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We have completed an audit of the Health Division's Inspection Programs. This audit is part of 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. The results of our audit, including findings, conclusions, recommendations, and the Division's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Health Division for their assistance during the audit.

Respectfully presented,

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

Paul V. Townsend, CPA
Legislative Auditor

October 13, 2009
Carson City, Nevada

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH DIVISION - INSPECTION PROGRAMS

AUDIT REPORT

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EXECUTIVE SUMMARY

DEPARTMENT OF HEALTH AND HUMAN SERVICES HEALTH DIVISION - INSPECTION PROGRAMS

Background

The Health Division promotes and protects the health of all Nevadans and visitors to the State through its leadership in public health and enforcement of laws and regulations pertaining to public health. To fulfill its mission, the Division is guided by the State Board of Health consisting of seven members appointed by the Governor. The Board has responsibility in all non-administrative health matters including establishing regulations and setting fees for licensing, registering, certifying, permitting, and inspecting facilities regulated by the Division.

The Bureau of Health Care Quality and Compliance includes the Licensure and Certification Program (LCP) and Radiological Health Program (RHP). The LCP licenses and inspects health care facilities and medical laboratories. The RHP licenses and inspects facilities using radioactive materials, primarily used for medical or industrial purposes. RHP also certifies mammography machines, registers x-ray machines, and inspects the machines. Both the LCP and RHP conduct inspections statewide.

The Environmental Health Services (EHS) program permits and inspects food establishments and school kitchen facilities. EHS performs inspections in 14 Nevada counties (excluding Clark, Washoe, and Carson City) and state facilities such as universities and prisons.

In fiscal year 2008, LCP reported inspecting 1,230 health care facilities and 193 medical laboratories. LCP also responded to 1,167 complaints. RHP reported inspecting 86 radioactive material licensees, 66 mammography machines, and 1,400 x-ray machines. The EHS reported inspecting 1,862 food establishments. In fiscal year 2008 the three inspection programs had 124 positions and expenditures of about \$11.6 million.

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Purpose

The purpose of this audit was to (1) determine if food establishments, school kitchens, health care, and other facilities were inspected and violations corrected timely, and (2) evaluate performance measures including the reliability of reported results. Our audit focused on entities subject to division inspections as of November 2008, and fiscal year 2008 performance measures and results.

Results in Brief

The Health Division has not inspected facilities in accordance with requirements established in laws, regulations, and other guidelines. For example, 38% of food establishments we tested were not inspected in fiscal year 2008 as required by statute. We also found 56% of health care facilities tested were not inspected timely. In addition, the Division did not always follow up timely to ensure violations found during inspections were corrected. These problems were caused by the Division's lack of controls, including systems to track inspections and violations, management information to assist managers in supervising inspection activities, and written policies and procedures to guide staff. Additionally, difficulties in filling vacant positions contributed to problems with timely inspections.

The Division needs to improve the reliability of its performance measures related to inspections. Specifically, the actual results for several measures in the latest Executive Budget were not reliable because the agency could not provide documentation supporting reported numbers. In addition, the numbers reported in the Budget were different than those later provided to us. Finally, some performance measures should be revised to provide more meaningful information for management and other decision-

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makers for evaluating the effectiveness of the Division's inspection activities.

Principal Findings

- The Division's Environmental Health Services (EHS) did not inspect all food establishments annually as required by statute. We reviewed 100 food establishment permit files to determine if inspections were performed annually. Based on our review of agency files, 40% of all required inspections were not done during fiscal years 2006, 2007, and 2008. In some cases, food establishments were not inspected for several years. (page 11)
- EHS did not inspect all school kitchens at least twice each school year (once each semester) as required. We selected a sample of 75 school kitchens and found 32% of all required inspections were not done during fiscal years 2006, 2007, and 2008. Furthermore, 57 of 75 (76%) school inspection files reviewed were missing at least one inspection, and 37 of 75 (49%) files were missing at least two inspections consecutively. In these cases school kitchens were not inspected for more than a year. (page 13)
- The Division's Licensure and Certification Program (LCP) did not inspect health care facilities timely. We randomly selected 100 health care facilities and found that 56% of required inspections were not done timely. Our sample included 41 facilities subject to a 3-year inspection frequency. For these 41 facilities, we found 37 of 59 (63%) inspections reviewed were not done timely. On average, these 37 inspections were done 3.1 years late. (page 14)
- LCP did not always investigate and resolve complaints timely. We found 13 of 35 (37%) complaints reviewed from fiscal year 2008 were not

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investigated timely (although all seven immediate jeopardy complaints were investigated timely). In addition, after completing the investigation, LCP did not timely provide the facility with the results found during the investigation in 26 of 35 (74%) complaints reviewed. Therefore, it may have taken longer than necessary to correct violations found during complaint investigations. (page 16)

- Although the Division's Radiological Health Program (RHP) inspected radioactive material users and mammography equipment timely, x-ray machines were not always inspected timely. We randomly selected 50 x-ray machines for review and found 32 (64%) were not inspected timely. These included 18 machines where the initial inspection was not timely and 14 where the periodic inspection was not timely. (page 19)
- The Division did not always follow up timely to ensure violations found during food establishment inspections were corrected. In many cases a follow-up inspection or contact did not occur until the next annual inspection. In other cases it was unclear if violations were corrected. From our sample of 100 food establishments tested for inspection timeliness, we identified 31 inspections with critical violations per EHS guidelines. Twenty-five of 31 (81%) inspections lacked documentation showing EHS staff followed up with the food establishment timely to ensure violations were corrected. Therefore, violations found during these inspections may not have been corrected. (page 20)
- Violations found during health care facility inspections were not always followed up on timely. In some cases violations were not followed up on for several months. In other cases staff could not provide documentation showing that violations had been corrected. From our sample of 100 health care facilities discussed previously, we identified 25 with

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violations. Twenty of 25 lacked documentation showing violations found during inspections in 2008 were corrected timely. Inadequate follow up has been an ongoing problem over several years. (page 22)

- Several performance measure results reported for fiscal year 2008 were incomplete. Results were incomplete in some cases because partial year rather than year-end numbers were reported. In other cases results could not be verified because supporting documentation was not maintained. Therefore, decisions affecting division programs could be made based on incomplete and unreliable information. (page 29)
- The Division can make further improvements to performance measures for its inspection programs. Currently, most performance measures track the number of inspections done, rather than the percentage of required inspections completed. Tracking the percent of required inspections done would better measure program effectiveness. Additionally, division inspection programs would benefit by tracking whether violations found during inspections were corrected timely. (page 32)

Recommendations

This report contains 20 recommendations to improve inspection programs and performance measures. Seven recommendations address ensuring all food establishments are inspected timely, violations corrected timely, and files adequately document inspection and follow up work. Seven recommendations address health care facility inspections and complaints including: conducting inspections and complaint investigations within required time frames, notifying facilities of violations found during inspections and performing complaint investigations timely, ensuring violations are corrected, and files adequately documented.

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Two recommendations address inspecting x-ray machines timely. Finally, four recommendations address improving the accuracy and quality of performance measures related to inspection activities. (page 45)

Agency Response

The Division, in response to the audit report, accepted the 20 recommendations. (page 40)

Introduction

Background

The Health Division promotes and protects the health of all Nevadans and visitors to the State through its leadership in public health and enforcement of laws and regulations pertaining to public health. To fulfill its mission, the Division is guided by the State Board of Health consisting of seven members appointed by the Governor. The Board has responsibility in all non-administrative health matters including establishing regulations and setting fees for licensing, registering, certifying, permitting, and inspecting facilities regulated by the Division.

