SENATE BILL REPORT
SB 6101

As Reported by Senate Committee On:
Health & Long Term Care, January 30, 2024

Title: An act relating to establishing a regulatory structure for licensed acute care hospitals to provide hospital at-home services.

Brief Description: Concerning hospital at-home services.

Sponsors: Senators Cleveland, Rivers, Hasegawa, Kuderer, Randall, Robinson, Salomon, Van De Wege and Wellman.

Brief History:
Committee Activity: Health & Long Term Care: 1/18/24, 1/30/24 [DPS].

Brief Summary of First Substitute Bill

- Requires the Department of Health to adopt rules to add hospital at-home services to the services that a licensed acute care hospital may provide and establish standards for the operation of a hospital at-home program.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6101 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: In March 2020 the federal Centers for Medicare and Medicaid (CMS) announced the Hospital Without Walls initiative, which provided broad regulatory flexibility that allowed hospitals to provide services in locations beyond their existing

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walls. In an effort to expand on the initiative CMS established the Acute Hospital Care at Home (AHCAH) which provided eligible hospitals with regulatory flexibilities to treat eligible patients in their home. Under this program patients with certain acute conditions may be treated appropriately and safely in home settings with proper monitoring and treatment protocols in place. The acute conditions include: asthma, congestive heart failure, pneumonia, and chronic obstructive pulmonary disease care.

CMS required participating hospitals to have appropriate screening protocols before care at home begins and those include assessing both medical and non-medical factors such as working utilities, assessment of physical barriers and screenings for domestic violence concerns. Program patients must only be admitted from emergency departments and inpatient hospital beds and an in-person physician evaluation is required prior to starting care at home.

According to CMS, the program clearly differentiates the delivery of acute hospital care at home from more traditional home health services. While home health care provides important skilled nursing and other skilled care services, AHCAH is for beneficiaries who require acute inpatient admission to a hospital and who require at least daily rounding by a physician and a medical team monitoring their care needs on an ongoing basis.

The Consolidated Appropriations Act of 2023 extended the waivers for the AHCAH until December 31, 2024.

In Washington State, the following hospitals have secured a federal waiver from CMS to provide hospital at-home services:

- MultiCare Tacoma General Hospital;
- MultiCare Good Samaritan Hospital;
- Providence St. Peter's Hospital;
- St. Joseph's Medical Center; and
- Virginia Mason Franciscan Health System: St. Francis Medical Center; St. Anne Medical Center; St. Clare Medical Center; St. Anthony Medical Center; St. Michael Medical Center; and Virginia Mason Medical Center.

Summary of Bill (First Substitute): Hospital at-home services means acute care services provided by a licensed acute care hospital to a patient outside of the hospital's licensed facility and within a home or any location determined by the patient receiving the service.

Department of Health (DOH) is required to adopt rules by December 31, 2025, to add hospital at-home services to those services that may be provided by a licensed acute care hospital. DOH must establish standards for the operation of the hospital at-home program that must be substantially similar to the federal program's provisions including: environment of care requirements; admission, transfer, discharge, and referral processes; inclusion and exclusion criteria; geographic criteria; and data reporting requirements. The standards must not include requirements that would preclude a hospital from complying with the

requirements of the federal program.

Licensed hospitals are allowed to provide hospital at-home services if the hospital has an active federal program waiver prior to DOH adopting rules for a state hospital at-home services program. Hospitals that have an active federal program waiver and intend to operate hospital at-home servicesmust notify DOH within 30 days of the bill's effective date. Once rules are established, hospitals must apply to DOH for approval to add hospital at-home services as a hospital service line. Hospitals may provide hospital at-home services while applying for DOH's approval if the hospital has secured a federal program waiver before rules were established. DOH is required to approve a hospital to provide hospital at-home services if the hospital's application is consistent with the established standards. If the federal program expires before DOH establishes rules for the program, hospitals must continue following the federal program requirements that were in effect as of the federal program's expiration date and DOH must enforce those requirements until the rules are established.

The application fee charged cannot exceed the actual cost of staff time to review the application. The program's administration cost must be covered by licensing fees set by DOH with the existing authority set in statute.

Hospital at-home services do not count as an increase in the number of the hospital's licensed beds. Hospital at-home services are not subject to the certificate of need review. Hospital at-home services provided by a licensed acute care hospital are not subject to regulations under home health care or hospice care, or in-home services agencies.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Clarifies that hospitals that intend to offer or continue offering hospital at-home services are required to apply for DOH approval to add hospital-at-home services once rules are adopted.
- Allows only hospitals with an active federal program waiver, instead of any hospital that has secured a federal program waiver, to operate hospital at-home services prior to DOH's adoption of rules for this program.
- Specifies that if the federal program expires before DOH establishes rules for the program, hospitals must continue following federal program requirements that were in effect as of the federal program's expiration date and DOH must enforce those requirements until DOH's adoption of rules.
- Clarifies that that application fee charged cannot exceed the cost of actual staff time to review and the program's administrative cost must be covered by licensing fees set by DOH with the existing authority set in statute.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill title says it all—this is about hospitals at home. Hospital at home delivers the services of a brick-and-mortar hospital to a patient's home and patients receive care similar to traditional inpatient services. The model is operating successfully in the state and this bill creates a framework to expand the model to more patients and allow for access more broadly across the state. The Legislature has been working to address the issue of patients in hospitals that are unable to be discharged and this bill is another aspect of that work as it allows patients to go somewhere so that they can continue their recovery. This bill ensures DOH has clear regulatory authority under the hospital licensing requirements. If this bill doesn't pass this year, the current programs around the state will be closed. There is a risk of losing this program this year and it's important that this program can continue to operate in the fall.

CMS has a high level of review and program requirements to ensure that there is an exceptional quality of care and safety outcomes. There is a strict screening criterion for possible program candidates, and it also requires screening the patient's home environment to ensure that it is conducive to the patient's care needs as well as being a safe environment for the caregivers. Patients love the program, love being able to get care, and love not having to go to the hospital to receive those hospital services. The program is having a positive impact in the state. Patients in the program have their support system more available and that leads to more conversation, better care plans, and better care coordination and discharge planning.

There are concerns about whether the standards must be substantially similar to the provisions of the federal program. The federal program has been in place in our state since 2021 and it should remain equivalent to the federal program.

OTHER: This model has promise but there are concerns with the bill as drafted. The main concern is about the limitation placed on DOH's authority to establish rules to protect the safety of hospital patients being cared for in their home. This bill requires the state standards to be substantially similar to those standards set by CMS and it would prevent the state from adopting more stringent standards or adopting standards in areas that were not contemplated by CMS. Federal standards should serve as a floor rather than the ceiling when it comes to patient safety. Allowing the state to have standards that go beyond CMS is especially important given the federal waiver's uncertainty since it is set to expire in December.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Katherine

Mahoney, Virginia Mason Franciscan Health; Christopher Dale, Providence; Jessica Van Fleet-Green, MultiCare Health System; Megha Shah, Virginia Mason Franciscan Health; Lisa Thatcher, WSHA.

OTHER: Ian Corbridge, Washington State Department of Health.

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