

# STATE OF NEVADA

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## Audit Report

Department of Health and Human Services  
Oversight of Child Care Facilities

2011



Legislative Auditor  
Carson City, Nevada

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# Audit Highlights



Highlights of Legislative Auditor report on the Oversight of Child Care Facilities issued on October 17, 2011. Report # LA12-06.

## Background

The Bureau of Services for Child Care (Bureau) licenses, inspects, and investigates complaints of child care facilities in Nevada. During our audit scope, the Bureau was within the Division of Child and Family Services. With legislation in 2011, the Bureau was transferred to the Health Division on July 1, 2011.

The purpose of the Bureau is to ensure the health, safety, and well-being of children in child care facilities. It is responsible for all facilities in Nevada, with the exception of most facilities in Washoe County.

The Bureau is primarily funded by a federal grant. In fiscal year 2011, the Bureau received approximately \$1 million under this grant. The Bureau has offices in Carson City, Elko, and Las Vegas. In fiscal year 2011, the Bureau had 19 employees.

As of June 30, 2011, 558 facilities were licensed by the Bureau. The Bureau experienced a significant increase to its caseload recently. In May 2009, the city of Las Vegas relinquished its child care responsibilities to the State. This resulted in an increase of 197 facilities to the Bureau's caseload. In September 2010, Clark County relinquished its responsibilities, increasing the Bureau's caseload by 174 facilities.

## Purpose of Audit

The purpose of this audit was to determine if the Bureau ensures child care facilities meet health and safety requirements. Our audit focused on the Bureau's activities from July 1, 2009 through March 31, 2011.

## Audit Recommendations

This audit report contains 4 recommendations to improve the timeliness of inspections and ensure follow-up so that problems noted during inspections are corrected timely. In addition, there are 2 recommendations to improve the monitoring of employees at child care facilities to ensure they meet requirements in state laws and regulations.

The Division accepted the 6 recommendations.

## Recommendation Status

The Division's 60-day plan for corrective action is due on January 18, 2012. In addition, the six-month report on the status of audit recommendations is due on July 18, 2012.

# Oversight of Child Care Facilities

## Department of Health and Human Services

### Summary

The Bureau did not always perform timely inspections of child care facilities or take timely action to help ensure fire and health inspections were performed by state and local fire and health authorities. Although a majority of inspections were timely, it is important for the Bureau to ensure inspection requirements are always met. In addition, better monitoring of facility employees is needed to ensure compliance with key health and safety requirements. It is critical that requirements such as child abuse and neglect checks and tuberculosis tests for facility employees are always met because they protect the health and safety of children at child care facilities.

### Key Findings

We tested inspections of child care facilities performed by the Bureau from July 1, 2009 through March 31, 2011. Our audit found 7 of 50 child care facilities had untimely inspections. The untimely inspections ranged from 2 to 8 months late, with an average of 3.5 months late.

Inspections are the primary method for the Bureau to verify child care facilities are in compliance with key health and safety requirements designed to keep children safe. NAC 432A.190 requires inspections to be made at least two times during the 12-month licensing period or once every 6 months. (page 4)

We also found the Bureau did not always follow up when facilities were not in compliance with health and safety requirements. For 2 of the 50 facilities tested, there was no evidence that corrective action was taken on issues noted during inspections. One facility had eight non-compliant issues. This included findings that the facility admitted children without current immunizations and did not have an emergency plan for responding to a fire or natural disaster. (page 5)

Most child care facilities we tested had timely fire and health inspections conducted by state and local fire and health authorities. However, 3 of 50 facilities did not have timely fire inspections. For two facilities, we found no evidence the Bureau contacted state or local fire authorities to request an inspection, including one that was 5 months overdue at the time of our testing. In the other instance, the request was not sent timely. In addition, 4 of 50 facilities did not have timely health inspections. One facility had not been inspected for 17 months. The other three facilities had not been inspected for at least 14 months at the time of our testing. In all three instances, the Bureau had not contacted state or local health authorities to request an inspection for these facilities. It is the Bureau's standard practice to request these inspections. (page 6)

The Bureau's inspection process did not always ensure employees at child care facilities had child abuse and neglect checks required by state law. We tested inspections for 50 facilities and found 3 inspections did not have evidence the Bureau performed a child abuse and neglect check for any of the 18 employees at these facilities. In addition, we found that checks were not performed timely for 19 of 20 employees selected. NRS 432A.170 requires the Bureau to perform the check within 3 days of the person being hired. On average, the check was performed 24 days after the person was hired. Most of the delay was because the facilities did not inform the Bureau timely when employees were hired. (page 8)

We found instances when problems at facilities were not detected during inspections. We tested inspections for 50 facilities and found some new employees did not have timely tuberculosis (TB) tests and some existing employees had expired TB tests. Specifically, for 10 of 29 facilities with new employees since the prior inspection, there were 22 new employees with untimely TB tests. For these new employees, the tests were performed on average 40 days after the employee was hired. In addition, 3 facilities had instances when existing employees or volunteers did not have a TB test or it was expired. (page 9)



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This report contains the findings, conclusions, and recommendations from our completed audit of the Department of Health and Human Services' Oversight of Child Care Facilities. 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.