The Division includes the Office of Administration and five bureaus. The mission of the Office of Administration is to enforce all laws and regulations pertaining to public health and provide support in fiscal and administrative matters. Division bureaus include:

- **Child, Family, and Community Wellness** – provides planning, education, and support for programs addressing maternal and child health including the WIC and child vaccine programs, children with special needs, oral health, and chronic (e.g., cancer, diabetes) and communicable diseases.
- **Early Intervention Services** – identifies infants and toddlers who are at risk for or who have developmental delays or disabilities, and provides services for the child and family.
- **Health, Statistics, Planning, and Emergency Response** – collects and analyzes data on the health status of Nevadans; examines health care availability, cost, and quality; registers and maintains birth and death records; and maintains registries for cancer, trauma, and sentinel events. The Bureau also establishes standards for ambulances and emergency medical responders, and works with local communities to plan for public health emergencies.
- **Health Care Quality and Compliance** – includes the licensure and certification, and radiological health programs that regulate and inspect health care facilities, radioactive material users, and radiation-producing machines.
- **Frontier & Rural Public Health Services** – provides community health nursing and environmental health services in the 14 rural counties (excluding Clark, Washoe, and Carson City). Community nurses provide immunizations, screenings and tests for diseases, and health education. Environmental health issues permits and inspects food establishments, schools, child care facilities, RV parks, private sewage systems, septic pumps, and landfills.

In fiscal year 2008 the Division had 572 authorized full-time equivalent positions and expenditures of about \$142 million. The Division is funded primarily with federal funds and fees charged to regulated facilities. Funding was about 51% in federal funds, 33% other sources (primarily fees), and 16% in general fund appropriations.

Inspection Programs

The Division's bureaus of Health Care Quality and Compliance and Frontier & Rural Public Health Services conduct periodic inspections of health care facilities, food establishments, and other organizations. The Bureau of Health Care Quality and Compliance includes the Licensure and Certification Program (LCP) and Radiological Health Program (RHP). The LCP licenses and inspects health care facilities (e.g., hospitals, ambulatory surgical centers, nursing homes, drug and alcohol treatment facilities), and medical laboratories. Depending upon the type of facility, inspection frequency requirements range from 1 to 6 years.

The RHP licenses and inspects facilities using radioactive materials, primarily used for medical or industrial purposes. RHP also certifies mammography machines, registers x-ray machines, and inspects the machines. Depending upon the type of radioactive material or machine, inspection frequency requirements range from 1 to 5 years. Both the LCP and RHP conduct inspections statewide.

Frontier & Rural Public Health Services includes the Environmental Health Services (EHS) program that primarily permits and inspects food establishments (e.g., restaurants, convenience stores, bars) and school kitchen facilities. Statute requires these facilities be inspected annually. EHS performs inspections in 14 Nevada counties (excluding Clark, Washoe, and Carson City) and all state facilities (e.g., universities, prisons). Clark and Washoe counties and Carson City have their own health agencies that perform food establishment and school kitchen inspections.

Inspections, Staffing, and Expenditures

In fiscal year 2008, LCP reported inspecting 1,230 health care facilities and 193 medical laboratories. LCP also responded to 1,167 complaints. RHP reported inspecting 86 radioactive material licensees, 66 mammography machines, and 1,400 x-ray machines. The EHS reported inspecting 1,862 food establishments.

In fiscal year 2008 the three inspection programs had 124 positions and expenditures of about \$11.6 million. Exhibit 1 shows staffing and expenditures by program.

Exhibit 1

**Health Division Inspection Staffing and Expenditures
Fiscal Year 2008**

Program	Budgeted Positions	Actual Expenditures
Licensure and Certification	70	\$ 7,245,371
Radiological Health	23	\$ 2,269,603
Environmental Health	31	\$ 2,051,123
Totals	124	\$11,566,097

Source: State budget and accounting records.

The Radiological Health and Licensure and Certification programs are funded primarily with annual fees paid by licensees and registrants, and receive no general fund appropriation. The Environment Health Services received about 42% of its funding from the general fund in fiscal year 2008, with remaining funding primarily from annual permit fees paid by food establishments.

Hepatitis C Investigation

In early January 2008 the Southern Nevada Health District (SNHD) became aware of two acute cases of hepatitis C that did not have risk factors typically associated with the disease. A common factor was identified; both cases received endoscopy procedures in a single ambulatory surgery center (ASC). An investigation was begun which included staff from the Health Division, SNHD, and the federal Centers for Disease Control and Prevention. After completing the initial investigation, the Division's Licensure and Certification Program issued a statement of deficiencies to the ASC in February 2008 which identified problems related to injection safety, reuse of disposable equipment, and improper disinfectant practices.

The Division inspected all ASCs between January and March 2008. These inspections found that 7 of 48 ASCs inspected had major control deficiencies. The Division also found ongoing disinfection and sterilization problems in some ASCs and

other facilities. The Division issued several directives to health care facilities addressing disinfection, sterilization, and injection practices. In addition, the Division requested an additional 12 positions in its budget request for fiscal years 2010 and 2011, in part to increase the inspection frequency of ASCs and other health care facilities. These positions were approved by the Legislature.

The 2009 Legislature also passed and the Governor signed Assembly Bill 123, which requires the Division to inspect all ASC's and certain physician offices annually. Legislation also required ASCs be accredited by a national accrediting organization approved by the State Board of Health. In addition, this bill requires physician offices and related facilities obtain a permit and national accreditation before providing certain procedures involving anesthesia and sedation, and the Division to annually inspect these offices and facilities.

Scope and Objectives

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 218.737 to 218.893. The Legislative Auditor conduct audits as part of the Legislature's oversight responsibility of 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 Health Division's inspection processes and focused on food establishments, health care facilities, and other organizations subject to Division inspection programs as of November 2008. It also included a review of fiscal year 2008 performance measures and results. Our objectives were to:

- Determine if food establishments, school kitchens, health care, and other facilities were inspected and violations corrected timely, and
- Evaluate performance measures including the reliability of reported results.

Findings and Recommendations

Inspection Process Has Weaknesses

The Health Division has not inspected facilities in accordance with requirements established in laws, regulations, and other guidelines. For example, 38% of food establishments we tested were not inspected in fiscal year 2008 as required by statute. We also found 56% of health care facilities tested were not inspected timely. In addition, the Division did not always follow up timely to ensure violations found during inspections were corrected. These problems were caused by the Division's lack of controls, including systems to track inspections and violations, management information to assist managers in supervising inspection activities, and written policies and procedures to guide staff. Additionally, difficulties in filling vacant positions contributed to problems with timely inspections.

Inspections Not Performed Timely

The Division did not always perform required inspections timely. In some cases inspections were several years overdue. These include inspections of food establishments, school kitchens, health care facilities, and x-ray machines. Additionally, complaints on health care facilities were not always investigated or resolved timely. As a result, the public is at increased risk of exposure to illness, disease, or unsafe conditions.

Food Establishment Inspections

The Division's Environmental Health Services (EHS) did not inspect all food establishments annually as required by statute. In some cases food establishments had not been inspected for many years. Food establishments include restaurants, bars, grocery stores, convenience stores, bakeries, ice cream parlors, and cafeterias. We reviewed 100 food establishment permit files to determine if inspections were performed annually. Based on our review of agency files, 40% of all required inspections were not done during fiscal years 2006, 2007, and 2008. Exhibit 2 shows for the 100 food

establishments reviewed, the number of inspections required, number not done timely, and percent not timely.

