LA20-03

STATE OF NEVADA

Performance Audit

Department of Health and Human Services
Division of Public and Behavioral Health

Bureau of Health Care Quality and Compliance

2019

Legislative Auditor
Carson City, Nevada

Audit Highlights

Highlights of performance audit report on the Bureau of Health Care Quality and Compliance issued on March 1, 2019.

Legislative Auditor report # LA20-03.

Background

The Bureau of Health Care Quality and Compliance (Bureau) is under the Division of Public and Behavioral Health (Division), which is part of the Department of Health and Human Services. The mission of the Bureau is to promote the safety and welfare of the public through regulation, licensing, enforcement, and education. The three main programs the Bureau oversees, and the focus of this audit, are the licensing of health care facilities, medical laboratories, and child care facilities. The Bureau's oversight of these processes includes conducting periodic inspections of the facilities it licenses and conducting complaint investigations related to facilities and individuals it licenses.

As of June 2018, the Bureau had 119 approved, full-time positions.

Purpose of Audit

The purpose of this audit was to: (1) determine if controls related to the protection of sensitive information were adequate; and (2) evaluate the adequacy of certain administrative controls related to complaint investigations, facility reported incident reviews, personnel management, and inspection timeliness tracking. The scope of our audit focused on the Bureau's regulatory and financial activities for calendar year 2017 and inspection activities through fiscal year 2018.

Audit Recommendations

This audit report contains three recommendations to improve the protection of sensitive information and five recommendations to improve controls over complaint investigations, facility reported incident reviews, personnel management, and inspection timeliness tracking.

The Bureau accepted the eight recommendations.

Recommendation Status

The Bureau's 60-day plan for corrective action is due on May 24, 2019. In addition, the six-month report on the status of audit recommendations is due on November 24, 2019.

Bureau of Health Care Quality and Compliance

Division of Public and Behavioral Health

Summary

The Bureau's controls related to the protection of criminal history record information (CHRI) and personally identifiable information need improvement. Some CHRI was unprotected and accessible by all Division employees. Additionally, the Bureau did not ensure Social Security numbers and other personal information it received was restricted to appropriate employees. By not properly securing sensitive personal information, the Bureau is leaving individuals vulnerable to their personal information being misused or disseminated without their consent.

The Bureau's controls related to oversight of certain regulatory activities need strengthening. For instance, some of the Bureau's complaint investigation procedures were not conducted timely and not all investigative notifications were sent in accordance with policies. In addition, the Bureau's process to review facility reported incidents needs improvement, including creating additional internal controls to ensure reviews are timely and documented appropriately. Additionally, the Bureau did not follow the Division's performance evaluation policies and record keeping standards related to out-stationed staff that work remotely. Finally, the Bureau needs to continue its efforts to reduce its backlog of periodic inspections.

Key Findings

The Bureau did not adequately protect CHRI stored on shared network drives. We found 7,269 child care facility employee background check files were maintained on a shared network drive, with the information accessible by all 1,457 employees within the Division. We reviewed 100 of the 7,269 child care facility employee background check files, and found 7% contained the full background check report including CHRI, 98% contained the applicant's Social Security number, and 87% contained only a determination of employment eligibility, and not the full CHRI. (page 5)

The Bureau needs to improve its practices of electronic document storage for personally identifiable and sensitive information. The Bureau maintained documents related to facility reported incidents on a shared network drive that contained sensitive information such as Social Security numbers and health information. These files were accessible by all Bureau employees. We tested 75 incident files and found 46 (61%) contained a Social Security number. (page 7)

The Bureau was not in compliance with its policies related to timeliness in conducting complaint investigations, timeliness in notifying the facilities of complaint results, and sending the complainant notices related to the investigation. We tested 75 complaints and found that of the 62 cases that required an on-site investigation, 21 (34%) were not investigated timely. We also found the Bureau was unaware of 21 (2%) complaints that had not been investigated. (page 9)

The Bureau did not conduct reviews of facility reported incidents in a timely manner, did not adhere to policies and procedures outlining oversight of facility reported incidents, and did not have appropriate internal controls for ensuring facility reported incidents are reviewed timely and are not overlooked. We tested 75 facility reported incidents received during calendar year 2017 and found 59 (79%) were not reviewed timely. (page 13)

The Bureau is not in compliance with Division policies and procedures relating to its out-stationed employees who work remotely. We found 19 of the 26 employees (73%) did not have a current performance evaluation within the prior 12 months, 8 employees (31%) did not receive a performance evaluation prior to starting their out-stationed assignment, and 5 employees (19%) did not have a signed out-stationed agreement on file for 2017. (page 16)

During the December 2017 Interim Finance Committee (IFC) meeting, the Bureau reported an inspection backlog of 300 health care facilities. In April 2018, the Bureau reported the backlog was reduced to 249 facilities. After analyzing the Bureau's backlog tracking process, we can provide reasonable assurance the reported information is accurate and reliable. However, the Bureau needs to continue its efforts to reduce the backlog of health care facility inspections. (page 17)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes three recommendations to improve the Bureau's protection of sensitive information and five recommendations to improve controls over complaint investigations, facility reported incident reviews, personnel management, and inspection timeliness tracking. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Rocky Cooper, CPA
Legislative Auditor