During our audit, the oversight of child care facilities was performed by the Division of Child and Family Services. With the passage of Senate Bill 430 during the 2011 Legislative Session, the oversight responsibility was transferred to the Health Division on July 1, 2011. This report includes six recommendations to improve the timeliness of inspections of child care facilities and the monitoring of facility employees to ensure they meet health and safety requirements. 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,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA  
Legislative Auditor

September 19, 2011  
Carson City, Nevada



# Oversight of Child Care Facilities

## Table of Contents

Introduction .....	1
Background.....	1
Scope and Objective .....	3
Inspections Were Not Always Timely .....	4
Controls Over Bureau Inspections Could Be Improved.....	4
Inspections by Outside Entities Were Not Always Requested Timely .....	6
Better Monitoring of Employees at Child Care Facilities Is Needed.....	8
Child Abuse and Neglect Checks Were Not Always Performed.....	8
Monitoring of Facility Employees for Tuberculosis Needs Improvement .....	9
Appendices	
A. Selected Laws and Regulations Applicable to Child Care Facilities ....	11
B. Audit Methodology.....	15
C. Response From the Health Division.....	18



# Introduction

## Background

The Bureau of Services for Child Care (Bureau) licenses, inspects, and investigates complaints of child care facilities in Nevada.<sup>1</sup> The purpose of the Bureau is to ensure the health, safety, and well-being of children in child care facilities. It is responsible for all facilities in Nevada, with the exception of most facilities in Washoe County that are overseen by the Washoe County Department of Social Services. Exhibit 1 shows the types and number of facilities licensed by the Bureau as of June 30, 2011.

### Types and Number of Licensed Facilities As of June 30, 2011

### Exhibit 1

Type of Facility	Description	Number of Licensed Facilities
Child Care Centers	Care for 13 or more children	287
Family Care Homes	Care for 5-6 children in the home	190
Accommodation Facilities	A facility that is part of another business (care provided is no more than 3.5 hours a day)	27
Group Care Homes	Care for 7-12 children in the home	19
Pre-Schools	Care of children for 4 hours a day or less with established goals to enhance their cognitive, social, emotional, physical, and creative development	10
Nurseries for Infants or Toddlers	Care for 5 or more children under the age of 2 years	10
Institutions	Care for 16 or more children who do not routinely return to the homes of their parents or guardians	8
On-site Centers	Care of employee's children at the business site	4
Special Event Facilities	Operated by a business that is licensed to conduct a business other than the provision of care to children (no more than 7 days and 10 hours a day)	3
<b>Total</b>		<b>558</b>

Source: Bureau of Services for Child Care records.

<sup>1</sup> During our audit scope, the Bureau was within the Division of Child and Family Services. With the passage of SB 430 during the 2011 Session, the Bureau was transferred to the Health Division on July 1, 2011. With this change, the Bureau is now called the Child Care Licensing Unit.



State law requires a facility to obtain a license when five or more children are cared for if compensation is received. Per NRS 432A.141, if the Bureau finds an applicant is in full compliance with standards and regulations, the Bureau shall issue an initial license for up to 1 year. A license is renewable on an annual basis. License fees range from \$20 to \$300 depending on the type of facility.

### **Budget and Staffing**

The Bureau is primarily funded by a federal grant, which is transferred from the Division of Welfare and Supportive Services. In fiscal year 2011, the Bureau received approximately \$1 million under this grant, and about \$68,000 in licensing fees.

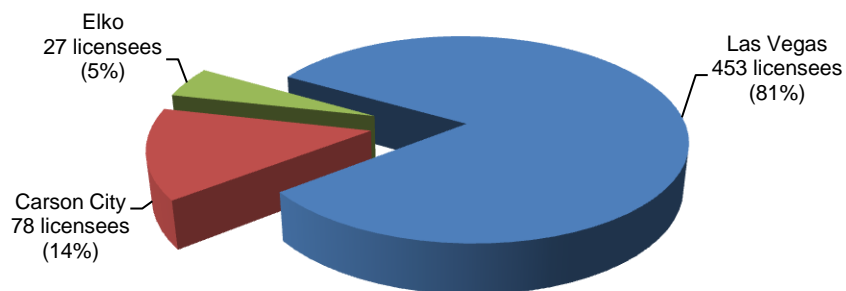
The Bureau has offices in Carson City, Elko, and Las Vegas. In fiscal year 2011, the Bureau had 19 positions, including 15 surveyors. Surveyors perform inspections of child care facilities, conduct trainings, process initial licenses, and provide technical assistance to child care facilities. In addition, surveyors monitor for unlicensed child care operations, investigate complaints, and work to bring facilities into compliance with the law.