Exhibit 2

**Food Establishment Inspections Not Timely
Fiscal Years 2006 – 2008**

Fiscal Year	Inspections Required	Inspections Not Timely	Percent Not Timely
2006	80 ⁽¹⁾	36	45%
2007	94 ⁽¹⁾	36	38%
2008	100	38	38%
Totals	274	110	40%

Source: Auditor analysis of division food establishment inspection reports.

⁽¹⁾ Fewer required inspections in 2006 and 2007 because newly permitted establishments were not yet subject to an inspection.

In some cases, food establishments were not inspected for several years. From our sample of 100 establishments, 63 were not inspected for at least 1 of the 3 fiscal years reviewed. Twenty-four of the 63 (38%) establishments had not been inspected for at least 3 years. Exhibit 3 shows the length of time between inspections for the food establishments not inspected timely.

Exhibit 3

**Length of Time Between Inspections
Food Establishments Not Inspected Timely**

Number of Years Between Inspections	Number of Establishments
1 – 2.9 years	39
3 – 5.9 years	17
6 years or more	7
Total	63

Source: Auditor analysis of division food establishment inspection reports.

The EHS did not comply with statute and guidelines addressing inspecting food establishments timely. NRS 446.885 requires the health authority (Health Division, local health districts) to inspect all food establishments at least once each year and make additional inspections when necessary to enforce the provisions of chapter 446.

In addition to statutory requirements, EHS developed a written protocol to guide staff when inspecting high risk food establishments. High risk includes food establishments that extensively handle raw ingredients and preparation involves cooking, cooling, and reheating of potentially hazardous foods. High risk food establishments typically include most restaurants, fast food establishments, grocery store delis, school kitchens, and nursing home kitchens. Low risk establishments generally include bars serving only beverages, convenience stores, prepackaged food retailers, and the non-deli/butcher/bakery areas in grocery stores.

The protocol states that inspections of high risk establishments are a priority over low risk. However, the protocol is not always followed. From our sample of 100 food establishment files, we found 18 high risk establishments that were not inspected annually during fiscal years 2006, 2007, and 2008, even though 7 low risk establishments were inspected annually. Complying with the protocol would help ensure food establishments that may pose the highest risk to public health are inspected annually.

School Kitchen Inspections

The EHS did not inspect all school kitchens at least twice each school year (once each semester) as required. We selected a sample of 75 school kitchens and found 32% of all required inspections were not done during fiscal years 2006, 2007, and 2008.

Exhibit 4 shows for the 75 school kitchen files reviewed, the number of inspections required, number not done timely, and percent not timely.

Exhibit 4

**School Kitchen Inspections Not Timely
Fiscal Years 2006 – 2008**

Fiscal Year	Inspections Required	Inspections Not Timely	Percent Not Timely
2006	142	53	37%
2007	149	43	29%
2008	150	44	29%
Totals	441	140	32%

Source: Auditor analysis of division school kitchen inspection reports.

In addition, most school kitchen files were missing at least one inspection during the 3 years reviewed. Specifically, 57 of 75 (76%) school inspection files reviewed were missing at least one inspection, and 37 of 75 (49%) files were missing at least two inspections consecutively. In these cases school kitchens were not inspected for more than a year.

Federal Public Law 108-265 requires that kitchen facilities for all schools participating in the National School Lunch Program or School Breakfast Program be inspected twice each year. EHS staff have been instructed to inspect school kitchens once each semester. Additionally, the EHS inspection protocol discussed previously identifies school kitchens as high risk food establishments that should be a priority.

Health Care Facility Inspections

The Division’s Licensure and Certification Program (LCP) did not inspect health care facilities timely. These included inspections of hospitals, ambulatory surgical centers, facilities for skilled nursing (nursing homes), residential facilities for groups (group homes), and other facilities providing health care services to Nevadans.¹ We randomly selected 100 health care facilities and found that 56% of required inspections were not done timely. Exhibit 5 shows for the 100 facilities reviewed, the number and percentage not completed timely for the most recent and immediate prior inspections.

Exhibit 5

Number and Percent of Health Care Facility Inspections Not Completed Timely

	Number Reviewed	Number Not Timely	Percent Not Timely
Most Recent Inspection	100	65	65%
Prior Inspection	67	28	42%
Totals	167	93	56%

Source: Auditor analysis of inspection files documentation and information provided by LCP staff.

In some cases inspections were overdue by several years. For example, 6 facilities in our sample were inspected more than 5 years late. Standards for inspecting

¹ See Appendix B for facility definitions.

health care facilities range from 1 to 6 years based on the type of facility. These standards are found in statute, regulation, policy developed by LCP staff, and the federal Centers for Medicare and Medicaid Services requirements.

Our sample of 100 facilities included 52 subject to annual inspections. These include nursing homes, adult group homes for the elderly and persons with Alzheimer’s, and intermediate care facilities for the mentally retarded. For these 52 facilities, we found 53 of 100 inspections (most recent and immediate prior inspections) were not done timely during 2007 and 2008. On average these 53 inspections were performed 85 days or nearly 3 months late. Exhibit 6 illustrates this information along with the average number of days inspections were completed late and the range in the number of days inspections were late.

Exhibit 6

**Health Care Facilities Not Inspected Timely in 2007 and 2008
Facilities Subject to a 1-Year Inspection Frequency**

Year	Total Inspections Reviewed	Inspections Not Timely	Average Days Late	Range in Days Late
2007	48	19	72	5 - 341
2008	52	34	93	4 - 412
Totals	100	53	85	

Source: Auditor analysis of inspection files documentation and information provided by LCP staff.

Our sample also included 41 facilities subject to a 3-year inspection frequency. These include facilities such as ambulatory surgical centers, facilities for the treatment of abuse of alcohol or drugs, and homes for individual residential care (1 – 2 persons). For these 41 facilities, we found 37 of 59 (63%) inspections reviewed were not done timely. On average these 37 inspections were done 3.1 years late. The 59 inspections performed at these 41 facilities included the most recent and the prior inspection. Exhibit 7 illustrates this information along with the average number of days inspections were completed late and the range in number of days inspections were late.

**Health Care Facilities Not Inspected Timely
Facilities Subject to a 3-Year Inspection Frequency**

	Total Inspections Reviewed	Inspections Not Timely	Average Days or Years Late	Range in Days or Years Late
Most Recent Inspection	41	28	3.4 Years	97 days to 13.1 years
Prior Inspection	18	9	2.0 Years	8 days to 4.3 years
Totals	59	37	3.1 Years	

Source: Auditor analysis of inspection files documentation and information provided by LCP staff.

Health care facilities not being inspected timely was a problem noted in our last Health Division audit in 1999. That audit identified similar inspection timeliness issues found in this report.

Health Care Facility Complaints

Licensure and Certification did not always investigate and resolve complaints timely. We found 13 of 35 (37%) complaints reviewed from fiscal year 2008 were not investigated timely. In addition, after completing the investigation, LCP did not timely provide the facility with the results found during the investigation in 26 of 35 (74%) of complaints reviewed. Finally, LCP did not always send complainants a written response indicating the results from the complaint investigation.