January 4, 2019
Carson City, Nevada

Bureau of Health Care Quality and Compliance
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Introduction

Background

The Bureau of Health Care Quality and Compliance (Bureau) is under the Division of Public and Behavioral Health (Division), which is part of the Department of Health and Human Services. The mission of the Bureau is to promote the safety and welfare of the public through regulation, licensing, enforcement, and education. The Bureau has oversight of five licensing processes: Health Care Facility Licensing, Medical Laboratory and Personnel Licensing, Child Care Facility Licensing, Health and Allied Personnel Licensing, and Domestic Violence Treatment Licensing.

The Bureau's oversight of these processes includes conducting periodic inspections of the facilities it licenses and conducting complaint investigations related to facilities and individuals it licenses. Furthermore, the Bureau maintains an agreement with the federal Centers for Medicare and Medicaid Services (CMS) and completes federal certification inspections for certain health care facilities and medical laboratories for which it is reimbursed. The three main programs the Bureau oversees, and the focus of this audit, are the licensing of health care facilities, medical laboratories, and child care facilities.

- **Health Care Facilities Licensing:** As of December 2017, there were 1,442 actively licensed health care facilities. The Bureau licenses medical and other health facilities in Nevada and conducts periodic on-site surveys (inspections) based on the type of facility, and following specific timeframes and procedures. While there were 33 different types of health care facilities, the 4 main facility types include residential facilities for groups, agencies that provide personal care services in the home, agencies that provide nursing in the home, and homes for individual residential care. In addition, the Bureau receives facility reported incidents from certain facilities in the event there

was an incident involving the mistreatment, neglect, or abuse, including injuries of unknown sources, or misappropriation of resident property.

- **Medical Laboratories Licensing:** As of December 2017, there were 1,632 actively licensed medical laboratories. The Bureau licenses and certifies medical laboratories, laboratory directors, and laboratory personnel; investigates complaints; conducts on-site inspections; and provides technical assistance. The Bureau also licenses and certifies all technical personnel who work in exempt, registered, or licensed laboratories.

- **Child Care Facilities Licensing:** As of December 2017, there were 469 actively licensed child care facilities. There are 8 different types of child care facilities with the ability to care for over 37,000 children and youth. The Bureau serves Nevada's communities by ensuring the health, safety, and well-being of children in licensed child care facilities. To achieve these goals, Child Care Facility Licensing staff monitor facility compliance with State laws and regulations, offer technical assistance and training to caregivers, and provide consumer education.

As of June 2018, the Bureau had 119 approved, full-time positions, 11 of which were vacant. The Bureau has two office locations, one in Carson City and the other in Las Vegas. Many Health Care Facility Licensing and Medical Laboratory Licensing program staff work remotely, and are designated as out-stationed employees.

In fiscal year 2018, the Bureau received approximately $10 million in licensing, certification, and penalty fees, which is its main source of revenue. Exhibit 1 shows the Bureau's revenues and expenditures in fiscal year 2018.

Revenues and Expenditures **Exhibit 1**
Fiscal Year 2018

Revenues	Amount
Beginning Cash	$ 10,020,334
Licensing/Certification/Penalty Fees	10,064,116
Federal Funds	2,227,613
Transfers[1]	1,943,809
Total Revenues	**$ 24,255,872**
Expenditures	
Personnel	$ 8,361,492
Operating	1,662,685
Transfers[2]	1,462,641
Assessments and Cost Allocations	1,119,668
Community Impact	784,442
Other[3]	166,907
Total Expenditures	**$ 13,557,835**
Difference	10,698,037
Balance Forward to Next Fiscal Year	**$(10,698,037)**

Source: State accounting system.

(1) Transfers include incoming monies from other Department of Health and Human Services (DHHS) Programs.

(2) Transfers include outgoing monies to other DHHS Programs.

(3) Other includes travel, training, and project costs.

Scope and Objectives

The scope of our audit focused on the Bureau's regulatory and financial activities for calendar year 2017 and inspection activities through fiscal year 2018. Our audit objectives were to:

- Determine if controls related to the protection of sensitive information were adequate.
- Evaluate the adequacy of certain administrative controls related to complaint investigations, facility reported incident reviews, personnel management, and inspection timeliness tracking.

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of Nevada Revised Statutes (NRS) 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and

Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Improvements Are Needed to Protect Sensitive Information

The Bureau of Health Care Quality and Compliance's (Bureau) controls related to the protection of criminal history record information (CHRI) and personally identifiable information need improvement. Some CHRI was unprotected and accessible by all Division employees. Additionally, the Bureau did not ensure Social Security numbers and other personal information it received was restricted to appropriate employees. By not properly securing sensitive personal information, the Bureau is leaving individuals vulnerable to their personal information being misused or disseminated without their consent.