### **Caseload Information**

Bureau records show there were 558 licensed facilities at June 30, 2011. Exhibit 2 shows the number of licensed facilities for each of the three regional offices.

**Number of Licensed Facilities by Regional Office  
As of June 30, 2011**

**Exhibit 2**



Source: Bureau of Services for Child Care records.

The Las Vegas office is responsible for all child care facilities in Clark and Nye counties. The Carson City office oversees child care facilities in Carson City, Churchill, Douglas, Lyon, Mineral, and Storey counties. In addition, the Carson City office is responsible for some facilities located in Washoe County. The Elko office oversees facilities in Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Pershing, and White Pine counties.

### **Recent Changes in Caseload**

The Bureau experienced a significant increase to its caseload in recent years. This was due to the following:

- In May 2009, the city of Las Vegas relinquished its child care responsibilities to the State. This resulted in an increase of 197 facilities to the Bureau's caseload.
- In September 2010, Clark County relinquished its child care responsibilities to the State. This resulted in an increase of 174 facilities to the Bureau's caseload.

## **Scope and Objective**

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 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.

This audit included a review of the Bureau's activities from July 1, 2009 through March 31, 2011. The objective of our audit was to determine if the Bureau ensures child care facilities meet health and safety requirements.

## Inspections Were Not Always Timely

The Bureau did not always perform timely inspections of child care facilities or take timely action to help ensure fire and health inspections were performed by state and local fire and health authorities. Although a majority of inspections were timely, it is important for the Bureau to ensure inspection requirements are always met. When inspections are not timely, there is an increased risk to the health and safety of children at child care facilities.

### **Controls Over Bureau Inspections Could Be Improved**

The Bureau could strengthen controls over its inspection process to help ensure child care facilities are inspected timely. Specifically, improvements are needed to the Bureau's written policies and procedures for inspections. In addition, management reports did not include information necessary to monitor the timeliness of inspections. We tested inspections performed by the Bureau for the period of July 1, 2009 through March 31, 2011. Our audit found 7 of 50 child care facilities had untimely inspections. The untimely inspections ranged from 2 to 8 months late, with an average of 3.5 months late.

The purpose of inspections is to provide reasonable assurance that children in child care facilities are protected. Inspections are the primary method for the Bureau to verify child care facilities are in compliance with key health and safety requirements designed to keep children safe. NAC 432A.190 requires inspections to be made at least two times during the 12-month licensing period or once every 6 months. The Bureau's inspection process includes both an annual and semi-annual inspection checklist. The annual inspection checklist is comprehensive and it provides a standardized method for surveyors to perform inspections.

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Examples of some of the critical items verified during an annual inspection are:

- Criminal background checks and checks of the child abuse and neglect system have been performed for all facility employees.
- Employees have had a tuberculosis test to confirm they do not have the disease.
- Fire and health inspections are current.
- Children at the facility are immunized.
- Nutrition and other food service requirements have been met.
- Building and grounds have adequate space and play area is safe.
- Sanitation requirements have been met.
- Facility has appropriate staff-to-child ratio.
- Employees have first aid training and training on detecting and reporting possible child abuse.

We also found the Bureau did not always follow up when facilities were not in compliance with health and safety requirements. For 2 of the 50 facilities tested, there was no evidence that corrective action was taken on issues noted during inspections. One facility had eight non-compliant issues. This included findings that the facility admitted children without current immunizations and did not have an emergency plan for responding to a fire or natural disaster.

The problems noted above with inspections could be reduced or eliminated by improving controls in two areas. First, the Bureau needs to develop additional written policies and procedures. This should include steps that standardize the methods used by each surveyor to monitor their caseload for timely inspections. Procedures are also needed on actions to be taken to ensure problems noted during inspections are corrected timely. Second, management reports do not include information necessary to

assist managers with effective oversight of inspection activities. Management reports cover the inspections that have been performed, but not inspections that are overdue or soon to be overdue. The reports also do not include information to ensure issues noted during inspections were corrected.