The LCP generally follows federal requirements for classifying and prioritizing complaints based on risk to the patient. The five complaint categories and time frames to investigate include:

- Immediate Jeopardy – a situation where a provider’s noncompliance has caused or is likely to cause serious injury, harm, impairment, or death. These complaints generally must be investigated within 2 working days of receipt.
- Non-Immediate Jeopardy-High – noncompliance may have caused harm that negatively impacts an individual’s mental, physical, and/or psychosocial status and is of such consequence to a person’s well-being that a rapid response is indicated. An investigation should be initiated within 10 working days of receipt.
- Non-Immediate Jeopardy-Medium – noncompliance has caused or may cause harm that is of limited consequence and does not significantly impair an individual’s mental, physical, and/or psychosocial status to function. An investigation should be initiated within 45 calendar days of receipt.

- Non-Immediate Jeopardy-Low – noncompliance may have caused physical, mental, and/or psychosocial discomfort that does not constitute injury or damage. An on-site investigation may not be scheduled, but the allegation should be reviewed at the next periodic inspection.
- Administrative Review/Off-site Investigation – on-site investigation not needed. Additional information may be collected or reviewed at the next inspection.

Our sample included the three most serious categories of complaints: immediate jeopardy, non-immediate jeopardy-high, and medium. Exhibit 8 shows the 35 complaints reviewed by the type and number and percent not investigated timely.

Exhibit 8

**Health Care Facilities
Timeliness of Complaint Investigations
Fiscal Year 2008**

Complaint Category	Number Reviewed	Not Timely	Percent Not Timely
Immediate Jeopardy	7	0	0%
Non-Immediate Jeopardy - High	14	6	43%
Non-Immediate Jeopardy - Medium	14	7	50%
Totals	35	13	37%

Source: Auditor review of LCP complaint files.

Exhibit 8 shows 13 of 35 (37%) complaints reviewed were not investigated timely. However, all immediate jeopardy (most serious) complaints were investigated timely. The Exhibit shows 6 of 14 non-immediate jeopardy high complaints were not investigated timely. On average it took 85 working days to begin the investigation of these 6 complaints. The investigation should have begun within 10 working days. Seven of 14 non-immediate jeopardy medium complaints were not investigated timely. On average it took 265 calendar days to begin the investigation of these 7 complaints. The investigation should have begun within 45 calendar days. The timeliness of LCP complaint investigations was also a problem in our last Health Division audit. After the last audit, the Division implemented procedures to improve the timeliness of investigations. However, our current audit found there was inadequate supervision to ensure the procedures were followed.

Furthermore, after completing the complaint investigation LCP did not always provide facilities timely with a letter indicating the results of the investigation. The Division refers to this letter as a statement of deficiencies (SOD). Division policy requires LCP send a SOD to the facility within 10 working days after completing the investigation. Exhibit 9 shows for the 35 complaints reviewed the number of SODs not sent timely by complaint type.

Exhibit 9

**Complaint Investigations
Statement of Deficiencies (SOD) Not Sent Timely**

Complaint Type	SOD Sent Timely	SOD Not Sent Timely	Totals	Average Working Days to Send SOD
Immediate Jeopardy	2	5	7	33
Non-Immediate Jeopardy - High	4	10	14	20
Non-Immediate Jeopardy - Medium	3	11	14	33
Totals	9	26	35	28

Source: Auditor review of LCP complaint files.

Exhibit 9 shows the SOD was not sent timely in 26 of 35 (74%) complaints reviewed. On average it took 28 working days to send the SOD after the investigation was completed. Therefore, it may have taken longer than necessary to correct violations found during complaint investigations.

Finally, although currently not required, the LCP in many cases will provide a complainant with the results from an investigation including if the complaint was substantiated and action taken to correct the problem. LCP will send a response if the complainant provides a name and address. In some cases the complainant prefers to remain anonymous or does not request a response.

Twenty-four of 35 complaints reviewed included sufficient information to provide the complainant with a response. LCP provided a response in 19 of 24 cases. The process for handling complainant responses is not currently formalized in policies and procedures. To help ensure responses to complainants are handled consistently, LCP should develop policy and procedures.

X-ray Machine Inspections

Although our testing indicated the Radiological Health Program (RHP) inspected radioactive material users² and mammography equipment timely, x-ray machines were not always inspected timely. We randomly selected 50 x-ray machines and found 32 (64%) were not inspected timely. These included 18 machines where the initial inspection was not timely and 14 where the periodic inspection was not timely.

RHP follows inspection frequency standards established by the Conference of Radiation Control Program Directors, Inc. These standards require that all new x-ray machines be inspected within 1 year of beginning operation and thereafter every 1 to 5 years based on the type of machine. For example, x-ray machines used in hospitals and radiology facilities should be inspected annually, other medical facilities every 2 years, and dental offices every 5 years.

Exhibit 10 shows the number of initial and periodic inspections not done timely, and the range in the number of months or years inspections were late.

Exhibit 10

X-Ray Machine Inspections Not Timely

Inspection Results	Number	Percent of Items Tested	Range in Months or Years Late
No Initial Inspection Performed	13	26%	5 months to 4 years
Initial Inspection Not Timely	5	10%	1 year to 4.8 years
Periodic Inspection Not Timely	14	28%	3 months to 10 years
Subtotals Inspections Not Timely	32	64%	
Timely Inspections	18	36%	
Totals	50	100%	

Source: Auditor analysis of division x-ray inspection reports.

RHP has taken several steps recently to address inspection timeliness. First, the processes used to identify machines due for inspection were revised. Second, two additional staff were assigned to x-ray machine inspections. Third, RHP set a goal to become current on all x-ray machine inspections by the end of calendar year 2009.

² Radioactive materials are used primarily for medical or industrial purposes. For example, medical facilities use radioactive materials to diagnose and treat certain conditions.

Violations Not Corrected Timely

The Division did not always follow up timely to ensure violations found during food establishment and health care facility inspections were corrected. In some cases files lacked documentation indicating violations were corrected before the next periodic inspection, which could occur several years later. In other cases staff could not provide documentation showing violations were corrected. Additionally, the same violations were found on subsequent inspections. These problems result, in part, because the Division did not always provide clear and consistent time frames for correcting problems or provide oversight to ensure follow up was performed.

Food Establishment Inspection Follow Up

Violations found during food establishment inspections were not always followed up on timely. In many cases a follow-up inspection or contact to ensure violations found during inspections were corrected did not occur until the next annual inspection. In other cases files lacked documentation indicating violations were corrected. Additionally, inspection reports typically did not specify time frames to correct violations, which may contribute to violations not corrected timely.

From our sample of 100 food establishments tested for inspection timeliness, we identified 31 inspections with critical violations per EHS guidelines. Twenty-five of these 31 (81%) inspections lacked documentation showing EHS staff followed up with the food establishment timely to ensure violations were corrected. Exhibit 11 shows the average number of days and the range in days between inspections, or from the date of the last inspection until we reviewed the file.

**Food Establishment Inspection Violations
Not Followed Up On Timely**

Action Taken	Number	Average Number of Days	Range in Days or Years Late
No Action on Violations	13	358	172 days to 2.1 years
Late Action on Violations	12	662	193 days to 6.6 years
Subtotals Follow Up Not Timely	25	504	172 days to 6.6 years
Timely Action	6		
Total	31		

Source: Auditor review of division food establishment inspection reports.

Exhibit 11 shows 13 of 31 (42%) inspections were not followed up on by staff at the time we reviewed food establishment files in December 2008. Therefore, violations found during these inspections may not have been corrected.

