

SENATE BILL REPORT

ESSB 5716

As Passed Senate, March 7, 2023

Title: An act relating to certain surveys performed on in-home services agencies.

Brief Description: Concerning certain surveys performed on in-home services agencies.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senator Rivers).

Brief History:

Committee Activity: Health & Long Term Care: 2/14/23, 2/16/23 [DPS].

Floor Activity: Passed Senate: 3/7/23, 48-0.

Brief Summary of Engrossed First Substitute Bill

- Directs the Joint Legislative Audit and Review Committee to conduct a performance audit of the on-site monitoring, state licensure, and validation surveys performed on in-home services agencies.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5716 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

Staff: Julie Tran (786-7283)

Background: There are more than 400 licensed in-home services agencies that provide home-based personal care and health services to clients and patients within the minimum established health and safety standards. The Department of Health (DOH) must ensure that

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licensed in-home services agencies comply with all applicable state and federal requirements. DOH is authorized to conduct complaint investigations and routine state and federal surveys.

Surveys are inspections conducted by DOH to evaluate and monitor an agency's compliance.

Current Requirements. An in-home services agency providing services under contract with the Department of Social and Health Services (DSHS) or an area agency on aging (AAA) to provide home care services, and that is monitored by DSHS or an AAA is not subject to a state licensure survey by DOH if certain requirements are met. Those requirements include:

- a DOH determination that the monitoring standards by DSHS or an AAA is substantially equivalent to the standards outlined in statute;
- on-site monitoring has been conducted by DSHS or an AAA during the past 24 months;
- DSHS or an AAA includes in its monitoring a sample of private pay clients, if applicable; and
- DOH receives directly from DSHS copies of monitoring reports, and other relevant reports or findings that indicate compliance with licensure requirements.

An in-home services agency, certified by the federal Medicare program, or accredited by the community health accreditation program, or the Joint Commission on Accreditation of Health Care Organizations as a home health or hospice agency is not subject to a state licensure survey if certain requirements are met. Those requirements include:

- a DOH determination that the monitoring standards of the certification or accreditation program is substantially equivalent to the standards outlined in statute;
- an on-site survey has been conducted for certification or accreditation during the past 24 months; and
- DOH receives directly from the certifying or accrediting entity, or from the licensee applicant, copies of the initial and subsequent survey reports and other relevant reports or findings that indicate compliance with licensure requirements.

DOH is authorized to perform a validation survey on in-home services agencies who previously received a survey through accreditation or contracts with DSHS or an AAA. DOH is authorized to perform a validation survey on no greater than 10 percent of each type of certification or accreditation survey.

Joint Legislative Audit and Review Committee. The Joint Legislative Audit and Review Committee (JLARC) is composed of an equal number of House of Representatives and Senate members, Democrats and Republicans. The JLARC nonpartisan staff conduct performance audits, program evaluations, special studies, and sunset reviews.

Summary of Engrossed First Substitute Bill: JLARC must conduct a performance audit (audit) of the on-site monitoring, state licensure, and validation surveys performed on in-

home services agencies. The audit must include:

- an evaluation of the current process used to perform oversight and surveys, and the auditing and monitoring assessment tools utilized;
- a determination of whether the current auditing and monitoring assessment tools are ensuring that in-home services agencies are complying with state and federal laws and regulations;
- a determination if the current process and compliance models are the most efficient available, accurately measured, do not duplicate survey efforts, and ensure in-home services agencies are complying with state and federal laws and regulations; and
- a review of any duplication of surveys conducted while ensuring the in-home services agencies are meeting the standards outlined in state and federal law.

A progress report on the findings must be submitted by December 1, 2023, and a final report must be submitted by October 1, 2024, to the appropriate committees of the Legislature.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill reduces administrative burdens, reduces barriers and other challenges impacting the home care system. Home care agencies are thoroughly reviewed annually and particularly those agencies that are contracted through Medicaid and DSHS. Home care agencies are reviewed and audited by DSHS and the AAAs. The audits conducted by DSHS and AAAs are extensive and include more than 100 items when compared, the DOH is significantly less. This additional audit, validation survey process from DOH is duplicative. It creates another opportunity for the agency to come in, pause operations, and conduct something that is not additive to the system. It is not providing a good use of resources for DOH or the home care agencies. This process should be removed.

OTHER: Existing law allows DSHS and accrediting organizations to complete state licensure surveys on DOH's behalf if it meets state standards. DOH completes regular inspections and periodic validation surveys, which is referred to as "spot checks." This bill removes DOH's ability to protect patient safety and confirm that DSHS and accrediting organizations' survey standards are equivalent to DOH standards. Removing the ability for the agency to perform spot checks compromises DOH's authority to ensure consistency of service and patient safety. In the incoming year, DOH only has 4 spot checks scheduled for contracted home care agencies.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; Peter Nazzal, Catholic Community Services; Brad Banks, Home Care Coalition.

OTHER: Ian Corbridge, Washington State Department of Health.

Persons Signed In To Testify But Not Testifying: No one.