

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 Health Regulation Committee

BILL: CS/SB 1366

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Storms

SUBJECT: Child Welfare/Mental Health/Substance Abuse

DATE: April 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Fav/CS
2.	O'Callaghan	Stovall	HR	Pre-meeting
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute (CS) for Senate Bill 1366 includes managing entities and their contracted monitoring agents among the entities who must identify and implement changes that improve the efficiency of administrative monitoring of child welfare, mental health, and substance abuse services.

To improve efficiency, these entities 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 (Joint Commission), the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA). These entities must also allow the private sector to develop and implement an Internet-based, secure, and consolidated data warehouse and archive for maintaining certain records of providers of child welfare, mental health, or substance abuse services and the entities must use the data warehouse to request documents.

The CS provides that the limitations on administrative, licensure, and programmatic monitoring apply only to providers of child welfare, mental health, or substance abuse services that are accredited for the services being monitored.

This CS 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.

From November 1, 2008, to October 31, 2009, the Children's Home Society of Florida (CHS) surveyed¹ 174 programs,² 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:

- The 174 CHS programs were monitored 222 times by state and community-based agencies, and 1,348 documents were requested in advance of site monitoring visits.
- Of the document requests, 417 were requested by other state agencies or other divisions within a state agency.
- Professional program staff spent 966 cumulative hours on duplicative requests.

To address these concerns, in 2010, the Legislature enacted HB 5305,³ which required that health and human services contracting agencies⁴ limit administrative monitoring to once every three years, if the contracted provider of child welfare services is accredited by the Joint Commission, the CARF, or the 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 advises⁵ that in a 12-month period ending February 2011, they were the subject of 17 audits, 14 of which were by state agencies. Other

¹ CHS, *Case Study- Contract Monitoring Survey*, (November 30, 2009), on file with the Senate Health Regulation Committee.

² There was a 100% response rate.

³ Chapter 2010-158, Laws of Florida.

⁴ "Contracting or funding agencies" are defined as a state agency or other non-profit organization (including community-based organizations) that contract state funds to a program. The contracting agencies include the Department of Children and Families, Department of Health, Agency for Persons with Disabilities, Agency for Health Care Administration, and community-based care lead agencies. See CHS, *Case Study- Contract Monitoring Survey*, (November 30, 2009).

⁵ Audit Data. Meridian Behavioral Healthcare, on file with the Senate Health Regulation Committee.

than contract-specific data, all audited items are reviewed by CARF prior to Meridian's accreditation.⁶

Mental Health and Substance Abuse

Section 394.66(16), F.S., 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 preventive interventions and activities that reduce the risk for, or delay, the onset of mental disorders, including treatment, rehabilitative, support, and case management services.⁷

"Substance abuse services" are those services 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.⁸

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

A management structure that places the responsibility for publicly financed behavioral health treatment and prevention services⁹ 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.¹⁰

A managing entity is a nonprofit organization under contract with the Department of Children and Family Services (DCF) to manage the day-to-day operational delivery of behavioral health services through an organized system of care.¹¹ Their goal is to effectively coordinate, integrate, and manage the delivery of effective behavioral health services to persons who are experiencing a mental health or substance abuse 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

⁶ *Id.*

⁷ Section 394.67(15), F.S.

⁸ Section 394.67(24), F.S.

⁹ 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.

¹⁰ Section 394.9082(1), F.S.

¹¹ Section 394.9082(2)(d), F.S.

children, adolescents, and adults who enter the publicly funded behavioral health service system.¹²

Licensure Review

Child-placing agencies and residential child-caring agencies are licensed by the DCF.¹³ Those entities may be monitored only once per year, and that monitoring may not duplicate the administrative monitoring conducted by their accreditation agency.¹⁴

Section 394.741, F.S., requires the DCF and the Agency for Health Care Administration (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, F.S., and the DCF receives the report of the accrediting organization.

Substance abuse and mental health facilities are subject to licensure by the AHCA.¹⁵ 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)

III. Effect of Proposed Changes:

CS/SB 1366 includes managing entities and their contracted monitoring agents among the entities who must identify and implement changes that improve the efficiency of administrative monitoring of child welfare, mental health, and substance abuse services.

To improve efficiency, these entities 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, the CARF, or the COA. These entities must also allow the private sector to develop and implement an Internet-based, secure, and consolidated data warehouse and archive for maintaining certain records of providers of child welfare, mental health, or substance abuse services and the entities must use the data warehouse to request documents.

CS/SB 1366 provides that the limitations on administrative, licensure, and programmatic monitoring apply only to providers of child welfare, mental health, or substance abuse services that are accredited for the services being monitored.

¹² Section 394.9082(5), F.S.

¹³ Section 409.175, F.S.

¹⁴ Section 402.7305(4), F.S.

¹⁵ Section 408.801, F.S., *et seq.*

The act is effective July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this CS have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this CS have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this CS have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will experience fewer monitoring visits, thereby increasing the amount of time available to spend on providing direct services.

C. Government Sector Impact:

A limit on allowed administrative, licensure, and programmatic monitoring could potentially lead to a reduction in expenditures of certain state agencies and covered entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As to licensees of the AHCA, it would appear that, for accredited substance abuse or mental health service providers, the provisions of CS/SB 1366 would not allow the AHCA to conduct licensure inspections for those licensure requirements not covered for certification, except once every three years.

The AHCA reports that federal guidelines require the AHCA to monitor a Medicaid managed care organization (MCO) and its network of mental health and substance abuse treatment

providers. Terms in the contracts between the AHCA and the MCOs require the plans to monitor their affiliated network of providers at least annually. Federal law under 42 CFR 438.360, allows states to avoid duplication of monitoring MCOs by using a private accreditation review to provide information in place of a Medicaid review. However, this rule does not address duplication of monitoring of providers.¹⁶

The DCF notes the following:¹⁷

- 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 does not appear to be consistent with s. 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; health standards/health inspection; and transportation provisions.¹⁸

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families and Elder Affairs on March 14, 2011:

The Committee adopted an amendment which clarified that the limitations on monitoring do not apply to services for which the provider is not accredited, and deleted unnecessary directory language.

B. Amendments:

None.

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

¹⁶ AHCA, 2011 Bill Analysis & Economic Impact Statement, on file with the Senate Health Regulation Committee.

¹⁷ Department of Children and Families Staff Analysis and Economic Impact SB 1366, March 4, 2011, on file with the Senate Health Regulation Committee.

¹⁸ *Id.*