Examples of critical violations found included food not properly heated, cooled, or refrigerated; food not protected from cross contamination; poor employee hygiene; equipment or utensils not properly sanitized; and inadequate vermin control. Other violations included food stored on the floor; dirty food contact surfaces; dirty shelves, floors, walls, and equipment; food containers not labeled; and employees not wearing gloves when handling food.

The EHS high risk protocol, discussed previously, indicates at the inspectors' discretion follow up inspections should be done to ensure violations are corrected. However, if three or more critical violations were found during the inspection, the protocol indicates a follow-up inspection should be done. We found several inspections with three or more critical violations that lacked documentation showing a follow-up inspection was done.

In addition, inspectors do not always identify time frames to correct violations on inspection reports required by statute. The lack of time frames may be a contributing factor to violations not being corrected timely. NRS 446.895(2) requires the Division to establish in writing a specific and reasonable time for food establishments to correct

violations. However, 19 of 26 (73%) inspection reports reviewed, where violations were not corrected during the inspection, lacked time frames to correct violations.

Providing specific time frames to correct violations on inspection reports has several benefits. First, permit holders have specific deadlines to correct violations. Second, inspectors have deadlines to follow up and ensure violations are corrected. Third, EHS supervisory staff have benchmarks to help assess timeliness of follow up.

Health Care Facility Inspection Follow Up

Deficiencies (violations) found during health care facility inspections were not always followed up on timely. In some cases violations were not followed up on for several months. In other cases staff could not provide documentation showing that violations had been corrected. Ongoing problems with inadequate follow up extended over several years.

From our sample of 100 health care facilities discussed previously, we identified 25 with violations. Twenty of 25 lacked documentation showing violations found during inspections in 2008 were corrected timely. Exhibit 12 shows the number of days it took to correct the violations; including the average number of days it took LCP to provide the facility with the statement of deficiencies (SOD) listing violations, and for the facility to provide a plan of correction (POC) to resolve the violations.

Exhibit 12

**Health Care Facility Violations
Not Followed Up On Timely
2008 Inspections**

Action Taken	Number of Inspections	Average Number of Days For		Total Days	Range in Days
		LCP to Send SOD	Facility to Send POC		
No Action on Violations*	10	268	n/a	268	95 to 454
Untimely Action on Violations	10	112	23	135	40 to 257
Violations Corrected Timely	5	n/a	n/a		
Total	25				

Source: Auditor analysis of division inspection files.
* As of March 31, 2009.

LCP policy requires staff prepare and send a SOD within 10 days after the inspection is completed. NAC 449.9987 requires facilities develop and provide LCP with a plan of correction within 10 days after receiving the SOD. Therefore, inspection violations should be resolved within 20 days after the inspection is completed, excluding mailing time.

Exhibit 12 shows 10 inspections where LCP had not taken action to ensure violations were corrected. In eight cases LCP staff could not provide documentation indicating a SOD had been sent to notify the facility of violations found during the inspection. In the remaining two cases LCP sent the SOD, but could not provide documentation indicating the violations were corrected. In several cases, nearly one year had passed since the violations were found. Examples of violations listed in inspections that we tested included: facility not clean or properly maintained, facility temperature not maintained within required guidelines, and missing information from employee background checks.

Inspection violations not resolved timely was an ongoing problem over several years. For the 25 facilities discussed above, 18 also had inspections in 2007 with inadequate follow up. These included 12 inspections where violations were not resolved timely and 6 where files lacked documentation indicating that violations had been corrected. In addition, violations found during inspections at these facilities in 2005 and 2006 were not always resolved timely.

Inadequate Policies and Procedures

One cause of the problems with the Division's inspection programs is the lack of policies and procedures. All three inspection programs lack adequate guidance to help ensure inspections are done timely and violations corrected. In addition, policies and procedures did not always include a written priority to help ensure facilities with the greatest risk to public health were inspected first. These weaknesses contributed to the Division not inspecting facilities within required time frames, violations not corrected timely, and staff not adequately documenting that problems have been corrected.

Environmental Health Services (EHS)

EHS lacks policies and procedures governing food establishment and school kitchen inspections, and follow up. As a result, inspectors do not receive sufficient guidance to help ensure inspections are performed within required time frames and violations corrected timely on a consistent basis statewide. The lack of policies, procedures, and other written guidance contributed to problems we found with inspections not performed annually, violations not corrected timely, and inadequate file documentation.

EHS has an internal document, the high risk protocol, which provides some guidance when inspecting food establishments. However, the protocol is not specific enough to help ensure inspections are completed timely and violations corrected. For example, the protocol indicates inspectors have broad discretion when deciding whether a follow-up inspection is needed, unless there are three or more critical violations. However, program management indicated one critical violation involving food temperature, food protection, employee hygiene, equipment and utensils, and or other serious violation could result in temporarily closing a food establishment. Both Washoe County and Southern Nevada Health Districts require specific action when a critical violation is found including temporarily suspending a permit to operate or a follow-up inspection within a specific time frame.

EHS should develop policies and procedures governing food establishments, school kitchens, and other activities. The high risk protocol document, along with statutory and regulatory requirements should be incorporated into a policies and procedures manual. In addition, policies and procedures should include an inspection priority based on risk to public health such as high risk food establishments, facilities with critical violations, and those with the same violations on repeat inspections.

Licensure and Certification Program (LCP)

LCP has a policies and procedures manual for inspections and complaints. However, the manual is out-of-date, incomplete, and does not adequately address performing inspections and follow up. Many policies and procedures date back more than 10 years and others are incomplete. For example, regulation requires health care

facilities provide LCP with a plan of correction within 10 days after receiving a statement of deficiencies. Procedures do not indicate what action staff should take if a plan of correction is not received or the plan does not adequately address violations. Policies and procedures governing complaints also need revision and clarification. Program management indicated policies and procedures governing inspections and complaints are currently being revised.

Radiological Health Program (RHP)

Although RHP has policies and procedures for conducting x-ray machine inspections, revisions are needed. Procedures do not adequately address inspection timeliness or follow up. For example, procedures do not specify that inspection reports must include time frames to correct violations. Additionally, procedures addressing selecting facilities for required inspections, follow-up inspections, and management review need updating. During our audit, program management indicated policies and procedures were being revised.

Inspection Programs Lack Management Information

Another cause of the problems with the Division's inspection programs is the lack of information to assist managers with effectively overseeing program activities. Inspection programs in most cases do not generate periodic reports (e.g., monthly, quarterly, annually) including information on the number of inspections completed, number completed timely, or if violations were corrected. Therefore, managers lack sufficient information to effectively monitor inspection activities. The lack of readily available information contributed to inspection timeliness and follow up problems.

Environmental Health Services

EHS does not produce periodic reports on the number of inspections completed, if inspections were completed timely, or violations corrected. Inspectors manually prepare a time and effort report listing work activities including the number of inspections completed. In January 2009, staff began compiling these reports into a monthly inspection report. While this report identifies the number of inspections done monthly by each inspector, it does not identify the number of follow-up inspections, violations found, or if violations were corrected.

EHS is currently in the process of switching from paper inspection reports to electronic reports using laptop computers. Inspection results will be downloaded into a computer database recently acquired. Staff indicated the new database has the capability to produce periodic reports on the number of inspections completed, follow-up inspections performed, violations corrected, and information on other program activities. In May 2009, staff reported about 30% of inspection reports were prepared using laptop computers, with plans for all reports to be prepared electronically within several months.

