

## NURSING HOME SURVEY PROCESS

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**Senate Bill 884 (Substitute H-3)**

**Sponsor: Sen. Goeff Hansen**

**House Committee: Families, Children, and Seniors**

**Senate Committee: Families, Seniors, and Human Services**

**Complete to 6-12-12**

## A SUMMARY OF SENATE BILL 884 AS REPORTED FROM HOUSE COMMITTEE

The bill would amend the Public Health Code to do the following:

- \* Beginning October 1, 2012, the department would be required to perform criminal history checks on all nursing home surveyors.
- \* Require the state establish a process that ensures that (1) a newly hired nursing home surveyor could not make independent compliance decisions during his or her training period and that (2) a nursing home surveyor could not be assigned as a member of a survey team for a nursing home in which he or she received training for one standard survey following the training received in that nursing home.
- \* Specify that an individual could not be a member of a survey team for a nursing home at which he or she was employed within the preceding three years (instead of the preceding five years, as is the case now).
- \* Require that representatives from all nursing facility provider organizations and the State Long-Term Care Ombudsman or his or her designee be invited to participate in the planning process for the joint provider and surveyor training session.
- \* Require the department to include at least one representative from nursing home provider organizations that do not own or operate a nursing facility representing 30 or more nursing facilities statewide in internal surveyor group quality assurance training provided for the purpose of general clarification and interpretation of existing or new regulatory requirements and expectations.
- \* Require the department to make available online the general civil service position description related to the required qualifications for individual surveyors and require the department to use the required qualifications to hire, educate, develop, and evaluate surveyors.
- \* Require that each survey team is composed of an interdisciplinary group of professionals, including at least one registered nurse; other members could include a variety of qualified health professionals who have the expertise necessary to evaluate

specific aspect of nursing home operation (including, but not limited to, social workers, therapists, dietitians, pharmacists, administrators, physicians, and sanitarians).

\* Require surveyors to use electronic resident information, whenever available, as a source of survey-related data and require them to request facility assistance to access the system to maximize data export.

\* Require the department include the following additional information in its annual report to the Appropriations Committee subcommittees. (The department could consolidate all information provided for any report into a single report):

- The average number of citations per nursing home for the most recent calendar year;
- The number and percentage of citations disputed through informal dispute resolution and independent informal resolution.
- Information regarding the progress made on implementing the administrative and electronic support structure to efficiently coordinate all nursing home facility licensing and certification functions.
- The review of citation patterns developed under the code.
- The implementation of the clinical process guidelines and the impact of the guidelines on resident care;
- Information regarding the progress on implementing the administrative and electronic support structure to efficiently coordinate all nursing home licensing and certification functions.
- The number of annual standard surveys or nursing facilities that were conducted during a period of open survey or enforcement cycle.
- The number of abbreviated complaint surveys that were not conducted on consecutive surveyor workdays.
- The percent of all form CMS-2567 reports findings [on deficiencies and plans of correction] that were released to the nursing home facility within the 10-working day requirement); the percent of provider notifications of acceptance or rejection of a plan of correction released to the nursing home within 10-working-days requirement.
- The percent of first revisits that were completed within 60 days from the date of survey completion; the percent of second revisits that were completed within 85 days from the date of survey completion; and the percent of letters of compliance notification to the nursing facility that were released within 10 working days of the date of the completion of the revisit.
- A summary of the discussions from the required quarterly meetings with representatives from each certain nursing home organization and the State Long-Term Care Ombudsman, or his or her designee as described in the bill.
- The number of nursing homes that participated in a recognized quality improvement program.

\* Require the department include in its March 1st annual report to the House and Senate Appropriations committees and the standing committees on senior issues: the percentage

of nursing home citations that are appealed through the informal dispute resolution process; the number and percentage of nursing home citations that are appealed, supported, amended, or deleted through informal dispute resolution process; and a summary of the quality assurance review of the amended citations and related survey retraining efforts to improve consistency among surveyors and across the survey administrative unit that occurred in the year being reported.

- \* Require that the department conduct a quarterly meeting and invite appropriate stakeholders. Appropriate stakeholders would include at least one representative from each nursing home provider organization that does not own or operate a nursing home representing 30 or more nursing homes statewide and the State Long-Term Care Ombudsman or a designee, and any other clinical experts to discuss, at a minimum certain matters related to nursing facility surveys, including opportunities for enhanced promotion of nursing home performance; seeking quality improvement to the survey and enforcement process; improving surveyors' quality and preparedness; enhancing communication between regulators, surveyors, providers and consumers; ensuring fair enforcement and dispute resolution; promoting transparency across provider and surveyor communities to include applying regulations in a consistent manner; providing consumers with information regarding changes in policy and interpretation; identifying positive and negative trends in the areas of resident care, deficient practices, and enforcement; and clinical process guidelines.