Some Criminal History Record Information Was Not Adequately Protected

The Bureau did not adequately protect CHRI stored on shared network drives. We found 7,269 child care facility employee background check files were maintained on a shared network drive, with the information accessible by all 1,457 Division employees.

Our review of background check files identified the following:

- 7% contained the full background check report including CHRI.
- 98% contained the applicant's Social Security number.
- 87% contained only a determination of employment eligibility, and not the full CHRI.

Not all background check files contained full criminal history reports because some jurisdictions provide the Bureau with only a determination of employment eligibility based on the results of the background check.

Within the Bureau, the Child Care Facilities Licensing Program maintains CHRI of child care facility employees in both physical and electronic format. During the audit, we determined the physical files were adequately protected as they are located in locking filing cabinets in a locked room in the Bureau's Las Vegas office. After notifying the Bureau of the previously mentioned accessibility issues related to the electronic file storage, the Bureau promptly contacted the Division's Office of Information Technology to have the access to files on the shared network drive restricted to Bureau management and Child Care Licensing staff.

Although the Bureau has taken action to restrict access to CHRI, further steps can be taken to ensure this information is adequately secured. NRS 603A.210 states data collectors shall implement and maintain reasonable security measures to protect records from unauthorized access, acquisition, use, or disclosure. Furthermore, the Bureau's background check desk manual states CHRI must be stored in a limited access folder, available only to the administrative assistants responsible for background checks, managers, and the Bureau Chief. However, the background check desk manual only applies to the Bureau's Health Care Facility Program and not to the Child Care Facility Licensing Program.

The Department of Public Safety's Records, Communications and Compliance Division (RCCD) administers the Nevada Criminal Justice Information System (NCJIS). NCJIS is used by state occupational licensing and regulatory agencies, such as the Bureau, to make informed decisions related to the employment of persons working with vulnerable populations. The RCCD's NCJIS Compliance Unit monitors the criminal and civil access to criminal justice information. The Compliance Unit's core responsibility is to provide access, train user communities, and conduct compliance audits. The Bureau should work with the RCCD to ensure its electronic storage practices of CHRI meet appropriate standards.

Electronic Document Storage Practices Need Improvement

The Bureau needs to improve its practices of electronic document storage for personally identifiable and sensitive information. The Bureau maintained documents related to facility reported incidents on a shared network drive that contained sensitive information such as Social Security numbers and health information. These files were accessible by all Bureau employees. We tested 75 incident files and found 46 (61%) contained a Social Security number.

When health care facilities send facility reported incidents to the Bureau as required by statute, they frequently send documentation related to residents which could contain Social Security numbers and other personally identifiable information. The Bureau did not redact the sensitive information it received, nor did it restrict access to the electronic folder where the information is saved. Access should be restricted to only certain employees that need the information to perform their jobs.

Bureau management stated they cannot control what additional documents are sent to them by health care facilities, and that all employees within the Bureau sign confidentiality agreements upon being hired as they handle sensitive information. However, the Bureau had not taken steps to adequately secure the sensitive documents or restrict access to the shared network drive folder. The Bureau continues to save the documents related to facility reported incidents in this folder which is accessible to all Bureau employees.

While the Bureau feels it has sufficient controls in this area due to the confidentiality agreements signed by all Bureau employees, it can take additional precautions to properly secure the sensitive information being collected. Additional steps may include restricting access to the folder to essential staff or redacting sensitive information. Taking these additional steps may protect individuals from misuse of sensitive information.

Recommendations

1. Restrict access to the sensitive information stored in the shared network drive in accordance to NRS 603A and the Bureau's background check desk manual.

2. Work with the Records, Communications and Compliance Division to ensure sensitive background check information stored electronically is appropriately secured.
3. Develop policies and procedures for Child Care Licensing that address and properly mitigate the risk associated with the use and storage of sensitive personal information.

Oversight of Regulatory Activities Need Strengthening

The Bureau's controls related to oversight of certain regulatory activities need strengthening. For instance, some of the Bureau's complaint investigation procedures were not conducted timely and not all investigative notifications were sent in accordance with policies. In addition, the Bureau's process to review facility reported incidents needs improvement, including creating additional internal controls to ensure reviews are timely and documented appropriately. Additionally, the Bureau did not follow the Division's performance evaluation policies and record keeping standards related to out-stationed staff that work remotely. Finally, the Bureau needs to continue its efforts to reduce its backlog of periodic inspections.

Some Complaint Investigation Procedures Were Not Conducted in Accordance With Policies

The Bureau was not in compliance with its policies related to timeliness in conducting complaint investigations, timeliness in notifying the facilities of complaint results, and sending the complainant notices related to the investigation. In addition, stronger internal controls are needed to improve complaint investigation tracking.

The goal of the complaint process is to establish a system that will promote protection of the health, safety, and welfare of residents, patients, and clients receiving health care services. During calendar year 2017, the Bureau received 1,522 complaints related to licensed and unlicensed health care facilities, child care facilities, and medical laboratories. Exhibit 2 shows a summary of the complaints by type of facility:

Complaints by Type of Facility **Exhibit 2**
Calendar Year 2017

Type of Facility	Total Complaints	Percent of Complaints
Health Care Facility	1,128	74%
Child Care Facility	365	24%
Medical Laboratory	29	2%
Totals	**1,522**	**100%**

Source: Bureau records and database reports.