Licensure and Certification Program

LCP does not typically produce periodic reports on the number of inspections completed, follow up inspections, complaints, and other activities. The Program uses the federal Centers for Medicare and Medicaid Services computer system to track inspection and complaint information. Although the system can produce periodic reports on inspection and complaint investigation activities, LCP generally does not use this function. LCP does generate a quarterly report from the system on the number of inspections and staff time spent performing inspections for the federal government on facilities receiving Medicare or Medicaid funds. These quarterly reports are produced to obtain reimbursement from the federal government for time spent conducting inspections. Staff also produce ad hoc reports as needed. Management indicated staff has been assigned to develop periodic reports.

Radiological Health Program

RHP staff manually compile the number of inspections completed, machines registered, and other information and then tabulate it monthly and annually. However, information on violations and follow-up inspections is not always tracked. Staff use laptop computers to record inspection results. RHP requested and the 2009 Legislature authorized funds for a database to track program activities. When completed, inspection results and other activities will be downloaded into the database, and periodic reports generated on inspections, follow up work, and other activities.

Staffing Issues Have Contributed to Untimely Inspections

Staffing has also been a contributing factor to the Division not performing inspections and follow up timely. Existing EHS positions have not been filled due to

budget cuts and RHP has had difficulty attracting qualified applicants according to agency management. In addition, LCP recently requested additional positions to increase the number and frequency of health care facilities inspections.

EHS has not been able to fill all authorized positions due to budget cuts. EHS is funded with permit fees and general funds. In 2007, the Legislature approved five additional inspector positions to handle increased workload. These positions were not filled when a hiring freeze was ordered in the fall of 2007. Subsequently, funding for the five positions was used to meet budget cuts.

The 2007 Legislature authorized four additional RHP inspector positions to handle increased workload. According to staff, RHP had difficulty attracting qualified applicants, and some of these positions remain unfilled until early 2009.

Finally, the Division requested and the 2009 Legislature approved 12 new LCP positions to increase the number of inspections done, which should help address problems with untimely inspections. LCP also plans to increase the frequency of inspecting some health care facility types. These positions will be funded from reserve funds accumulated from license and other fees paid by health care facilities.

Recommendations

1. Develop policies and procedures to help ensure food establishment and school kitchen inspections are performed timely.
2. Develop periodic reports (e.g., monthly, quarterly, annually) identifying food establishments and school kitchens inspected, due for an inspection, and past due.
3. Revise the written priority for conducting food establishment inspections based on risk to public health.
4. Monitor food establishment inspections to ensure written priority is followed.
5. Develop policies and procedures on food inspection follow up, including specific time frames for food establishments to

correct violations and provisions requiring staff to document violations were corrected.

6. Develop periodic reports that identify violations found during food establishment inspections and track the status of corrective actions until violations are corrected.
7. Develop a review process to help ensure food establishment inspection reports provide specific time frames to correct each violation.
8. Revise policies and procedures addressing the timeliness of health care facility inspections.
9. Develop periodic reports identifying health care facilities that have been inspected, due for an inspection, and past due.
10. Increase supervisory oversight to ensure compliance with policy requiring that a statement of deficiencies is sent within 10 days after the health care facility inspection is completed.
11. Develop policy and procedures addressing actions Licensure and Certification should take when a plan of correction is not received timely.
12. Develop periodic reports that track when health care facility inspections are completed, date the statement of deficiencies is sent to the facility, and date the plan of correction is received to ensure violations noted during inspections are corrected timely.
13. Provide supervisory oversight to ensure health care facility complaint investigations are initiated and statements of deficiencies are sent to facilities within required time frames.
14. Establish policy and procedures requiring complainants be notified of the results of a health care facility complaint investigation.

15. Revise policies and procedures addressing timeliness of x-ray machine inspections and follow up when problems are found.
16. Develop periodic reports identifying x-ray machines inspected, due for an inspection, and past due.

Performance Measures Need Improvement

The Division needs to improve the reliability of its performance measures related to inspections. Specifically, the actual results for several measures in the latest Executive Budget were not reliable because the agency could not provide documentation supporting reported numbers. In addition, the numbers reported in the Budget were different than those later provided to us. Finally, some performance measures should be revised to provide more meaningful information to management and other decision-makers for evaluating the effectiveness of the Division's inspection activities.

Performance Measure Results and Supporting Documentation Incomplete

Several performance measure results reported for fiscal year 2008 were incomplete. Results were incomplete in some cases because partial year rather than year-end numbers were reported. In other cases results could not be verified because supporting documentation was not maintained. Therefore, decisions affecting division programs could be made based on incomplete and unreliable information.

Performance Measure Results Are Unreliable

Several discrepancies exist between performance measure results listed in the 2010 - 2011 Executive Budget and numbers provided during the audit by division staff. These discrepancies were found in fiscal year 2008 results reported by the Radiological Health and Environmental Health programs.

Exhibit 13 compares RHP's performance measure results reported in the Executive Budget for fiscal year 2008 and the numbers we were provided by staff.

**Comparison of RHP Performance Measure Numbers Reported in
Executive Budget to Numbers Provided by RHP Staff
Fiscal Year 2008**

Performance Measure	Reported Numbers	
	Executive Budget	Provided by RHP Staff
Number of licensees (radioactive materials) inspected annually.	82	86
Number of x-ray machines inspected annually.	1,165	1,400
Number of agreement in principal oversight visits to Nevada Test Site and meetings with US Department of Energy.	20	21
Number of emergency response calls received that required technical assistance, annually.	40	43

Source: Auditor review of the Executive Budget and information provided by division staff.

Exhibit 13 shows four performance measure results in the Executive Budget are different from the numbers we were provided by staff. Based on discussion with staff, these discrepancies most likely occurred because partial year results were submitted with the Division's budget request for fiscal years 2010 and 2011. Staff began preparing their fiscal years 2010 and 2011 budget request, including performance measure results, before final year numbers for fiscal year 2008 had been compiled. Numbers were not updated before the Division's budget request was submitted to the Department of Administration. Exhibit 13 numbers seem to support this explanation. Exhibit 13 shows the Executive Budget numbers were lower than those provided to us in November 2008.

Discrepancies also exist between the Executive Budget and numbers reported by EHS staff. However, unlike RHP numbers, these discrepancies are not the result of submitting partial year numbers. Exhibit 14 compares EHS's performance measure results reported in the Executive Budget for fiscal year 2008 and the numbers we were provided by EHS staff.

**Comparison of EHS Performance Measure Numbers Reported in
Executive Budget to Numbers Provided by EHS Staff
Fiscal Year 2008**

Performance Measure	Numbers Reported	
	Executive Budget	Provided by EHS Staff
Number of permitted food establishments inspected annually.	1,789	1,862
Number of citizen complaints on environmental health items investigated and corrective action taken.	624	75
Number of permitted school kitchens.	165	160
Number of school facilities (non-kitchens) inspected biannually.	263	179
Number of institutions (correctional facilities, jails) inspected annually.	84	47

Source: Auditor review of the Executive Budget and information provided by division staff.

Exhibit 14 shows the results for five measures are different. Although differences between the numbers for the first measure could result from partial year numbers like those shown in Exhibit 13, the remaining 4 measures show higher numbers in the Executive Budget. Some discrepancies are significant. For example, the Executive Budget shows 624 citizen complaints were received in fiscal year 2008, but only 75 in the numbers staff provided us. EHS staff could not explain these discrepancies.

