

NURSING HOME SURVEY PROCESS

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Senate Bill 884

Sponsor: Sen. Goeff Hansen

House Committee: Families, Children, and Seniors

Senate Committee: Families, Seniors, and Human Services

Complete to 6-11-12

A SUMMARY OF SENATE BILL 884 AS PASSED BY THE SENATE 5-10-12

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 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 facility 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 at least one registered nurse to be a member of each annual survey team, and require that additional survey team members 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 in its annual report to the Appropriations Committee subcommittees:
 - The average number of citations per nursing home for the most recent calendar year;
 - 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 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 days.
 - 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 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 facility provider organization and the State Long-Term Care Ombudsman, or his or her designee as described in the bill.
 - The number of nursing facilities 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 information 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 invite to a quarterly meeting at least one representative from each nursing facility provider organization that does not own or operate a nursing facility representing 30 or more nursing facilities statewide and the State Long-term Care Ombudsman, a designee, to discuss, at a minimum certain matters related to nursing facility surveys, including opportunities for enhanced promotion of nursing facility performance; seeking quality improvement to the survey and enforcement process; improving surveyors' quality and preparedness; enhanced 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 area of resident care, deficient practices, and enforcement.
- Require the department 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 include provide training on new and revised clinical process guidelines in the joint provider and surveyor training sessions.
- Establish survey process requirements, including deadlines for review of a nursing facilities plan of correction and survey revisits.
- Allow high-performing nursing facilities to apply for a grant up to \$5,000 from the Civil Monetary Fund to be used for participation in a recognized quality improvement program. The department would be required to seek approval from the Centers for Medicare and Medicaid Services for high-performing nursing facilities to receive a grant. Each facility that receives a grant would be required to submit a report to the department that describes the final outcome from participation in a recognized quality improvement program.
- Allow the department to accept a nursing facility's evidence of substantial compliance instead of requiring a post-survey onsite first, or second revisit. A nursing facility 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 facility's evidence of substantial compliance could be reviewed administratively and accepted as evidence of deficiency correction.

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

FISCAL IMPACT:

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

- 1) Criminal background checks on all nursing home surveyors.
- 2) A registered nurse to be a member of each annual survey team.
- 3) Additional data collection and reporting requirements to the Legislature.
- 4) Scheduling and convening quarterly nursing home survey quality improvement meetings.
- 5) Biennial review and revision of BHS' clinical process guidelines by the Clinical Advisory Committee.
- 6) Development and implementation of a new electronic coordination (IT) system.
- 7) Administration of the a Quality Improvement Program grant program.
- 8) Condensed deadlines for survey process decisions and communications.

The LARA asserts that the BHS does not have sufficient resources to comply with the requirements of SB 884.

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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.