

Regulatory Framework

Uniform Definition for Small AL Programs (Study Question D):

- **Action:** Adopt a consistent definition for "small AL programs" across all Maryland agencies. The group suggests defining 16 or fewer beds as "small" and 17 or more beds as "large." Within the category of small ALP, a residential dwelling with 1-5 unrelated individuals shall be the focus of these recommendations in the first year.
- **Rationale:** This standardization will streamline the identification of resource requirements and target support for providers. Within the currently proposed updates to the assisted living regulations in Maryland, programs with a licensed capacity of 17 or more beds are subject to a comprehensive set of requirements. These include provisions for private telephone access in resident rooms, physical site plan reviews, food service permits, assist rails, public restrooms, compliance with food service facility regulations, specific room arrangements, and temperature control measures. These nuanced requirements recognize the diverse operational demands across various AL programs. Facilities with fewer than 17 beds are exempt from these specific regulations, reflecting the state's targeted approach to ensure that regulations are calibrated to the size and complexity of the facility.
- **Timeline:** An agreed upon definition shall be reached by December 1, 2025.

Needs Assessment for Access to AL Programs: (Study Questions B and D)

- **Action:** The Maryland Health Care Commission, in collaboration with the Department of Aging, will initiate periodic comprehensive needs assessments to identify underserved and overserved jurisdictions concerning the entry and exit of AL programs in the state. As part of this action, data sources from the Department of Health, essential for the assessments, will be identified and compiled. A standardized timeline for recurring assessments will be established, specifying whether it will be conducted annually or at a different interval. A detailed resource plan, accounting for manpower, financial, and technological resources, will be designed to sustain the assessment process in the long term.
- **Rationale:** A structured and recurring needs assessment allows for the identification of gaps in Assisted Living Program service availability and will aid in the optimization of resource allocation. This ensures that residents across jurisdictions have equitable access to assisted living services, improving the quality of care and standard of living for Maryland's aging population.
- **Timeline:** Identification of Data Sources by October 1, 2024. Establishment of Recurrence Schedule and Resource Plan by January 1, 2025. Initial Needs Assessment completed by December 31, 2025. First Recurrent Assessment by December 31, 2026, with subsequent assessments to follow the established schedule.

Commented [SE1]: Who at the Department of Aging?

Commented [SE2R1]: If you mean the Ombudsman Program, please include that and we would need to discuss what would be involved.

Staff Training Support (Study Question F)

Recruitment, Retention and Training:

- **Action:** To create a larger workforce, the Maryland Department of Labor shall support, establish, and facilitate employment and training programs that encourage recruitment, retention, and competency for AL programs. Track the number of individuals enrolled in training programs, retention rates over a 12-month period, and the percentage of employees meeting competency standards. The state will encourage the development of programs in regions where there is a significant shortage of staff and regions where there are significant numbers of AL programs.
- **Action:** To create a larger workforce, the Department of Labor shall partner with local community colleges to develop training programs and courses that will encourage the development of a well-trained workforce. The state will focus on the development of community college programs in regions where there is a significant shortage of staff and regions where there are significant numbers of AL programs.
- **Rationale:** The overall goal is to create a larger workforce for AL programs. A well-trained, competent, and stable workforce is crucial for maintaining high-quality care and ensuring the well-being of residents in AL programs. By enhancing recruitment and retention efforts and prioritizing continuous employee development, the Maryland Department of Labor aims to uphold the standards of care, improve resident satisfaction, and minimize turnover-associated costs. The development of coursework and training programs within community colleges will ensure a location to train a competent workforce.
- **Timeline:** Within the next 12 months, the Maryland Department of Labor will roll out targeted employment and training initiatives to boost recruitment, improve retention by at least 10%, and verify the competency of assisted living program employees.

Assisted Living Program Manager Training:

- **Action:** The Maryland Department of Labor shall develop and implement a comprehensive training program specifically targeting assisted living program managers to ensure their full compliance with the provisions of the 2022 House Bill 1034 and any subsequent legislation enacted related to the bill.
- **Rationale:** Assisted living program managers play a pivotal role in setting standards and ensuring compliance within their programs. By equipping them with the latest knowledge and updates from current legislation, it ensures that the entire program operates within the legal framework, guaranteeing residents receive care that meets the highest legal and ethical benchmarks.
- **Timeline:** The specialized training for managers will be rolled out within the next 4 months, with a completion target by July 1, 2025. Ongoing updates and refresher courses will be conducted annually, or whenever new legislation is introduced.