- \* Require the department to biennially review and update all clinical process guidelines as needed, and continue to develop and implement clinical process guidelines for topics that have not been developed; and consider recommendations from an advisory workgroup on clinical process guidelines. The department would also need to include training on new and revised clinical process guidelines in the joint provider and surveyor training sessions.

- \* Require that representatives from each nursing home provider organization that does not own or operate a nursing home representing 30 or more nursing homes statewide and the State Long-Term care Ombudsman, or a designee, be permanent members of any clinical advisory workgroup. The department would need to issue survey certification memorandums to providers to announce or clarify change in the interpretation of regulations.

- \* Establish survey process requirements, including deadlines for review of a nursing home's plan of correction and survey revisits.

- \* Require the department to develop a program to provide grants to nursing homes that have achieved a five-star quality rating from the centers for Medicare and Medicaid Services. Grants up to \$5,000 from the Civil Monetary Fund for Nursing Homes that meet the Centers' standards for five-star quality rating would be used to implement evidence-based quality improvement programs within the nursing home. Nursing homes receiving a grant would be required to report to the department that describes the final outcome from implementing the program.

\* Allow the department to accept a nursing home's evidence of substantial compliance instead of requiring a post-survey onsite first, or second revisit. A nursing home requesting consideration of evidence of substantial compliance in lieu of an on-site revisit would need to include an affidavit that asserts that it is in substantial compliance as shown by the submitted evidence for that specific survey event. There could be no deficiencies with a scope and severity originating higher than level D. If there is no enforcement action, the nursing home's evidence of substantial compliance could be reviewed administratively and accepted as evidence of deficiency correction.

\* Require that the department give strong consideration to informal dispute resolution conducted by the Michigan Peer Review Organization.

## **FISCAL IMPACT:**

SB 884 would have a significant negative fiscal impact on the Bureau of Health Systems (BHS) to the extent that costs are increased by requiring:

- 1) Criminal background checks on all nursing home surveyors.
  - o Each background check administer by the Michigan Workforce Background Check program costs \$55.28. The BHS currently employs 110 nursing home surveyors, for a total estimated initial cost of \$6,081
- 2) A registered nurse to be a member of each annual survey team.
  - o LARA estimates that an additional 40 RNs would be hired by the BHS. According to Civil Service data the annual wages and benefits for the average RN employed by the state is approximately \$90,000, for a total estimated cost of \$3.6 million per year.
- 3) Development and implementation of a new electronic coordination (IT) system to ensure consistence and coordinated licensing and certification functions.
  - o LARA estimates additional IT costs would be approximately \$3.0 million.
- 4) Other requirements of SB 884 would entail indeterminate administrative costs for the BHS, these are:
  - o Scheduling and convening quarterly nursing home survey quality improvement meetings.
  - o Biennial review and revision of BHS' clinical process guidelines by the Clinical Advisory Committee.
  - o Administration of the a Quality Improvement Program grant program.
  - o Additional data collection and reporting requirements to the Legislature, and
  - o Condensed deadlines for survey process decisions and communications.

LARA asserts that the BHS does not have sufficient resources to comply with the requirements of SB 884, and that an additional fee of \$80 per nursing facility bed would be necessary to support the requirements of SB 884.

The fees on nursing home facilities have not been adjusted since 1981; a report on the sufficiency of health systems fees was prepared by the BHS (as required by 2011 PA 63) and can be accessed at:

[http://www.michigan.gov/documents/lara/Sec\\_731\\_2\\_BHS\\_\\_Licensed\\_Health\\_Facilities\\_379160\\_7.pdf](http://www.michigan.gov/documents/lara/Sec_731_2_BHS__Licensed_Health_Facilities_379160_7.pdf)

## **POSITIONS:**

A representative from Alliance for Health testified in support of the bill. (5-29-12)

A representative from Health Care Association of Michigan testified in support of the bill. (5-29-12)

A representative from Michigan County Medical Care Facility testified in support of the bill. (5-29-12)

A representative from Oceana County Medical Care Facility testified in support of the bill. (5-29-12)

A representative from Oak Pointe Nursing and Rehabilitation Facility testified in support of the bill. (5-29-12)

Michigan Association of Counties supports the bill. (5-29-12)

Michigan County Medical Care Facilities Council supports the bill. (5-29-12)

Michigan Campaign for Quality Care is neutral on the bill. (5-29-12)

The Department of Licensing and Regulatory Affairs has indicated that it cannot support the bill without proper funding. (6-5-12)

Legislative Analyst: E. Best  
Fiscal Analyst: Paul Holland

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.