## **Inspections by Outside Entities Were Not Always Requested Timely**

Most child care facilities we tested had timely fire and health inspections conducted by state and local fire and health authorities. However, a few had not been inspected timely. In these instances, the Bureau did not timely request that these facilities be inspected, which is the Bureau's standard practice. For example:

- Fire Inspections: Three of 50 facilities did not have timely fire inspections. For two facilities, we found no evidence the Bureau contacted state or local fire authorities to request an inspection, including one that was 5 months overdue at the time of our testing. In the other instance, the request was not sent timely as it was sent after the inspection was already overdue.
- Health Inspections: Four of 50 facilities did not have timely health inspections. One facility had not been inspected for 17 months. The other three facilities had not been inspected for at least 14 months at the time of our testing. In all three instances, the Bureau had not contacted state or local health authorities to request an inspection for these facilities.

Although the Bureau does not perform these fire and health inspections, it has a responsibility to monitor facilities and ensure the inspections are performed timely. NRS 432A.180 requires the State Fire Marshal (or a designee) to annually inspect the child care facilities, and requires the State Health Officer (or a designee) to annually inspect the child care facilities. When these inspections are not performed as required, unsafe facilities may go undetected which could result in a fire or an unsanitary environment for children.

The Bureau does not have policies and procedures to ensure fire and health inspections performed by outside entities are timely. Furthermore, although the Bureau maintains a database for tracking when these inspections are due, it does not indicate if

requests were sent timely and whether inspections were performed.

### **Recommendations**

1. Develop policies and procedures to help ensure Bureau inspections are performed timely and child care facilities take corrective action when necessary.
2. Revise management reports to include information that helps ensure timely Bureau inspections and follow-up on issues requiring corrective action.
3. Develop policies and procedures for monitoring child care facilities to help ensure fire and health inspections are performed timely.
4. Revise management reports to include information helpful in monitoring the timeliness of health and fire inspections.

# Better Monitoring of Employees at Child Care Facilities Is Needed

Better monitoring of facility employees is needed to ensure key health and safety requirements are met. Specifically, the Bureau did not always perform required checks on facility employees to ensure they did not have a history of child abuse or neglect. In addition, the inspections did not always detect employees that had not been tested for tuberculosis timely or had expired tests. Although these problems were not pervasive, it is critical that these requirements are always met because they protect the health and safety of children at child care facilities.

## **Child Abuse and Neglect Checks Were Not Always Performed**

The Bureau's inspection process did not always ensure employees at child care facilities had child abuse and neglect checks required by state law. Although the Bureau performed a child abuse and neglect check for employees on most of the inspections we tested, a few inspections did not have evidence the Bureau performed this check for any of the employees. In other instances, the checks were not performed timely. These checks are vital since they verify employees do not have a substantiated report of child abuse or neglect against them.

When the Bureau performs an inspection, it is standard procedure to obtain a list of names for all facility employees. If applicable, facilities are also required to provide the names of all residents over the age of 18. Once these names are obtained, the Bureau is required to access the Statewide Central Registry and verify there are no substantiated reports of child abuse or neglect in Nevada against the individuals listed. Per NRS 432A.175, if an individual has had a substantiated report of child abuse or neglect, the Bureau shall notify the licensee and the licensee is required to terminate the employee or remove the resident from the facility.

We tested inspections for 50 facilities and found 3 inspections did not have evidence the Bureau performed a child abuse and neglect check for any of the 18 employees at these facilities. In addition, we tested 20 employees to determine whether the checks were done timely. We found the checks were not timely for 19 of the 20 employees. NRS 432A.170 requires the Bureau to perform the check within 3 days of the person being hired. On average, the check was performed 24 days after the person was hired. Most of the delay was because the facilities did not inform the Bureau timely when employees were hired.

The problems with child abuse and neglect checks noted above were caused in part by the Bureau not having written procedures directing staff on their duties in this area. Procedures should include who performs the checks, when the check is performed, and how the results of the check will be documented and provided to appropriate Bureau personnel and licensees. Procedures should also ensure that inspections include methods to verify new employees were reported timely to the Bureau.

## **Monitoring of Facility Employees for Tuberculosis Needs Improvement**

Improvements are needed in the monitoring of facility employees for timely tuberculosis (TB) tests. The current inspection process does not include methods to identify new employees and verify they had TB tests prior to the start of employment. As a result, children may be exposed to an employee with TB.

We tested inspections for 50 facilities and found some new employees did not have timely tests and some existing employees had expired TB tests. Specifically, we found the following:

- New Employees at Existing Facilities: We found instances when problems at facilities were not detected during inspections. For 50 facilities, we compared employee lists from their two most recent inspections. From these lists, we identified 29 facilities with new employees since the prior inspection. For 10 of 29 facilities, there were 22 new employees with untimely TB tests. For these new employees, the tests were performed on average 40 days after the employee was hired. This was not detected during inspections because of a weakness in the inspection process. The current process does not require the inspector to verify the TB test was performed prior to



the start of employment. Instead, inspectors are only required to verify the employee has been tested as of the inspection date.

