

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 1366

INTRODUCER: Senator Storms

SUBJECT: Child Welfare/Mental Health/Substance Abuse

DATE: March 11, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	<b>Pre-meeting</b>
2.			HR	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

Senate Bill 1366 includes managing entities and their contracted monitoring agents among the contracting entities who must limit administrative, licensure, and programmatic monitoring to once every three years if the provider of child welfare, mental health or substance abuse services is accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA).

The bill extends limitations on administrative, licensure and programmatic monitoring to JCAHO-, CARF-, or COA-accredited mental health providers and substance abuse providers.

This bill substantially amends, the following section of the Florida Statutes: 402.7306.

**II. Present Situation:**

**Contract Monitoring**

State agency procurement contracts typically include oversight mechanisms for contract management and program monitoring. Contract monitors ensure that contractually required services are delivered in accordance with the terms of the contract, approve corrective action plans for non-compliant providers, and withhold payment when services are not delivered or do not meet quality standards.

In November 2008, Children's Home Society of Florida (CHS) surveyed 162 programs, in an effort to “assess the quantity of external contract monitoring of CHS programs and identify any

potential areas of duplication across monitoring by state and designated lead agencies.” According to the responses, between October 1, 2007 and September 30, 2008,

- The 104 responding programs were monitored 154 times by state agencies, and 1,369 documents were requested in advance of site monitoring visits. Of the document requests, 488 were requested by other state agencies or other departments within a state agency. Professional program staff spent an average of 19 hours to prepare for each site visit, for a total of 3,777 hours.
- During site visits, reviewers evaluated the same policies and procedures reviewed by other state agencies during the year 130 times, and professional program staff spent an average of 60 hours on each site visit.

To address these concerns, in 2010, the Legislature passed HB 5305,<sup>1</sup> which required that health and human services contracting agencies<sup>2</sup> limit administrative monitoring to once every three years, if the contracted provider of child welfare services is accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA).

In addition the bill authorized private-sector development and implementation of an Internet-based secure and consolidated data warehouse for maintaining corporate, fiscal and administrative records related to child welfare provider contracts, and required state agencies that contract with child welfare providers to access records from this database.

Entities not covered by the newly-enacted law — that is, entities other than child welfare providers — have expressed similar concerns about excessive monitoring and auditing by human services agencies. Meridian Behavioral Healthcare advises<sup>3</sup> that in a 12-month period ending February 2011, they were the subject of 17 audits, 14 of which were by state agencies. Other than contract-specific data, all audited items are reviewed by CARF prior to Meridian’s accreditation.<sup>4</sup>

### **Mental Health and Substance Abuse**

Section 394.66(16) expresses the Legislature’s intent that “the state agencies licensing and monitoring contracted [substance abuse and mental health service] providers perform in the most cost-efficient and effective manner with limited duplication and disruption to organizations providing services.”

Mental health services are those therapeutic interventions and activities that help to eliminate, reduce, or manage symptoms or distress for persons who have severe emotional distress or a mental illness and to effectively manage the disability that often accompanies a mental illness so that the person can recover from the mental illness, become appropriately self-sufficient for his or her age, and live in a stable family or in the community. The term also includes those

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<sup>1</sup> Chapter 2010-158 Laws of Florida.

<sup>2</sup> Department of Children and Families, Department of Health, Agency for Persons with Disabilities, Agency for Health Care Administration, and community based care lead agencies.

<sup>3</sup> Audit Data. Meridian Behavioral Healthcare. On file with the Committee.

<sup>4</sup> *Id.*

preventive interventions and activities that reduce the risk for or delay the onset of mental disorders, including treatment, rehabilitative, support, and case management services.<sup>5</sup>

Substance abuse services are those designed to prevent or remediate the consequences of substance abuse, improve an individual's quality of life and self-sufficiency, and support long-term recovery. They include prevention, assessment, intervention, rehabilitation, and other ancillary services.<sup>6</sup>

To be eligible to receive substance abuse or mental health services from DCF, the client must be a member of one of the legislatively-determined priority populations:<sup>7</sup>

For adult mental health services —

- Adults who have severe and persistent mental illness, including older adults in crisis or at risk of being placed in a more restrictive environment because of their mental illness; persons deemed incompetent to proceed or not guilty by reason of insanity, and other persons involved in the criminal justice system; and persons with co-occurring mental illness and substance abuse disorders.
- Persons who are experiencing an acute mental or emotional crisis.

For children's mental health services —

- Children who are at risk of emotional disturbance.
- Children who have an emotional disturbance.
- Children who have a serious emotional disturbance.
- Children diagnosed as having a co-occurring substance abuse and emotional disturbance or serious emotional disturbance.