Complaint Investigations Were Not Conducted Timely

The Bureau did not conduct complaint investigations timely. We tested 75 complaints received during calendar year 2017 for complaint investigation requirements and found that of the 62 cases that required an on-site investigation, 21 (34%) were not investigated timely. On average, the Bureau was 79 days late in conducting the 21 complaint investigations. Based on the priority assignment of the complaints, we found 80% of the Non-Immediate Jeopardy (IJ) High and 50% of the Non-IJ Medium complaints, were not investigated timely. Exhibit 3 shows the timeliness of complaint investigations by priority type.

Complaint Investigation Timeliness by Complaint Priority Type **Exhibit 3**

Priority Type of Investigations	Investigations Completed	No. of Late Investigations	Percent Late	Average Days Late	Maximum Days Late
Non-Immediate Jeopardy (IJ) High	5	4	80%	51	179
Non-IJ Medium	28	14	50%	97	259
Other[(1)]	29	3	10%	32	60
Totals	**62**	**21**	**34%**	**79**	

Source: Audit testing results from Bureau records and database.

(1) Other priority types include child care facility complaints, medical laboratory complaints, and unlicensed health care facility complaints. Due dates for these types of facilities were determined by facility type and severity.

When complaints are received, they are prioritized depending on the degree of harm and level of violation of regulation or law associated with the allegations. Each priority type has a corresponding due date. Exhibit 4 shows a list of complaint priority types and the timeframe in which they should be investigated according to the Bureau's policies.

Investigation Due Date by Complaint Priority Type **Exhibit 4**

Priority Type	Investigation Due Date
Immediate Jeopardy (IJ)	Within 2 days of complaint
Non-IJ High	Within 10 days of complaint
Non-IJ Medium	Within 45 days of complaint
Non-IJ Low	Once there are 3 or more complaints at the facility, an investigation will take place within 45 days.

Source: Bureau policies.

When complaint investigations are not performed timely, compliance violations by licensees may not be detected and corrected in a timely manner. Completing untimely complaint investigations compromises the health, safety, and welfare of residents, patients, or clients of the facilities in which the alleged activities took place.

During the audit, we also found the complaint tracking process was not consistent and supervisors tracked their assigned complaints differently. For example, one supervisor was not aware of reports that could ensure all complaints were assigned and investigated. However, a new complaint policy was adopted in May 2018, and Bureau staff were trained on the new policy.

Facility Notification of Complaint Results Were Not Timely

We found the Bureau was not timely in providing investigation results to the facilities. During testing, we found of the 42 complaints that required a statement of deficiency (SOD) to be sent to the facility, 11 (26%) were sent past the maximum of 45 days from the time the on-site investigation was completed. The faster facilities are informed of their deficiencies, the faster they are able to make appropriate corrections to ensure the health, safety, and well-being of patients or residents.

After the complaint investigation is completed, the Bureau sends the facility a SOD. The SOD informs the facility of the result of the investigation, and if substantiated, states which laws or regulations the facility was found to be in noncompliance with. The Bureau has established a maximum of 45 days to complete the SOD after the investigation is complete. Facilities that are

found to be in noncompliance must submit a plan of correction to the Bureau 10 days after receiving the SOD.

In discussing this issue with Bureau management, they indicated managers were previously sent monthly reports related to SOD timeliness, including a report of SODs not sent after 30 days. However, the Bureau has not been consistent in sending the timeliness reports.

Letters to the Complainant Were Not Always Sent

We found letters to the complainants indicating their complaint was received or notifying them of the results of the investigation were not always sent. During testing, we found of the 38 complaints that had contact information, 7 (18%) complainants were not sent an acknowledgment letter, and 14 (37%) were not sent the results of the investigation. Complainants who report allegations should be informed of the resulting decision after investigation. Without notification of complaint receipt or results, complainants may be led to think their complaints were never received or investigated.

The Bureau receives complaints through various means, including over the phone, fax, e-mail, and mail. After a complaint is received, the Bureau sends the complainant an acknowledgment letter indicating the Bureau's regulatory authority, the course of action the Bureau will take, and provides the Bureau's contact information. Bureau staff also send the complainant a letter after the investigation is complete to inform them of the results of the investigation and whether the allegations were substantiated or unsubstantiated. These notifications are required by Bureau policies and by federal guidelines.

Bureau management indicated that while some complainants may have been notified, the notifications may not have been documented in the file. Without documentation of these notifications, the Bureau cannot ensure it is in compliance with its policies and federal guidelines.

Complaint Investigation Tracking Needs Improvement

After analyzing the report of 1,014 licensed health care facility complaints from calendar year 2017, we found the Bureau was unaware of 21 (2%) complaints that had not been investigated. The oldest uninvestigated complaint was received by the Bureau in January 2017. In addition, some of these uninvestigated complaints had been assigned a priority that requires an investigation within a certain timeframe. For example, two were assigned a priority of Non-IJ High, which requires an investigation within 10 days of complaint receipt. Exhibit 5 shows the uninvestigated complaints with their assigned priority types.