- Existing Employees: Three facilities had instances when existing employees or volunteers did not have a TB test or it was expired. None of these were noted in the inspection report. At one facility, a volunteer had not been tested. At the second facility, there was no evidence that any of the employees had been tested. We do not know how many employees were at the facility because the Bureau had not obtained that information. At the third facility, two employees were not in compliance because the prior test had been expired for a few months, at the time of the inspection.

NAC 432A.310 states every facility employee and volunteer must provide written evidence that they are free from communicable tuberculosis prior to the first day of employment and at least once every 24 months thereafter. Tuberculosis is contagious and can be spread by breathing in air droplets from a cough or sneeze of an infected person. It can cause permanent lung disease if not treated early.

### **Recommendations**

5. Develop procedures to help ensure employees at child care facilities have timely child abuse and neglect checks.
6. Revise inspection procedures to detect employees at child care facilities that have not had tuberculosis tests before working with children, or whose tests have expired.

# Appendix A

## Selected Laws and Regulations Applicable to Child Care Facilities

### Licensing

#### **NRS 432A.141 License: Issuance by Bureau; fee; duration; nontransferable.**

1. If, after investigation, the Bureau finds that an applicant is in full compliance with the provisions of this chapter and the standards and regulations adopted pursuant to this chapter, the Bureau shall issue to the applicant the license applied for.

2. The Bureau shall charge and collect a fee for each license issued for a child care facility in an amount prescribed by regulation of the Board.

3. The initial license issued by the Bureau may be effective for a period not exceeding 1 year from the date of issuance.

4. A license that is renewed by the Bureau is effective for 1 year from the date of renewal.

5. A license applies only to the person named therein and is not transferable.

6. A license issued for:

(a) An outdoor youth program is valid only for the area of operation described in the license.

(b) Any other child care facility is valid only for the premises described in the license.

(Added to NRS by 1979, 885; A 1989, 1050; 1991, 2308)

#### **NAC 432A.200 License to operate facility: Application; investigation; issuance; return.<sup>1</sup> (NRS 432A.077, 432A.141, 432A.170, 432A.175)**

1. An application for an initial license to operate a facility must be:

(a) Submitted to the Bureau on a form supplied by the Bureau; and

(b) Accompanied by the following appropriate fee:

(1) If the facility is to provide care for 5 or 6 children	\$20
(2) If the facility is to provide care for 7 or more but not more than 12 children	60
(3) If the facility is to provide care for 13 or more but not more than 50 children	100
(4) If the facility is to provide care for 51 or more but not more than 100 children	150
(5) If the facility is to provide care for 101 or more but not more than 150 children	200
(6) If the facility is to provide care for 151 or more but not more than 200 children	250
(7) If the facility is to provide care for more than 200 children	300

[Bd. for Child Care, Child Care Facilities Reg. § 3.2, eff. 2-28-80]—(NAC A 6-5-84; 11-19-85; 12-17-87; 9-5-89; 5-14-90; R203-03, 7-1-2004)

### Background Checks

#### **NRS 432A.170 Investigation by Bureau; information concerning criminal convictions of applicant, licensee, employee and certain residents; cost of investigation.**

1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

<sup>1</sup> Certain subsections of this law or regulation have been omitted as they were deemed unnecessary for inclusion in the audit report.

- (b) Any other felony involving the use of a firearm or other deadly weapon;
- (c) Assault with intent to kill or to commit sexual assault or mayhem;
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (e) Abuse or neglect of a child or contributory delinquency;
- (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;
- (g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or
- (h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

(Added to NRS by 1979, 886; A 1985, 1473; 1987, 1551; 1991, 2309; 2009, 927)

**NRS 432A.175 Investigation by Bureau; information concerning criminal convictions of applicant, licensee, employee and certain residents or participants.**

1. Every applicant for a license to operate a child care facility, licensee and employee of such an applicant or licensee, and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, to enable the Bureau to conduct an investigation pursuant to NRS 432A.170, a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(b) Written statement detailing any prior criminal convictions; and

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant for a license to operate a child care facility or licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, has been convicted of any crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect filed against him or her, the Bureau shall immediately notify the applicant or licensee, who shall then comply with the provisions of NRS 432A.1755.