For substance abuse treatment services —

- Adults who have substance abuse disorders and a history of intravenous drug use.
- Persons diagnosed as having co-occurring substance abuse and mental health disorders.
- Parents who put children at risk due to a substance abuse disorder.
- Persons who have a substance abuse disorder and have been ordered by the court to receive treatment.
- Children at risk for initiating drug use.
- Children under state supervision.
- Children who have a substance abuse disorder but who are not under the supervision of a court or in the custody of a state agency.
- Persons identified as being part of a priority population as a condition for receiving services funded through the Center for Mental Health Services and Substance Abuse Prevention and Treatment Block Grants.

In establishing behavioral health managing entities, the Legislature intended that:

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<sup>5</sup> Section 394.67(15), F.S.

<sup>6</sup> Section 394.67(24), F.S.

<sup>7</sup> Section 394.674(1), F.S.

A management structure that places the responsibility for publicly financed behavioral health treatment and prevention services<sup>8</sup> within a single private, nonprofit entity at the local level will promote improved access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. [In addition] streamlining administrative processes will create cost efficiencies and provide flexibility to better match available services to consumers' identified needs.<sup>9</sup>

A managing entity is under contract with DCF to manage the day-to-day operational delivery of behavioral health services through an organized system of care.<sup>10</sup> Their goal is to effectively coordinate, integrate, and manage the delivery of effective behavioral health services to persons who are experiencing a crisis, who have a disabling disorder and require extended services in order to recover, or who need brief treatment or longer-term supportive interventions to avoid a crisis or disability. In addition, the system enhances the continuity of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system.<sup>11</sup>

### **Licensure**

Child placing agencies and residential child caring agencies are licensed by the Department of Children and Family Services.<sup>12</sup> Those entities may be monitored only once per year, and that monitoring may not duplicate the administrative monitoring conducted by their accreditation agency.<sup>13</sup>

Section 394.741, F.S., requires DCF and AHCA to accept accreditation as a substitute for facility onsite licensure review and administrative and programmatic requirements for mental health and behavioral health services.

Section 397.411, F.S., requires DCF to “accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited according to the provisions of s. 394.741, and the department receives the report of the accrediting organization.”

Substance abuse and mental health facilities are subject to licensure by the Agency for Health Care Administration.<sup>14</sup> Section. 408.811(2), F.S., provides that

Inspections conducted in conjunction with certification, comparable licensure requirements, or a recognized or approved accreditation organization may be accepted in lieu of a complete licensure inspection. However, a licensure inspection may also be conducted to review any licensure requirements that are not also requirements for certification. (emphasis supplied)

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<sup>8</sup> Behavioral health services are mental health services and substance abuse prevention and treatment services provided using state and federal funds. Section 394.9082(2)(a), F.S.

<sup>9</sup> Section 394.9082(1), F.S.

<sup>10</sup> Section 394.9082(2)(d), F.S.

<sup>11</sup> Section 394.9082(5), F.S.

<sup>12</sup> Section 409.175, F.S.

<sup>13</sup> Section 402.7305(4), F.S.

<sup>14</sup> Section 408.801, F.S., *et seq.*

**III. Effect of Proposed Changes:**

SB 1366 includes managing entities and their contracted monitoring agents among the contracting entities who must limit administrative, licensure, and programmatic monitoring to once every three years if the provider of child welfare, mental health or substance abuse services is accredited by JCAHO, CARF, or COA.

SB 1366 extends limitations on administrative, licensure and programmatic monitoring to JCAHO-, CARF-, or COA-accredited mental health providers and substance abuse providers.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

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**C. Government Sector Impact:**

Indeterminate at this time. See "Related Issues."

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As to licensees of the Agency for Health Care Administration, it would appear that, for substance abuse or mental health service providers, the provisions of SB 1366 would not allow AHCA to

conduct licensure inspections for those licensure requirements not covered under the certification, except once every three years.

The Department of Children and Families notes the following:<sup>15</sup>

The bill prohibits agencies from monitoring for any requirements that are addressed by accreditation standards, regardless of how long it has been since the accreditation was awarded, which can be three to five years depending on the accrediting entity.

The bill references only “accreditation” without requiring that the accreditation be for the contracted services being purchased by DCF. As a result, it is possible that a provider could be accredited for a service not included within the contracted services, but still fall within the monitoring limitations of this bill. Clarifying that any limitations in programmatic monitoring be applicable only in cases where the service(s) being monitored are those for which the provider is accredited would resolve this issue.

This bill does not appear to be consistent with ss. 409.175(6)(f), F.S., that requires annual fire safety inspections. Licensing issues that must be routinely inspected in child caring agencies in order to ensure compliance and child safety include: medication dispensing, documentation and securing; safety and cleanliness of the facility and premises; fire prevention/fire inspections which are required annually in ss. 409.175(6)(f), F.S.; health standards/health inspection [ss. 409.175 (e), F.S.]; and transportation provisions.

The bill cross references s. 394.674, F.S., which refers to the eligibility requirements for individuals receiving DCF funded services. A more accurate cross reference would be to contractual requirements (s. 394.74, F.S.) rather than individual/client requirements.

### **VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>15</sup> Department of Children and Families Staff Analysis and Economic Impact SB 1366, march 4, 2011. On file with the Committee.