Uninvestigated Complaints by Complaint Priority Type **Exhibit 5**

Priority Type of Uninvestigated Complaints	Total
Non-Immediate Jeopardy (IJ) High	2
Non-IJ Medium	6
Non-IJ Low	1
Not Assigned	12
Total	**21**

Source: Audit testing results from Bureau records and database.

We provided the list to the Bureau so staff could follow up on the uninvestigated complaints. Management indicated the 21 uninvestigated complaints were due to user error in pulling a report to identify uninvestigated complaints. According to management, the Bureau has since educated staff on how to pull reports to capture all open complaints. However, the Bureau's policies and procedures did not sufficiently address internal controls related to complaint investigations. Additionally, the complaint policy did not describe how complaints were tracked to ensure all complaints are investigated.

Internal Controls Are Needed for the Facility Reported Incident Review Process

The Bureau did not conduct reviews of facility reported incidents in a timely manner, did not adhere to policies and procedures outlining oversight of facility reported incidents, and did not have appropriate internal controls for ensuring facility reported incidents are reviewed timely and are not overlooked.

When facility reported incidents are not reviewed timely, compliance violations and improper plans of correction may go unnoticed by the Bureau, ultimately leaving the patients, residents, or children vulnerable to repeat incidents. Additionally, the Bureau's lack of documentation related to facility reported incident reviews leaves supervisors and future reviewers without a reasonable indication of why a case was closed.

Below is summary of our testing of 75 facility reported incident files:

Initial Reports

- 24 of 75 initial reports (32%) submitted by facilities were received outside of the 24-hour requirement, with 5 of those initial reports being submitted greater than 5 days after the incident. The documentation in the files did not show evidence of a reprimand for failing to adhere to regulations requiring notification to the Bureau of incidents within 24 hours.

Final Reports

- 10 of 75 final reports (13%) were submitted by the facilities outside of the required 5 day window following the initial report, at an average of 28 days after the initial report was received by the Bureau. These 10 files did not contain documentation that the Bureau followed up with the facilities to receive the final report.

File Review

- 59 of 75 incidents (79%) were not reviewed within a week, in accordance with the Bureau's policy, at an average of 118 days after the initial report was received by the Bureau.

- 3 of 75 files (4%) were closed without receiving a final report from the facility, which is contradictory to Bureau policy.

- 21 of 75 files (28%) did not have any indication of a file review conducted by the Bureau even though the facility reported incidents were closed. The Bureau indicated staff must select certain criteria in the electronic file in order to close the reports, such as specific items in dropdown menus. However, we did not find any indication why these 21 facility reported incidents were closed without investigative notes supporting a review was conducted.

- 6 of 75 files (8%) were still open as of May 2018, with the file containing no indication of a supervisor having reviewed the facility reported incident or information explaining why it was still open.

Bureau policy states facility reported incidents must be reviewed within one week of being received by the facilities. Additionally, the policy states that staff must follow up with the facility for the final report if it has not been received within the timeline required. A Bureau supervisor then reviews the investigation conducted by the facility, and determines if it was thorough enough or investigated by the correct party. The supervisor's determination should be documented in the file's investigative notes.

During calendar year 2017, the Bureau received 2,488 facility reported incidents from child care facilities and skilled nursing facilities. Child care facilities only need to report incidents in which a child is injured and medical intervention or medical treatment was needed. Skilled nursing facilities are the only type of health care facility required to report abuse, neglect, misappropriation of property, elopement, and falls or injuries to the Bureau. For each incident, the facilities not only have to submit an initial report within 24 hours of the incident, but also a final report within 5 days of the initial report indicating what the facility did to investigate the incident and any outcomes.

The Bureau had policies and procedures in place for the oversight of facility reported incidents; however, those policies and procedures were not being followed by Bureau staff. Additionally, the Bureau did not have internal controls, such as a periodic report, in place to ensure reviews were being conducted in

accordance with Bureau policy. Effective internal controls would ensure all facility reported incidents are being reviewed timely and no facility reported incidents are overlooked.

Out-Stationed Personnel Are Not Evaluated in Accordance With Division Policy

The Bureau is not in compliance with Division policies and procedures relating to its out-stationed employees. We reviewed all 26 out-stationed employee files and found 19 employees (73%) did not have a current performance evaluation within the prior 12 months. In addition, 8 employees (31%) did not receive a performance evaluation prior to starting their out-stationed assignment, and 5 employees (19%) did not have a signed out-stationed agreement on file for 2017.

The Bureau had 26 out-stationed employees in 2017, which is an assignment that allows employees to work from their homes dependent on employee performance and the nature of the work they perform.

Division policy relating to out-stationed employees states employees must have received a “Meets Standards” or “Exceeds Standards” rating on the most recent performance evaluation received during the prior 12-month period to be eligible for an out-stationed assignment. Additionally, Division policy states out-stationed agreements are supposed to be discussed and renewed at least quarterly.