Supporting Documentation Not Maintained

Documentation supporting performance measure results was not always maintained. EHS did not retain supporting documentation for fiscal years 2006 – 2008 and LCP did not retain documentation for 2006 and 2007. Therefore, the reliability of reported numbers cannot be verified. Without supporting documentation it is unclear which numbers, if any, reported in Exhibit 14 are reliable. LCP did retain supporting documentation for fiscal year 2008 results reported in the Executive Budget, which supported the numbers reported.

Section 2512 of the State Administration Manual requires state agencies to retain supporting documentation for performance measures at least three years. Additionally, agencies should develop written procedures on how performance measures were computed and the sources for data used. Currently, the Division lacks policies and

procedures addressing maintaining performance measure results, sources of data, and calculations used to determine results.

Measures Can Be Improved

The Division can make further improvements to performance measures for its inspection programs. Currently, most performance measures track the number of inspections done, rather than the percentage of required inspections completed. Tracking the percent of required inspections done would better measure program effectiveness. Additionally, some key inspection activities are not tracked.

EHS and RHP performance measures for the most part report the number of inspections done. The results do not identify if all required inspections were completed during the year. For example, Exhibit 14 shows EHS completed about 1,800 food establishment inspections during fiscal year 2008. However, as discussed previously in this report, our testing found EHS only completed about 62% of required inspections during 2008. Reporting the percentage of required inspections completed would provide more meaningful information and also point to problem areas where all required inspections were not completed.

LCP recently revised its performance measures and added two measures that address the percentage of inspections completed. These new measures include:

- Percent of facilities resurveyed within established federal policy requirements.
- Percent of facilities resurveyed within established NRS time frames.

The NRS addresses inspection frequency for residential group homes, ambulatory surgery centers, and certain physician offices. Inspection frequency for other facilities is found in either regulation or LCP policy. Therefore, the new performance measure for percent of facilities resurveyed within established NRS time frames would not track the timeliness for many state required inspections. Revising this measure to track the percentage of all facilities inspected within required time frames (in statute or otherwise) would provide more complete and useful information.

Finally, division inspection programs would benefit by tracking whether violations found during inspections were corrected timely. Currently, performance measures track

inspections performed but not violations. Tracking the number, type, and time to correct violations would provide managers with meaningful information to help evaluate inspection programs.

Recommendations

17. Ensure that final year-end performance measure results are included in the Division's biennial budget request.
18. Develop written procedures requiring that calculations and supporting documents used to determine performance measure results be retained for at least 3 years.
19. Revise performance measures to determine the percentage of required inspections completed and violations corrected timely.
20. Ensure that performance measures evaluate all key inspection activities.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Health Division, we interviewed management and staff, and reviewed statutes, regulations, policies, and procedures significant to the Division's inspection practices. We also reviewed federal inspection requirements for school kitchens, radioactive materials, mammography equipment, and health care facilities used by the Division when performing certain inspections. In addition, we reviewed financial information, reports and statistics, legislative and executive budgets, minutes of various legislative committees, prior audit reports, performance measures and results, and other information describing Division activities. Finally, we documented and assessed controls over inspections and performance measures.

To determine if the Division inspects food establishments timely we obtained a list of all food establishments permitted (2,943) as of November 2008. From that list, we randomly selected 100 establishments. For each food establishment selected, we identified the date permitted, dates inspected during fiscal years 2006, 2007, and 2008, and inspection scores. When food establishments were not inspected timely, we calculated how many days the inspection was late, and number of days between or since the last inspection.

To determine if the Division inspected school kitchens timely we obtained a list of all schools permitted (152) as of November 2008. From that list, we randomly selected 75 school kitchens. For each school selected, we determined if the kitchen was inspected at least twice each school year (once each semester) during fiscal years 2006, 2007, and 2008, and identified which schools were not inspected timely, and the length of time between inspections.

To determine if the Division inspects health care facilities timely we obtained a list of all facilities licensed or otherwise subject to Licensure and Certification inspections (1,344) as of November 2008. From that list, we randomly selected 100

facilities. For each facility selected, we identified date initially licensed and the dates for the two most recent inspections. We then calculated the number of days between inspections, determined if inspections were done timely, and then identified the number of days inspections were late.

To evaluate the health care facilities complaint process, we obtained a listing of all complaints (1,167) filed during fiscal year 2008. From that list we judgmentally selected 35 based on the seriousness of the complaint. We calculated the number of days from when the complaint was received until the investigation began. We then calculated the number of days from when the investigation ended until a statement of deficiencies was sent to the facility and a plan of correction was returned by the facility. From this information we determined whether complaints were handled timely.

To determine if the Division inspects radioactive material licensees timely we obtained a list of all licensees (272) as of November 2008. From that list, we randomly selected 10 licensees. For each licensee selected we identified the initial license date, and the date of the two most recent inspections. We then calculated the number of days between inspections and determined whether inspections were done timely pursuant to inspection requirements.

To determine if the Division inspects mammography machines timely we obtained a list of all state certified machines (87) as of November 2008. From that list, we randomly selected 5 machines. For each machine selected we identified the machine certification date, dates machines were inspected during fiscal years 2006, 2007, and 2008, and determined if inspections were timely.

To determine if the Division inspects x-ray machines timely we obtained a list of all registered x-ray machines (5,865) as of November 2008. From that list, we randomly selected 50 x-ray machine files. For each machine we identified the date the machine was initially registered, and the dates of the initial inspection (within 1 year of beginning operation) and two most recent inspections. We calculated the number of days from registration to the initial inspection, and the time between subsequent inspections to determine if inspections were done timely, and identified the number of days inspections were late pursuant to guidelines.

To determine if the Division followed up to ensure food inspection violations were corrected we judgmentally selected 20 food establishments from our sample of 100 where critical violations were found during inspections. For each selection we identified inspection dates, violations cited during inspections, and reviewed files to determine if violations were corrected. We also discussed inspection violations and follow up with division staff. We then calculated the number of days from the date of the inspection until the violations were corrected. In addition, we reviewed prior inspections for the 20 food establishments selected to determine if violations were an ongoing problem.

To determine if the Division followed up to ensure health inspection violations were corrected, we judgmentally selected 25 health care facilities from our sample of 100 where violations were found. For each facility we identified inspection dates, date the statement of deficiencies was sent to the facility, and date the plan of corrective action was received by the Division. We also discussed inspection violations and follow up with division staff as needed. We then calculated the number of days from the date of the inspection until violations were corrected. In addition, we reviewed prior inspections for the 25 health care facilities selected to determine if violations were an ongoing problem for some facilities.

To evaluate performance measures, we obtained copies of results and supporting documentation for fiscal years 2006, 2007, and 2008. We compared fiscal year 2008 measures and results with those listed in the latest Executive Budget. Where available we traced supporting documentation to reported results. We then analyzed measures and compared them with state requirements and best practices. We also discussed performance measures, results, and discrepancies with division staff.

Our audit work was conducted from July 2008 to May 2009. 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 218.821, we furnished a copy of our preliminary report to the Administrator of the Health Division. On September 22, 2009, 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 40.

Contributors to this report included:

Lee Pierson
Deputy Legislative Auditor

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Appendix B

Definitions for Selected Health–Related Facilities Regulated by the Health Division

Below are definitions of the more common health-related facilities regulated by the Health Division. The frequency of required inspections ranges from one to six years depending on the applicable federal or state law, regulation, or policy.