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

(Added to NRS by 1985, 1471; A 1991, 2309; 1995, 753; 2009, 928)

**NRS 432A.1755 Termination of employee or removal of resident of facility or participant in program upon receipt of certain information; opportunity for employee, resident or participant to correct information.<sup>1</sup>**

1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an

outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

(Added to NRS by 2009, 926)

### Inspections

#### **NRS 432A.180 Inspection by Bureau, State Fire Marshal and State Health Officer; publication and availability of reports of certain inspections.**

1. Any authorized member or employee of the Bureau may enter and inspect any building or premises of a child care facility or the area of operation of an outdoor youth program at any time to secure compliance with or prevent a violation of any provision of this chapter.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, at least annually:

(a) Enter and inspect every building or premises of a child care facility, on behalf of the Bureau; and

(b) Observe and make recommendations regarding the drills conducted pursuant to NRS 432A.077,

↳ to secure compliance with standards for safety from fire and other emergencies.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually, every building or premises of a child care facility and area of operation of an outdoor youth program, on behalf of the Bureau, to secure compliance with standards for health and sanitation.

4. The annual inspection of any child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court must include, without limitation, an inspection of all areas where food is prepared and served, bathrooms, areas used for sleeping, common areas and areas located outdoors that are used by children at the child care facility. The State Health Officer shall publish reports of the inspections and make them available for public inspection upon request.

(Added to NRS by 1979, 886; A 1985, 1474; 1991, 2310; 1997, 1268; 2007, 1192)

#### **NAC 432A.190 Inspections; investigations.<sup>1</sup> (NRS 432A.077, 432A.180)**

1. Inspections of any building or premises of a facility pursuant to NRS 432A.180 may be unannounced and must be made at least two times during the 12-month licensing period or once every 6 months. More frequent inspections may be made if the Bureau has reason to believe the licensee of a facility is not meeting the requirements of this chapter or chapter 432A of NRS.

[Bd. for Child Care, Child Care Facilities Reg. §§ 2.5-2.7, eff. 2-28-80]—(NAC A 11-1-94)

### Health and Safety Requirements for Licensees and Their Employees

#### **NAC 432A.260 Health standards; inspection reports. (NRS 432A.077)**

1. To maintain his license, the licensee must ensure that his facility meets all standards for environmental health which are established by the Bureau of Health Protection Services of the Health Division of the Department.

2. Reports of inspections concerning the sanitation of a facility must be maintained in a physical file at the facility and available for review at the facility by a parent of a child who attends the facility or a parent who is considering enrolling his child at the facility for at least 2 years after the date of the inspection.

[Bd. for Child Care, Child Care Facilities Reg. § 14.1, eff. 2-28-80]—(NAC A 11-1-94; R203-03, 7-1-2004)

#### **NRS 432A.177 Licensee of child care facility required to ensure training of employees who have direct contact with children; regulations.**

1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the facility;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and

(h) Such other matters as required by the Board.

2. The Board shall adopt regulations necessary to carry out the provisions of this section.

(Added to NRS by 2007, 1191)

**NAC 432A.280 Plan for emergencies; drills; posting of plans; daily sign-in sheets; fire safety; maintenance and availability of reports.<sup>1</sup> (NRS 432A.077, 432A.180)**

1. Each licensee shall develop an appropriate plan to ensure that the staff of his facility is prepared to respond in an emergency, including, without limitation, a fire or natural disaster.

3. The licensee of a facility shall hold:

- (a) A fire drill at least once every month; and
- (b) A drill for natural disasters at least once every 3 months.

4. Appropriate plans for removing the staff and children of a facility to a shelter within a building of the facility and for the evacuation of the facility in case of emergency must be conspicuously posted in a public place in the facility.

[Bd. for Child Care, Child Care Facilities Reg. § 15.1, eff. 2-28-80]—(NAC A 12-19-89; 11-1-94; R203-97, 4-1-98)

**NAC 432A.308 Completion by caretaker of program for recognition of signs and symptoms of illness and administration of first aid.<sup>1</sup> (NRS 432A.077)**

1. Whenever a child care facility is in operation, at least one of the caretakers on duty must have completed a program for the recognition of signs and symptoms of illness and the administration of first aid.

(Added to NAC by Bd. for Child Care, eff. 6-5-84; A by R203-03, 7-1-2004)

**NAC 432A.310 Staff: Personal health.<sup>1</sup> (NRS 432A.077)**

1. Every member of the staff of a facility, including a volunteer, shall present to the director of the facility, to be placed in the employee's file, written evidence that the employee is free from communicable tuberculosis. The evidence must be in the form of a report that states that the employee is free from active tuberculosis as required pursuant to subsection 2 or 3.

2. Before a person, including a person who has received a bacillus Calmette-Guerin (BCG) vaccination, begins employment at a facility, he must have submitted to a:

- (a) Mantoux tuberculin skin test; or
- (b) Chest radiograph and examination by a provider of health care who is authorized to diagnose active tuberculosis,

↪ within the 12 months immediately preceding the first day of employment at the facility.

