

SB 266 A STAFF MEASURE SUMMARY**Carrier:** Sen. Anderson, Sen. Gelser**Senate Committee On Human Services, Mental Health and Recovery**

Action Date: 04/13/21
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-1-0-0
Yeas: 4 - Anderson, Gelser, Lieber, Taylor
Nays: 1 - Robinson
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: C. Ross, Counsel
Meeting Dates: 4/1, 4/8, 4/13

WHAT THE MEASURE DOES:

Requires the Department of Human Services (DHS) to assess whether residential, memory care, and long-term care facilities consistently meet residents' needs by April 1, 2022, according to rules adopted by the Centers for Medicare and Medicaid Services, and to consider whether residents have person-centered service plans and whether the subject facility consistently provides: timely 24-hour access to supports needed for activities of daily living, timely responses to issues effecting resident dignity, and care in conformity with each resident's plan. Adds a representative from the relevant licensing authority to the list of entities entitled to receive copies of initial status reports prepared by local area agencies or DHS upon receipt of notice from law enforcement that there is reasonable cause to believe abuse has occurred. Requires DHS to investigate alleged licensing violations and inadequate staffing complaints without undue delay. Adds to the required content of such investigations and subsequent report, an assessment of facility staffing if the complaint contains certain allegations. Requires DHS to prioritize residents in its enforcement process. Replaces DHS' current discretion to impose conditions on a facility license, with a requirement to do so upon a finding of immediate jeopardy. Adds to DHS' compliance assessment framework for residential care facilities, measuring the facility's ability to meet resident needs, and the impact of noncompliance on residents. Directs DHS to publish and distribute framework, make enhanced oversight operational, and report to the legislature by April 1, 2022. Directs DHS to publish notice online when a facility is subject to enhanced oversight. Defines terms. Effective 91st day after *sine die* adjournment.

ISSUES DISCUSSED:

- Incorporating resident safety into definition of "substantial compliance" for purposes of regulatory enforcement
- Codifying what already exists
- Relationship with and impact on previous legislation: House Bill 3359 (2017), House Bill 2600 (2019), and Senate Bill 917 (2019)
- Companion measure, Senate Bill 714, and its provisions
- Anchoring needs assessments to each resident's service plan
- Overall consistency of meeting a resident's needs being the primary compliance concern

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The Department of Human Services (DHS) is currently required to make an acuity-based staffing tool available that it and residential care facilities may use collaboratively to evaluate whether the facility has enough qualified caregivers to meet residents' needs and to share staffing plan information with residents and their families;

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however, the tool has not yet been fully implemented. Use of the acuity tool is optional and only required when DHS and a subject facility disagree about whether staffing is adequate. With respect to endorsed memory care facilities, DHS is currently required to adopt specified standards by rule, with input from the long-term care community, to ensure the quality of care meets residents' needs.

Senate Bill 266 A is a companion to Senate Bill 714, which requires a pilot of the acuity-based staffing tool to be operational online for residential care providers by January 1, 2022; requires DHS to begin certain staffing assessments by February 1, 2022; directs certain enforcement actions to be taken based on such assessments; and requires DHS to report back to the legislature on implementation by October 1, and December 15, 2021.

Senate Bill 266 A requires DHS to assess whether residential, memory care, and long-term care facilities consistently meet residents' needs by April 1, 2022, according to rules adopted by the Centers for Medicare and Medicaid Services. As part of its assessment, DHS is directed to consider whether each resident has a person-centered service plan and whether the subject facility consistently provides timely 24-hour access to supports needed for activities of daily living, timely responses to issues effecting resident dignity, and care that is delivered in conformity with each resident's plan. The measure also makes adjustments with respect to DHS investigations of complaints of inadequate staffing to incorporate staffing assessments, impose license conditions when certain findings are made, and to prioritize residents.