Commented [SE3]: This sounds great.

Changing Level of Care:

- **Action:** The Maryland Department of Labor and Maryland Department of Health shall support training programs to help assisted living programs attain the training needed to offer and maintain a higher level of care.
- **Rationale:** Assisted living programs can obtain a license at a lower level of care and later apply for a license to provide a higher level of care. This transition to a higher level of care requires additional training. By assisting programs with attaining the training they need, the State not only encourages a higher level of quality of care, but the State also helps residents stay in their current assisted living program (i.e., continuity of care).
- **Timeline:** Within the next 12 months, the Maryland Department of Labor and the Maryland Department of Health will roll out targeted training assistance for AL programs, changing their level of care.

Reimbursement Policies Assessment (Study Question E)

Reimbursement of the Home and Community Based Waivers Program

- **Action:** Maryland's Medicaid Program shall conduct a thorough reassessment of reimbursement policies in the Maryland Medicaid Home and Community Based Waivers Program.
- **Rationale:** Regularly reassessing Maryland's Medicaid reimbursement policies ensures that the program remains financially sustainable, provides fair compensation to providers, optimizes patient outcomes, keeps pace with medical advancements, and incorporates stakeholder feedback to enhance patient access and reduce potential fraud.
- **Timeline:** Establish a workgroup and a presentation of findings within 3 years.

Reimbursement Policies

- **Action:** MHCC shall study removing the stipulation that a family member is not eligible for reimbursement as an AL program under state and federal requirements.
- **Rationale:** Assisted living programs have played an important role in addressing the needs of our older population. The demand for the type of services provided by ALPs will increase as our population continues to age. Establishing a pilot program that supports low-income families to provide needed care to loved ones gives us the opportunity to test the long-term benefits and costs of this policy shift. The Maryland Medicaid Program is concerned with this recommendation as there are CMS program guidelines and regulations that must be addressed before removing the prohibition on a family member receiving reimbursement. Alternatively, the state could choose to fund a pilot program exclusively with state-only funds.
- **Timeline:** Build into the FY2027 budget.

Commented [SE4]: This would be great for care in the family member's home (it used to be allowed). However, an alf is providing care to unrelated people. This might require a regulatory change - would the family member be providing care to others? Or just their family member in their home?

Commented [SE5]: It is an interesting idea and again family members have received payment in the past as caregivers.

Technology and Data Infrastructure Improvement

Small Assisted Living Facility Study - Comments received from Office of the Long Term Care Ombudsman

Data Infrastructure and Inter-Agency Collaboration (Study Questions A and C)

Enhancing OHCQ's Data Infrastructure

- **Action:** The state shall allocate requisite resources to OHCQ to establish and maintain a robust data infrastructure (i.e., inspection/deficiencies results, correction plans, residential agreements, assessments), ensuring timely, efficient, and accurate data collection.
- **Rationale:** An upgraded infrastructure will expedite data collection processes, guaranteeing accuracy and aiding in real-time decision-making for programs, the state and the public.
- **Timeline:** Complete infrastructure development and testing within the next 12 months.

Commented [AC6]: Yes please

Commented [SE7R6]: It should be publicly available.

Data Collaboration and Information Exchange

- **Action:** MHCC, OHCQ, and other state agencies, shall formalize inter-agency data-sharing arrangements to support timely and accurate data for quality improvement, consumer decision-making, and program performance monitoring.
- **Rationale:** Seamless inter-agency collaboration ensures continuous quality advancements, supports consumer-centric decisions, and aids in accurate performance evaluation.
- **Timeline:** Aim to finalize and implement protocols within the next year by December 31, 2024.

Commented [SE8]: Agreed!

