

Thomas P. DiNapoli
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 14, 2010

Richard F. Daines, M.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Report 2009-F-30

Dear Dr. Daines:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Oversight of Adult Care Facilities* (Report 2006-S-7).

Background, Scope and Objective

Adult care facilities (facilities) provide temporary or long-term residential care to adults who are unable to live independently because of physical or other limitations associated with age, physical or mental disabilities, or other factors. The residents in these facilities require less intensive care than residents in nursing homes.

The Department is responsible for overseeing three types of adult care facilities in the State - Adult Homes, Enriched Housing, and Residences. As of September 2009, there were 480 facilities under the Department's jurisdiction. Within the Department, facilities are overseen by the Bureau of Adult Care Facilities Quality and Surveillance (Bureau). The Bureau has a main office in Albany, and oversees four regional offices, including the Capital District, Central New York, Western New York (which includes offices in Rochester and Buffalo), and the Metropolitan Area Office (which includes offices in Suffolk County and New York City). The Bureau makes program implementation recommendations to each regional office, which is responsible for managing its own resources. The Metropolitan Area Office oversees facilities in New York City, the lower Hudson Valley, and Long Island, and handles approximately 43 percent of all facilities in the State. Among the responsibilities of regional offices are inspecting adult care facilities and handling the investigation of complaints.

According to the law, facilities must be inspected every 12 to 18 months. Violations found during inspections must be corrected (or a formal plan for correcting the violations must be developed) within 30 days of the issuance of the inspection report to the facility. In addition, complaints about facilities must be investigated within specified time frames.

Our initial audit report, which was issued on March 4, 2008, determined if the Department performed and followed up on inspections, and investigated adult care facility complaints according to State law. We found that the Department generally completed inspections within the required time frame. However, it did not always start inspections within the required time frame or issue inspection reports and investigate complaints in a timely manner. Consequently, corrective actions were sometimes delayed. The objective of our follow-up was to assess the extent of implementation, as of November 19, 2009, of the six recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials made significant progress in addressing the issues we identified in the initial report. All six recommendations from that report have been implemented.

Follow-up Observations

Recommendation 1

Instruct the Bureau to review the operations of the Western Office with the objective of identifying best practices that will help the Central New York and Metropolitan Area Offices conduct facility inspections within the 12 and 18 month cycles.

Status - Implemented

Agency Action - The Bureau's Adult Care Facilities Quality and Surveillance Quality Assurance Workgroup (Workgroup) developed a process to monitor reports and identify activities to improve the timeliness of the regional offices' 12 to 18-month inspections. This includes monthly reviews by Bureau staff of region-specific reports of the timeliness of inspections and lists of facilities that are due for inspection within the next two months. Further, at the Workgroup's quarterly meetings, regional program managers and central office officials review summaries of inspection timeliness and facilities scheduled for inspection, and they share best practices for improving compliance with the prescribed time frames for performing inspections. This helps each area office, including Central New York and Metropolitan, to apply best practices to their own unique situations.

Recommendation 2

Require the Metropolitan Area Office to report inspections and investigations separately.

Status - Implemented

Agency Action - The Bureau's software program, which is used by each region to record inspections and investigations, now has separate categories for recording data for these two distinct

activities. Consequently, the Metropolitan Area Office now reports inspections and investigations separately.

Recommendation 3

Work with regional offices so inspection reports are completed and issued within the required time frames.

Status - Implemented

Agency Action - In July 2009, Bureau officials began generating a monthly report to track regional offices' compliance with prescribed time frames for issuing inspection reports. The monthly reports include the dates of inspection report issuance and time frames for report issuance for individual adult care facilities within each region. The monthly reports also include each regional office's percentage of compliance with time frames for issuing inspection reports. Bureau officials review these monthly reports and communicate concerns to regional program managers when inspection reports are not completed on time. In addition, these reports are discussed in program managers' monthly meetings and the Workgroup's quarterly meetings.

Recommendation 4

Perform follow-up inspections of all full inspections where violations were issued, as required.

Status - Implemented

Agency Action - Bureau officials have developed procedures to ensure that follow-up inspections are performed, as required. Specifically, Bureau personnel prepare summary reports which include the dates of original inspection, the types of violations, and the dates that follow-up inspections are made. Bureau officials discuss these reports with regional program managers to assure that follow-ups, when required, are conducted timely. Also, Bureau officials are redesigning the summary reports to enable staff to more easily monitor follow-up visit activity.

Recommendation 5

Increase oversight of the complaint investigation process at the Metropolitan Area, Capital District, and Central New York offices so complaints are investigated in a timely manner.

Status - Implemented

Agency Action - For all regional offices, the Bureau's Complaint Hotline Unit now monitors complaint status and follows up with regional investigators if actions are not taken within 72 hours of a complaint being made. In addition, if a complaint is not acted on within the required time frame, the regional program manager must document the reason why. Further, the Hotline Unit monitors all complaints requiring follow-up within 90 days of their submission.

Recommendation 6

Perform periodic quality assurance reviews to verify that complaints are properly classified.

Status - Implemented

Agency Action - The Bureau's Quality and Surveillance Operations Manual now requires all non-routine complaints to be reviewed by a nurse and a Bureau supervisor, at the time of receipt, to assure the correct classification is assigned. The Bureau also performs a monthly quality assurance review to determine proper reclassifications have been made when additional information has been obtained subsequent the initial receipt of the complaint. Further, any classification downgrade made by a regional office must be supported by a documented justification.

Major contributors to this report were Karen Bogucki and Donald Collins.

We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Mr. Stephen Abbott, DoH
Mr. Thomas Lukacs, DoB