3. Every member of the staff of a facility, including a volunteer, shall submit to:

- (a) A Mantoux tuberculin skin test; or
- (b) An examination by a provider of health care who is authorized to diagnose active tuberculosis,

↪ at least once every 24 months after the date the skin test or chest radiograph and examination were conducted pursuant to subsection 2.

[Bd. for Child Care, Child Care Facilities Reg. § 13.1, eff. 2-28-80; A 2-5-82; § 13.2, eff. 2-28-80; A 3-17-82; § 13.3, eff. 3-17-82]—(NAC A 12-17-87; 3-11-92; R072-98, 8-3-98)

**NAC 432A.322 Certification in administration of cardiopulmonary resuscitation.<sup>1</sup> (NRS 432A.077)**

1. Each person who is employed in a child care facility, other than in an accommodation facility, shall:

(a) Except as otherwise provided in subsection 2 and NAC 432A.560 and 432A.570, obtain certification in the administration of cardiopulmonary resuscitation within 90 days after the person commences his employment in the facility; and

(b) Maintain current certification in the administration of cardiopulmonary resuscitation.

2. A person is not required to obtain the certification required pursuant to subsection 1 if, on the date that he commences his employment in the facility, he is certified in the administration of cardiopulmonary resuscitation and that certification satisfies the requirements set forth in this section.

(Added to NAC by Bd. for Child Care, eff. 7-1-2004)

**NAC 432A.323 Initial courses of training in child care.<sup>1</sup> (NRS 432A.077)**

1. Except as otherwise provided in subsection 3, within 90 days after commencing his employment in a child care facility, each person who is employed in a child care facility, other than in an accommodation facility or a facility that provides care for ill children, shall complete at least 9 hours of training which must include:

(a) Training received for the purposes of obtaining certification in the administration of cardiopulmonary resuscitation as required pursuant to NAC 432A.322; and

(b) Training concerning:

- (1) The administration of first aid;
- (2) The recognition of signs and symptoms of illness;
- (3) The recognition of child abuse and neglect; and
- (4) The reporting requirements relating to child abuse and neglect.

(Added to NAC by Bd. for Child Care, eff. 8-31-84; A 5-14-90; 3-11-92; R203-97, 4-1-98; R203-03, 7-1-2004)

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# Appendix B

## Audit Methodology

To gain an understanding of the Bureau of Services for Child Care (Bureau), we interviewed staff and reviewed statutes and regulations. We also reviewed financial information, budgets, legislative committee minutes, and other information describing activities of the Bureau. Further, we documented and assessed internal controls over licensing, inspecting, and investigating complaints for child care facilities.

To determine if the inspection process ensures child care facilities meet health and safety standards, we judgmentally selected 50 facilities. Judgment was based on facilities from each of the three regional offices and facilities assigned to different surveyors. For each facility selected, we reviewed inspection files to verify inspections were timely, follow-up was timely for violations noted in the inspection report, and health and fire inspections were performed as required. For each facility employee and volunteer, we verified requirements were met for criminal background checks, child abuse and neglect checks, tuberculosis (TB) tests, CPR and first aid training, and continuing education.

To determine if the inspection process includes methods to monitor facility employees for compliance with health and safety requirements, we identified new employees at the 50 facilities previously tested. To identify new employees, we compared the facility's employee list from the two most recent annual inspections. For each new employee identified, we verified TB tests were timely by comparing the hire date to the TB test date. We also selected 20 new employees and verified the child abuse and neglect check was timely.

To determine if the complaint investigation process ensures child care facilities meet health and safety standards, we judgmentally selected 50 facility complaint files. Judgment was based on a

proportionate amount of facilities from each of the three regional offices. For each facility, we selected the most recent complaint within our audit scope. For each complaint selected, we verified the complaint information was accurately entered into the manual log and complaint database. Next, we documented key dates to determine if the complaint investigation was initiated and completed timely. We also verified each complaint was properly reviewed. For each substantiated complaint, we calculated the number of days to correct the violation to determine if the violation was resolved timely.

To evaluate if management reports had sufficient information to oversee inspections and complaints, we determined if management reports were reliable and useful. To determine reliability, we performed two tests. First, we randomly selected 50 inspection dates from facility inspection logs. For each inspection date selected, we traced to the applicable monthly report and verified it was properly recorded in the report. Second, we selected the 50 complaints tested above and verified complaint information was included in the applicable monthly report. To determine if management reports were useful, we analyzed the data included in the reports and verified information necessary to monitor compliance with key health and safety requirements was included.

Our audit work was conducted from November 2010 to June 2011. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Administrator of the Nevada State Health Division. On September 8, 2011, 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 C which begins on page 18.