Digital Platform Development for Assisted Living Programs and Integration with the CRISP Health Data Utility

- **Action:** Develop and implement a digital platform through the state designated Health Information Exchange (HIE) to facilitate efficient information exchange and data collection and sharing related to AL programs. The platform will include functionality to collect data during a public health or catastrophic emergency. The requirement shall be staged starting with facilities with over 16 beds connecting by January 1, 2026. Facilities with 6 to 15 beds connecting by January 1, 2027, and facilities with 5 beds or fewer establishing connectivity to CRISP by January 1, 2028. All facilities must maintain an active email address and stable internet connections by those respective dates.
- **Rationale:** Leveraging technology for data collection and sharing enhances transparency, accessibility, and efficiency. An online platform will not only modernize the data management process but also ensure stakeholders, including potential residents and their families, have up-to-date information on Assisted Living Program options.
- **Timeline:** Formation of HIE Connectivity Task Force: By July 31, 2024. Design & Development of Online Platform: From October 31, 2025, to December 31, 2025. Beta Testing and Feedback Collection: From January 31, 2026, to March 31, 2026. Official

Small Assisted Living Facility Study - Comments received from Office of the Long Term Care Ombudsman

Launch of Platform: By January 1, 2027, with ongoing updates and maintenance as required.

Committee and Campaign for AL Programs in Maryland

- **Action:** Formulate a joint committee consisting of representatives from relevant state departments and the assisted living industry. The committee will oversee the design and rollout of a public education campaign that illuminates assisted living as a viable long-term care option, detailing its benefits, costs, and the types of care and services offered.
- **Rationale:** The broader public may be unaware or misinformed about the benefits and functionalities of assisted living as a long-term care solution. A well-structured public education campaign can demystify misconceptions, provide clarity, and potentially ease the transition for families and individuals considering this care option.
- **Timeline:** Formation of Joint Committee: By July 31, 2024. Development and Design of Campaign: From October 31, 2025 to December 31, 2025. Launch of the Campaign: By September 30, 2026, with continued efforts and updates for the subsequent years up to 2029.

Commented [AC9]: Interesting. Not bad. Can see benefits to this

Commented [SE10R9]: Agreed

Commented [SE11R9]: MHCC should discuss how community education around this report should be done as well as making it clear that providers shall be aware of MHCC, OHCC, the ombudsman program - the roles and responsibilities of each to help ensure that we have excellent all options that provide quality of care and quality of life for Maryland residents.



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 5, 2024

Stacy Howes, PhD, CPHQ
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Dr. Howes:

Thank you for the opportunity to comment on the Small Assisted Living Program Study Recommendations Report.

In addition to the comments that The Office of Health Care Quality (OHCQ) provided on June 5, 2023, and in the workgroup meetings and meetings with MHCC, OHCQ respectfully submits the following comments for your consideration:

National and State Trends in Assisted Living

Pg. 6: “AL programs vary widely in size, influenced by factors such as the nature of the program, its geographic location, and the level of care provided. They can range from small homes accommodating 1 or 2 residents to expansive establishments housing several hundred residents.”

Assisted living programs are licensed for **two** or more residents.

B. AL Programs in Maryland (Study Question D)

Pg. 7: “AL programs in Maryland are also defined by what they do not include, as specified by the Office of Health Care Quality (OHCQ).”

The definition of an "assisted living program" is found in COMAR 10.07.14.02B(11)a-b.

State-Driven Quality Initiatives in AL Programs: Innovations, Implementations, and Comparative Insights

A. Quality Improvement Initiatives in AL Programs: A Multi-State Overview

Pg. 11: “This may include mandatory surveys on quality-of-life and program satisfaction, along with the creation of an AL Program Scorecard based on OHCQ surveys and response rates.”

A deficiency identifies non-compliance with a licensure requirement. Deficiencies are not quality indicators or quality metrics. Multiple factors must be considered to assess the quality of services in assisted living programs. Compliance with licensure requirements is only one such factor. Quality indicators, quality metrics, outcomes, and satisfaction of residents and families are also important considerations.

Comprehensive Review and Analysis of AL Programs in Maryland

Pg. 15: B. Deficiencies Analysis (Study Question A)

A summary of the SFY2020 data can be found on page 16, Table 8 of OHCQ FY21 Annual Report found on the OHCQ [website](#).

Recommendations

Regulatory Framework

Staff Training Support (Study Question F)

Pg. 24: Recruitment, Retention and Training

The workgroup participants were not aware of data related to staff retention within the assisted living industry.