Without the required employee performance evaluations, Bureau management does not have recorded documentation to ensure out-stationed employees are fulfilling their duties satisfactorily. In addition, the Bureau is at risk of not being able to take appropriate disciplinary action for employee performance issues due to the lack of required documentation of corrective action through employee evaluations.

We also reviewed a sample of employee expense reimbursement reports submitted by out-stationed employees in 2017 and found all expense reimbursement reports received the proper supervisory signature, were mathematically accurate and reasonable, and correlated to work performed by the employees.

Continued Efforts Needed To Reduce Inspection Backlog

During the December 2017 Interim Finance Committee (IFC) meeting, the Bureau reported an inspection backlog of 300 health care facilities. In April 2018, the Bureau reported the backlog was reduced to 249 facilities. After analyzing the Bureau's backlog tracking process, we can provide reasonable assurance the reported information is accurate and reliable. Accurate reporting increases public confidence in the Bureau's activities and programs.

The Bureau stated the backlog was primarily a result of staffing levels, as well as the amount of time it takes to properly train new staff. However, the Bureau stated that as of December 2017 it is at a reasonable vacancy rate of approximately 8%, compared to 35% in the past.

In addition, during the December 2017 IFC meeting, committee members approved funding to support a contract to provide qualified health facility inspectors to conduct inspections of federally licensed facilities. The contractor's efforts have allowed Bureau staff to focus on the backlog of state licensed facilities. While some progress has been made, the backlog will require continued attention to be eliminated.

To assess the Bureau's reported progress on the backlog, we performed various steps to evaluate the accuracy of the reported backlog and found it to be reasonably accurate. Although we found a few errors, they were not significant enough to cast doubt on the information presented. In addition, the Bureau is aware of the errors, have already pinpointed the source, and have trained staff in order to further improve its accuracy.

We concluded the Bureau's administrative controls related to inspection timeliness reporting, including the information being provided to the IFC by the Bureau, are reasonably accurate and sufficient. However, the Bureau needs to continue its efforts to reduce the backlog of health care facility inspections.

Recommendations

4. Establish internal controls for supervisors for tracking open complaints, completing complaint investigations timely, ensuring letters to the complainant are documented, and ensuring facilities are timely notified of investigation results.
5. Investigate the 21 uninvestigated complaints from calendar year 2017.
6. Develop internal controls to ensure facility reported incident reviews are being conducted in accordance with Bureau policy and no facility reported incidents are overlooked.
7. Comply with Division policies related to out-stationed worker evaluations and renewals of employee agreements.
8. Continue efforts to reduce the backlog of required periodic inspections of health care facilities.

Appendix A
Audit Methodology

To gain an understanding of the Bureau of Health Care Quality and Compliance (Bureau), we interviewed staff, reviewed statutes and regulations, and other information describing the Bureau's activities. We also reviewed financial information, prior audit reports, budgets, and legislative committee minutes. Furthermore, we documented and reviewed the Bureau's internal controls and administrative policies and procedures related to the security of sensitive information, complaint investigations, facility reported incident reviews, personnel management, and inspection timeliness tracking.

To determine if the controls related to the protection of sensitive information were adequate, we reviewed 10 staff computers within the Division of Public and Behavioral Health (Division) programs to see whether they had access to sensitive information stored on the Bureau's shared network drives. Additionally, we determined the number of files containing background check information on the shared network drive to be 7,269, and judgmentally selected 100 files to determine if they contained Social Security numbers, background check employment eligibility determinations, or the full background check report which contains criminal history. Our sample included a number of files from each week in the month from May 2016, through April 2018. Lastly, we tested 75 facility reported incident files to determine if sensitive information was documented.

As much of our audit testing relied on data obtained through the Bureau's federal database and licensing database, we first assessed the reliability of the Bureau's federal database and licensing database. To assess the reliability of the Bureau's federal database information, we tested the information provided for completeness and accuracy by randomly selecting 10 files and comparing the data entered to the original documentation, and

randomly selecting 20 physical files from Bureau records to ensure they were included in the database. To assess the reliability of the Bureau's licensing database information, we conducted an internet search of 103 health care facilities, medical laboratories, and child care facilities in various regions of the state and searched for them in the Bureau's licensing database to ensure the data was complete. We then compared the data entered in the licensing database for 60 of these facilities, to original documentation to ensure the data was accurate.

To determine if administrative controls related to complaint investigations were adequate, we obtained a listing of 1,522 complaints received during calendar year 2017 for health care facilities, medical laboratories, and child care facilities from the Bureau's federal database and licensing database. We identified significant laws, regulations, federal program requirements, and Bureau policies related to complaint investigations. We then judgmentally selected 75 complaints from the listing for further testing. Judgment was based on type of facility. Our sample included 50 complaints for health care facilities, 20 complaints for child care facilities, and 5 complaints for medical laboratories. We tested the 75 complaints by comparing the complaint information to the identified significant requirements. We reviewed the timeliness of the investigations, the severity prioritization of the complaints, follow-up actions for deficiencies found during complaint investigations, notifications to the complainant, and the billings for complaint investigations. Additionally, we observed Bureau staff conduct a complaint investigation to ensure practices aligned with policies and procedures.