Contributors to this report included:

Dennis Klenczar, CPA  
Deputy Legislative Auditor

Richard Neil, CPA  
Audit Supervisor

Roland Erickson  
Deputy Legislative Auditor



# Appendix C

## Response From the Health Division

BRIAN SANDOVAL  
Governor

MICHAEL J. WILLDEN  
Director



RICHARD WHITLEY, MS  
Administrator

TRACEY D. GREEN, MD  
State Health Officer

STATE OF NEVADA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**HEALTH DIVISION**  
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

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September 19, 2011

Paul V. Townsend, CPA  
Legislative Auditor  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, NV 89701-4747

Dear Mr. Townsend:

The Nevada State Health Division (NSHD) has reviewed the audit recommendations provided to us on September 8, 2011. The NSHD is in agreement with all recommendations and have included our high level response knowing that we will be developing a corrective action plan within the next 3 months.

We are appreciative of the professional management of this audit and review of the program's business practices. The recommendations will assist us in better serving all Nevadans.

***Recommendation 1: Develop policies and procedures to help ensure Bureau inspections are performed timely and child care facilities take corrective action when necessary.***

The finding is not disputed. A written policy will be completed to assure the timely inspection of facilities and to ensure facilities take corrective action when such action is needed.

***Recommendation 2: Revise management reports to include information that helps ensure timely Bureau inspections and follow-up on issues requiring corrective action.***

The finding is not disputed. The managers' reports will include information that helps ensure timely Bureau inspections and follow-up items requiring corrective action.

***Recommendation 3: Develop policies and procedures for monitoring child care facilities to help ensure fire and health inspections are performed timely.***

The finding is not disputed. A written policy and procedure will be completed to describe the monitoring of child care facilities that will help ensure fire and health inspections are performed timely.

Public Health Working for a Safer and Healthier Nevada

Page Two  
September 19, 2011

***Recommendation 4: Revise management reports to include information helpful in monitoring the timeliness of health and fire inspections.***

The finding is not disputed. The managers' reports will include a column indicating when fire and health inspections were requested and when a follow-up request was made. There will also be an additional column indicating when the fire and health inspections were completed.

***Recommendation 5: Develop procedures to help ensure employees at child care facilities have timely child abuse and neglect checks.***

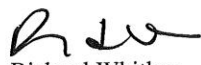
The finding is not disputed. A written policy and procedure will be completed to describe the procedures of child abuse and neglect checks and completion of those in a timely manner. In addition, NRS 432A.170 will be reviewed for possible revision to ensure that facilities bear the appropriate burden for ensuring checks are completed before allowing employees to work in a respective facility.

***Recommendation 6: Revise inspection procedures to detect employees at child care facilities that have not had tuberculosis tests before working with children, or whose tests have expired.***

The finding is not disputed. A written policy and procedure will be completed to describe the procedures that child care licensing will take to ensure tuberculosis tests have been completed before an employee begins working and after the tests have expired. In addition, NAC 432A.310 will be reviewed for possible revision to ensure that facilities bear the appropriate burden for ensuring checks are completed before allowing employees to work in a respective facility.

Please find attached our accepted checklist from your audit findings. In closing, please know that Child Care Licensing strives to ensure its practices are carried out in accordance with applicable state laws, regulations, policies and procedures. The results of this audit and recommendations are taken seriously and will be implemented as stated above.

Respectfully,



Richard Whitley  
Administrator

RW:MMW/jmk

cc: Michael J. Willden, Director, DHHS  
Marla McDade Williams, Deputy Administrator, NSHD  
Wendy Simons, Bureau Chief, Health Care Quality and Compliance, NSHD  
Melissa Faul, Manager, Child Care Licensing

## Health Division's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Develop policies and procedures to help ensure Bureau inspections are performed timely and child care facilities take corrective action when necessary.....	<u>    X    </u>	<u>          </u>
2. Revise management reports to include information that helps ensure timely Bureau inspections and follow-up on issues requiring corrective action .....	<u>    X    </u>	<u>          </u>
3. Develop policies and procedures for monitoring child care facilities to help ensure fire and health inspections are performed timely.....	<u>    X    </u>	<u>          </u>
4. Revise management reports to include information helpful in monitoring the timeliness of health and fire inspections .....	<u>    X    </u>	<u>          </u>
5. Develop procedures to help ensure employees at child care facilities have timely child abuse and neglect checks .....	<u>    X    </u>	<u>          </u>
6. Revise inspection procedures to detect employees at child care facilities that have not had tuberculosis tests before working with children, or whose tests have expired .....	<u>    X    </u>	<u>          </u>
TOTALS	<u>    6    </u>	<u>    0    </u>