Staff Training Support (Study Question F)

Pg. 24: Assisted Living Program Manager Training

The statute will need to be changed to implement this action. This recommendation will result in a substantial loss to the current assisted living vendors who currently provide the training currently. The current vendors are primarily small businesses, non-profit associations, and community colleges.

Staff Training Support (Study Question F)

Pg. 25: Changing Level of Care

Under Maryland law, an assisted living program that wants to increase their approved level of care must submit the request and required information to OHCQ for review and approval. A majority of all assisted living programs are at level III.

Technology and Data Infrastructure Improvement

Data Infrastructure and Inter-Agency Collaboration (Study Questions A and C)

Pg. 26: Enhancing OHCQ's Data Infrastructure

OHCQ implemented a new software system for assisted living programs on January 1, 2024.

Pg. 26: Data Collaboration and Information Exchange

It would be helpful to know what data and information this section is referring to.

OHCQ and the Maryland Department of Aging (MDOA) have an MOU in place with the purpose of collaborating on matters concerning the monitoring of Assisted Living Programs. MDOA provides OHCQ the names, addresses, and details relating to the Senior Assisted Living Group Home Subsidy providers and any concerning trends that MDOA sees in patient care over the course of MDOA's work. OHCQ provides MDOA with data regarding assisted living program deficiencies cited by OHCQ.

OHCQ and the State Long Term Care Ombudsman Program have an MOU in place with the purpose of clarifying the respective roles and responsibilities and maximizing interagency coordination and cooperation. OHCQ provides the State Long Term Care Ombudsman Program with unredacted Statements of Deficiencies for assisted living and nursing home providers.

OHCQ will continue to explore other avenues of collaboration with State agencies.

Appendix C. Comprehensive Review and Analysis of AL Programs

Pg. 33: A. Deficiencies Analysis: From the Assisted Living Deficiency Reports and Census Quarterly Extract from OHCQ

Pg. 33: “The data for these analyses were classified as either inspection data or complaint data.”

This section requires further clarification. The ombudsman program reports on the complaints their program receive, not those complaints received by OHCQ. OHCQ receives complaints directly. Each complaint is reviewed, triaged, and investigated, as appropriate.

C. Assisted Living Program OHCQ Deficiency Data by Jurisdictions

Pg. 40: Complaint Deficiencies

Please clarify the source of the information for the top three categories of complaint deficiencies for 2019 as (1) medication management and administration, (2) other staff-qualifications, (3) general physical plant requirements which are not correct and for 2021 and combined 2019 and 2021.

The top three categories for complaint deficiencies per SFY can be found on the OHCQ [website](#) under Reports.

2019 Top Three Complaint Deficiencies Overall Jurisdictions

1. General Physical Plant – 386 citations
2. Other Staff—Qualifications – 290 citations
3. Delegating Nurse – 266 citations

2021 Top Three Complaint Category Deficiencies Overall Jurisdictions

1. Other Staff—Qualifications – 170 citations
2. Other Staff—Qualifications – 147 citations
3. Delegating Nurse – 146 citations

Combined 2019 and 2021 Top Three Complaint Category Deficiencies Overall Jurisdictions

1. General Physical Plant – 524 citations
2. Other Staff Qualifications – 460 citations
3. Delegating Nurse – 412 citations

Pg. 45: Analysis of Medicaid Waivers in AL Programs: A Focus on Home and Community-Based Services (HCBS) in Maryland

This information is misattributed to OHCQ. This information is from Medicaid.

Appendix C. Comprehensive Review and Analysis of AL Programs

Pg. 33: A. Deficiencies Analysis: From the Assisted Living Deficiency Reports and Census Quarterly Extract from OHCQ

Additional information about the impact of the COVID pandemic on assisted living programs, their staff, the health care system overall, and State agencies may want to be included. There was a State of Emergency in place during the time of the study, and a mandate to halt surveys from the Secretary of Health as well as the Centers for Medicare & Medicaid Services. The impact of the Maryland Department of Health network security incident is not included in the report.

Thank you for the opportunity to comment on this report and leading the workgroup.

Sincerely,

A handwritten signature in black ink that reads "Patricia Tomsko Nay, M.D." The signature is written in a cursive style.

Patricia Tomsko Nay, M.D.
Executive Director,
Office of Health Care Quality