To determine if administrative controls related to facility reported incidents were adequate, we identified significant laws, regulations, federal program requirements, and Bureau policies related to facility reported incidents. We obtained a list of the 2,488 facilities reported incidents received in calendar year 2017 from the Bureau's federal database and licensing database. We then judgmentally selected 75 facility reported incidents received during calendar year 2017 from health facilities and child care facilities for our testing. Judgment was based on type of facility. Our sample included 70 facility reported incidents from health care

facilities and 5 facility reported incidents from child care facilities. We tested the facility reported incident files to determine the Bureau's compliance with policies and procedures and general oversight of facility reported incidents. For example, we tested the timeliness of the incident reviews, and if appropriate follow-up action that occurred. Additionally, we observed the process for a self-report review to ensure practices aligned with policies and procedures.

To determine if the Bureau effectively monitored out-stationed personnel who work remotely, we obtained a list of all 26 out-stationed employees for calendar year 2017. We identified significant Bureau and Division policies and internal controls related to out-stationed personnel. We then tested one month of travel expense reports for each out-stationed employee to ensure mileage and reimbursement calculations were computed correctly, requests were reasonable, and supervisory review of the expense reports were conducted prior to approval of the reimbursement. Additionally, we reviewed all out-stationed employee files at both the Division and Bureau level for all out-stationed employees to ensure files contained documented out-stationed agreement, performance evaluations to support their employee status, and evidence of formal or informal reprimands.

To determine if the administrative controls related to inspection timeliness tracking were adequate, as well as the reliability of the information being provided to the Interim Finance Committee (IFC) by the Bureau, we interviewed staff regarding their roles in inspection timeliness and the monitoring, and tested the Bureau's tracking reports for accuracy and completeness. We assessed reliability of the Bureau's timeliness tracking spreadsheet by judgmentally selecting 100 facilities from the Bureau's tracking spreadsheet, based on type of facility, and tracing the information to the Bureau's federal and licensing databases to ensure the spreadsheet is accurate, and randomly selected 15 facilities from the Bureau's information database and traced them to the Bureau's tracking spreadsheet to ensure the spreadsheet was complete. We also verified that manual calculations on the spreadsheet were accurate. Furthermore, we compared the numbers transferred from the tracking spreadsheet to the IFC

reporting spreadsheet. Finally, we verified the contractor performed work as reported to the IFC.

For our sample design, we used non-statistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Sample sizes were judgmental and determined based on knowledge of the population and ensuring appropriate coverage. We did not project our results because the samples may not be representative of the population. Based on our professional judgement, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that non-statistical sampling provides sufficient and appropriate audit evidence to support the conclusions in our report.

Our audit work was conducted from November 2017 to September 2018. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Chief of the Bureau of Health Care Quality and Compliance. On December 6, 2018, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B, which begins on page 23.

Contributors to this report included:

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Appendix B

Response From the Bureau of Health Care Quality and Compliance

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director

JULIE KOTCHEVAR, Ph.D.
Administrator

IHSAN AZZAM, Ph.D., M.D.
Chief Medical Officer

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December 17, 2018

Rocky Cooper, CPA
Legislative Auditor
Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701

RE: Performance Audit – *Department of Health and Human Services, Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance*

Dear Mr. Cooper:

Thank you for meeting with my team on December 6th to review and discuss the results of the above-mentioned audit. Pursuant to NRS 218G.230, this letter serves as the written statement of explanation or rebuttal concerning the findings of the preliminary audit report on *Department of Health and Human Services, Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance*. The agency accepts all recommendations as indicated in the attached page entitled "Bureau of Health Care Quality and Compliance's Response to Audit Recommendations". Below, each recommendation is listed followed by discussion regarding how the agency plans to address or implement each recommendation contained in the preliminary report.

1. Restrict access to the sensitive information stored in the shared network drive in accordance to NRS 603A and the Bureau's background check desk manual.

During the audit, DPBH's Office of Information Technology (OIT) was contacted immediately to ensure access to sensitive information was restricted for the child care licensing section of HCQC. This was necessary to restrict other agencies in the Division from accessing information. In addition, sensitive information will be separated into four restricted access folders: 1) child care licensure sensitive information; 2) health facilities sensitive information; 3) individual licensing sensitive information; and 4) medical laboratories sensitive information. HCQC is arranging with OIT to ensure restrictions are assigned to these folders, such that only those authorized individuals have access to them.

There are two background check desk manuals within the Bureau, one for child care licensing and one for health facilities. The child care licensing manual was the one identified with this issue and has been updated to include all applicable safeguards.

2. Work with the Records, Communications and Compliance Division to ensure sensitive background check information stored electronically is appropriately secured.

