, and was established by Montgomery County in 1974 to advise County government on the needs, interests and issues of Older Adult residents, and to advocate on their behalf at the local, state and national levels. It is our obligation and duty to advocate in particular for residents of nursing facilities who may not be able to advocate for themselves.

It is our understanding that the ten current Montgomery County nursing facility surveyors will be replaced by seven additional surveyors at OHCQ, but only four of these will be nursing facility surveyors. We have received no assurances that these four additional nursing facility surveyors will be dedicated solely to nursing facilities in Montgomery County. We are having difficulty understanding how four surveyors can effectively replace ten surveyors. Given the above, we request that you provide us with information on the plans and strategies of OHCQ to successfully enact this transition in a way that will not result in harm to the residents of nursing facilities in Montgomery County.

Our specific questions regarding OHCQ's plan to maintain continuity of surveys and inspections in Montgomery County nursing facilities beginning July 1, 2021 when the Memorandum of Understanding ends are as follow:

1. Currently in Montgomery County, there are two teams of four experienced County surveyors inspecting nursing facilities. Does OHCQ plan to replace these two teams of four with one team of four surveyors, two teams of two surveyors or is there a different configuration being considered?
2. Will there be four surveyors dedicated to Montgomery County nursing facilities and if so, must they be the new surveyors or might there be experienced surveyors in the Montgomery County team (s)?

**Department of Health and Human Services**

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3. Currently, one Montgomery County nursing facility surveyor acts as a liaison to the Long-Term Care Ombudsman Program Director. This allows the two entities to collaborate to resolve some residents' issues quickly and effectively. Will there be a state nursing facility surveyor assigned to such a liaison role? If so, who will that person be, i.e., one of the four nursing facility surveyors or someone else? If not, how will problems previously resolved through collaboration be handled to avoid the lengthy delay of a complaint investigation?
4. The CoA is apprised that OHCQ has continuing recruitment and retention problems. Given this already existing problem, what is OHCQ's strategy for recruiting and retaining seven new staff (only four of whom will be nursing facility surveyors)? In addition, given the heavy traffic in Montgomery County and the fact that OHCQ does not cover mileage, the CoA is concerned that State surveyors may prefer not to have to travel to Montgomery County. What is OHCQ's plan to motivate surveyors to work in Montgomery County without it being viewed as a punishment assignment?
5. Federal regulations require that ten percent of surveys begin off hour (or off shift) e.g., 6 am or on a weekend. Montgomery County surveyors exceed the requirement as about 25 percent of their surveys begin off hour. Is the State in compliance with this Federal regulation and how does OHCQ plan to ensure that there will be off hour surveys in Montgomery County?
6. Although the federal requirement is that complaints be investigated within 10 days, the State takes about 33 days to investigate a complaint<sup>1</sup> and the County takes 20 days<sup>2</sup>. What is OHCQ's plan to bring complaint investigations closer into compliance with the Federal regulation?
7. Currently, Montgomery County is in compliance with the Federal requirement that every nursing facility undergo an annual survey and inspection, but the State is out of compliance, with many facilities going over 15 months without a survey.<sup>3</sup> What is the State's strategy for improving and increasing its record regarding these important annual surveys?

It is clear that OHCQ struggles to effectively cover its current assigned territory. We are quite skeptical that the State will be able to handle the additional 34 nursing facilities in Montgomery County and, unfortunately, the residents of these nursing facilities will suffer. Therefore, we strongly urge that the State monitor and evaluate the survey and certification process in Montgomery County nursing facilities once this process is taken over by State surveyors.

The Maryland Nursing Home Resident Protection Act of 2018 requires that OHCQ increase its staff under a multi-year plan. We believe that increasing the staff by seven while decreasing its contract staff by ten does not make OHCQ more robust as the legislation intended and that the spirit of the law is not being followed.

The ramifications of the change from County to State surveyors is enormous under any circumstance. Given the year that our frail, elderly and vulnerable citizens in nursing facilities just experienced, it is imperative that the State have a good plan for protecting these residents. Our residents in nursing facilities watched the deaths of their friends and roommates and suffered from a loneliness unlike any experienced before. It is incumbent upon all of us to make sure that these residents do not suffer a degradation of care and quality of life, especially after all that they have been through.

We hope to hear back soon with the answers to our questions and with assurances that the situation will be closely monitored and evaluated.

Sincerely,  
*Barbara Selter sb*  
Montgomery County Commission on Aging

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<sup>1</sup> Analysis of the FY 2022 Maryland Executive Budget, 2021, page 9.

<sup>2</sup> Manually compiled data by Montgomery County Long Term Ombudsman Program.

<sup>3</sup> OHCQ FY19 annual report states the number of full annual surveys conducted from FY17-FY19, page 15: [https://health.maryland.gov/ohcq/Documents/OHCQ\\_Annual\\_Report\\_Fy2019.pdf](https://health.maryland.gov/ohcq/Documents/OHCQ_Annual_Report_Fy2019.pdf)

CC: Montgomery County House and Senate Delegations  
House Health and Government Operations Committee  
House Appropriations Committee  
Senate Budget and Taxation Committee  
Senate Finance Committee  
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Marc Elrich, County Executive  
Raymond Crowel, Director, Montgomery County Department of Health  
Odile Brunetto, Chief Aging and Disability Services, Montgomery County  
Tom Hucker, President, Montgomery County Council  
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