Child Care Licensing (CCL) conferred with Nevada Department of Public Safety (NDPS) to develop policies and procedures to ensure consistent handling and care of sensitive information. Per the recommendation of NDPS, CCL retrained staff and had staff sign a training contract regarding their responsibilities in handling sensitive information. CCL sensitive information housed on the DPBH-HCQC network now has restricted access for approved personnel only. A list was developed containing staff names who will have access to sensitive material. This list is now updated quarterly (sooner if needed) and is maintained by the Program Manager and Supervisor. Please see attached NABS manual 2018. The Records, Communications and Compliance Division (RCCD) conducted an audit, and on 11/26/18, the RCCD provided correspondence indicating the CCL program was found to be in full compliance with FBI/state policies.

The health facilities section of HCQC does not maintain sensitive criminal history record information electronically. General background, non-criminal history, is stored electronically in accordance with the health facilities background check manual. DPS has been consulted about the storage of both paper and electronic health facility background check files.

3. Develop policies and procedures for Child Care Licensing that address and properly mitigate the risk associated with the use and storage of sensitive personal information.

Child Care Licensing policies have been developed and enhanced as noted in recommendations #1 and #2 above, to mitigate risks associated with storage of sensitive personal information.

4. Establish internal controls for supervisors for tracking open complaints, completing complaint investigations timely, ensuring letters to complainant are documented, and ensuring facilities are timely notified of investigation results.

HCQC has created reports to track open complaints and identify timeliness issues. Please see attached *Open Complaints No Exit Date 2017, 2018 to 12.11.18.pdf.* Additional controls are being established to ensure tracking reports are reconciled regularly, results are reported timely and to ensure letters to complainants are documented. DPBH administration assigned staff outside of HCQC to assist with streamlining these efforts as well.

5. Investigate the 21 uninvestigated complaints from calendar year 2017.

Almost all 21 complaints that were not investigated in 2017 have now been investigated. HCQC determined there were two reasons these complaints were left unattended after receipt; either the location assigned in the data system or the team assigned fields (or both) were left blank upon entry. HCQC generated reports to identify complaints with this missing information and will be reconciling the same on a regular basis to ensure this does not recur in the future.

6. Develop internal controls to ensure facility reported incident reviews are being conducted in accordance with Bureau policy and no facility reported incidents are overlooked.

HCQC is revisiting its policy concerning Facility Reported Incidents (FRI) to ensure the timeframe for completion is appropriate and will set up a tracking report designed to ensure adherence with the policy. Work on this has begun but is not complete.

7. Comply with Division policies related to out-stationed worker evaluations and renewals of employee agreements.

HCQC recognizes it has some delinquent NPD-15s for out-stationed employees. HCQC is making completion of NPD-15s for out-stationed employees a priority. Currently 8 of 24 NPD-15s have been completed (within required timeframe) for out-stationed employees. The out-stationing agreements have been renewed, and HCQC has implemented a tracking mechanism to ensure out-stationed employees receive their appraisals timely and renew their agreements prior to expiration in accordance with policy.

8. Continue efforts to reduce the backlog of required periodic inspections of health care facilities.

HCQC recognizes the existence of a backlog of periodic inspections related to continued inspector vacancies and increasing workload and has taken and continues to take measures to reduce this backlog as follows: 1) increasing contract amount for vendor to conduct certain federal inspections; 2) using other qualified inspectors (sometimes retirees) as contractors; 3) recruiting efforts to include use of private services and solicitation of professionals through sending job announcements to all licensees; 4) using overtime to accomplish workload that would otherwise continue to be backlogged; and 5) requesting additional positions in the 2020 – 2021 budget cycle.

Please contact me at jukotchevar@dhhs.nv.gov or 775-684-5959 if you have any questions, concerns or would like additional information.

Sincerely,

Dr. Julie Kotchevar, Administrator
Division of Public and Behavioral Health, Department of Health and Human Services

cc: Richard Whitley, MS, Director, Department of Health and Human Services
Margot Chappel, MS, DPBH Deputy Administrator, Regulatory and Planning Services
Debi Reynolds, DPBH Deputy Administrator, Administrative Services

Bureau of Health Care Quality and Compliance's Response to Audit Recommendations

	Recommendations	Accepted	Rejected
1.	Restrict access to the sensitive information stored in the shared network drive in accordance to NRS 603A and the Bureau's background check desk manual	X	
2.	Work with the Records, Communications and Compliance Division to ensure sensitive background check information stored electronically is appropriately secured	X	
3.	Develop policies and procedures for Child Care Licensing that address and properly mitigate the risk associated with the use and storage of sensitive personal information	X	
4.	Establish internal controls for supervisors for tracking open complaints, completing complaint investigations timely, ensuring letters to the complainant are documented, and ensuring facilities are timely notified of investigation results	X	
5.	Investigate the 21 uninvestigated complaints from calendar year 2017	X	
6.	Develop internal controls to ensure facility reported incident reviews are being conducted in accordance with Bureau policy and no facility reported incidents are overlooked	X	
7.	Comply with Division policies related to out-stationed worker evaluations and renewals of employee agreements	X	
8.	Continue efforts to reduce the backlog of required periodic inspections of health care facilities	X	
	TOTALS	8	