Agencies to Provide Personal Care Services in the Home	Organization that provides in-home nonmedical services related to personal care for elderly persons or persons with disabilities to assist with activities of daily living such as: dressing, bathing, grooming, preparing meals, laundry, shopping, and cleaning.
Businesses that Provide Referrals to Residential Facilities for Groups	A business licensed to refer persons to residential facilities for groups.
Community Triage Centers	Provides on a 24-hour basis medical assessments of and short-term monitoring for persons with mental illness and alcohol and drug abusers in a manner not requiring a licensed hospital.
Facilities for Care of Adults During the Day	Provides care during the day for aged or infirmed persons.
Facilities for Modified Medical Detoxification	Facilities providing 24-hour medical monitoring of treatment and detoxification services in a manner not requiring a licensed hospital.
Facilities for Refractive Surgery	Facilities providing limited medical services for the evaluation of patients with refractive errors of the eye and surgical treatment of those patients.
Facilities for Skilled Nursing	Provides continuous skilled nursing care prescribed by a physician to patients who need constant care.
Facilities for Transitional Living for Released Offenders	A residence providing housing and a living environment for persons released from prison who require assistance with reintegration into society, other than facilities operated by state or local government. It does not include a halfway house for recovering alcohol and drug abusers or facility for the treatment of alcohol or drug abuse.
Facilities for the Treatment of Abuse of Alcohol or Drugs	A facility which provides residential treatment, including mental or physical assistance, for abusers of alcohol or drugs certified by the State Division of Mental Health and Developmental Services.
Facilities for Treatment of Irreversible Renal Disease	A facility that is not part of a hospital which provides peritoneal dialysis or hemodialysis or trains a person with permanent irreversible renal impairment to perform dialysis for himself.
Halfway Houses for Recovering Alcohol and Drug Abusers	A residence providing housing and a living environment for recovering alcohol and drug abusers to assist with their reintegration into the community, but does not provide treatment for alcohol or drug abuse.
Homes for Individual Residential Care	A home where a person furnishes food, shelter, assistance and limited supervision, to not more than two persons with mental retardation, disabilities, or who are aged or infirmed.

Appendix B
Definitions for Selected Health–Related Facilities
Regulated by the Health Division
(continued)

Home Health Agency	Provides nursing in the home, including skilled nursing and assistance, and training in health and housekeeping skills.
Hospice Care	Centrally administered program of palliative and supportive services provided by an interdisciplinary team directed by a physician. The program includes physical, psychological, custodial, and spiritual care for persons who are terminally ill. Care may be provided in the home, at a residential facility or at a medical facility.
Hospitals	Establishment for the diagnosis, care and treatment of illness, including 24-hour care from licensed nurses under a physician's direction, and medical laboratory, radiological, dietary and pharmaceutical services.
Independent Centers For Emergency Medical Care	A facility, structurally separate and distinct from a hospital, which provides limited treatment for a medical emergency.
Intermediate Care Facilities	Facility providing 24-hour personal and medical supervision, for a person with an illness or injury that would not require care and treatment in a hospital or skilled nursing facility.
Intermediate Care Facilities for the Mentally Retarded	A facility which offers specialized services to the mentally retarded or persons with related conditions.
Nursing Pool	An agency which provides nursing services to a person, medical facility, or facility for the dependent.
Obstetric Center	Facility that is not part of a hospital and provides services for normal, uncomplicated births.
Residential Facilities for Groups	An establishment that furnishes food, shelter, assistance, and limited supervision to persons with mental retardation or with a disability or a person who is aged or infirm.
Residential Facilities for Groups with Alzheimer's	Furnishes food, shelter, assistance, and supervision to persons with Alzheimer's.
Rural Health Clinic	A facility located in a nonurban area where medical services are provided by a physician assistant or nurse practitioner under the direction of a physician.
Surgical Centers for Ambulatory Patients	A facility with limited medical services available for diagnosis or treatment of patients by surgery where patients' recovery will not require care in the facility for more than 24 hours.

Appendix C
Response From the Health Division

JIM GIBBONS
Governor

MICHAEL J. WILLDEN
Director

STATE OF NEVADA



RICHARD WHITLEY, MS
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State Health Officer

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October 2, 2009

Paul Townsend, CPA, CIA
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Re: Legislative Counsel Bureau Audit Findings September 2009

Dear Mr. Townsend:

The Nevada State Health Division (NSHD) has reviewed the audit recommendations provided to us on September 8, 2009, and reviewed with you and your staff on September 22, 2009. 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 three months.

The Division is very appreciative of the professional management of this audit and review of our business practices. Your recommendations will improve our agency and assist us in better serving Nevadans.

Recommendation 1 Develop policies and procedures to help ensure food establishment and school kitchen inspections are performed timely.

FaR EHS recognizes that this is a deficiency that needs a higher level of oversight by supervisors and a greater amount of attention and prioritization in workload by inspection staff. That is already happening and strategies in place will be refined to ensure continued success. The finding is not disputed.

Recommendation 2 Develop periodic reports (e.g., monthly, quarterly, annually) identifying food establishments and school kitchens inspected, due for an inspection and past due.

FaR EHS acknowledges that this is a component absent from the program during the time period in which the auditors examined data. Many programmatic changes have been made in the last year to deal with this and the oversight is being continually improved to increase our vigilance in this area. The finding is not disputed.

Recommendation 3 ***Revise the written priority for conducting food establishment inspections based on risk to public health.***

EHS recognizes that every establishment should not be classified under the same inspection frequency. There are inherent differences in risk to public health protection between many types of facilities. However, please note that NRS 446.885.1 requires that every food establishment (without consideration for risk to public health) be inspected at least once every year. In our attempt to comply with this statutory mandate we inspect smaller less hazardous food establishments such as mini markets and bars at the same frequency as larger more complex establishments taking more time. These establishments often need follow up which steals inspection time from other establishments. A “policy” to conduct any inspection less than one time per year would be a statutory violation. Therefore it is our intent to submit a bill containing a substantial revision of NRS 446. In it we will propose a risk based inspection frequency protocol to place the emphasis on the inspection of high risk establishments as a priority for staff. We do not dispute the finding.

Recommendation 4 ***Monitor food establishment inspections to ensure written priority is followed.***

Food establishment inspections historically were submitted for review monthly to the Public Health Rating and Survey Officer; this did not always occur in the past. As a result there was no oversight of any inspection reports in the section from March of 2004 until April of 2008. This would include making sure that certain establishments were inspected at the mandated one time per year inspection frequency and that the quality of the inspections was acceptable. This has been corrected and will continue to be a substantial improvement measure. FaR EHS agrees with the audit finding.

Recommendation 5 ***Develop policies and procedures on food inspections follow up including specific time frames for food establishments to correct violations and provisions requiring staff to document violations were corrected.***

A policy was implemented in the section in early 2006 in which inspection staff were instructed that they were prohibited from defining time frames for correction of any demerited item. This policy (which is no longer in place) played a large part in the findings of non-follow up and non-defined time periods for compliance items. FaR EHS welcomes the findings in this item as it substantially validates that the previous policy was ineffective from a

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regulatory standpoint. We will re-implement time frames for corrections of violations. The finding is agreed upon.

Recommendation 6 *Develop periodic reports that identify violations found during food establishment inspections and track the status of corrective actions until violations are corrected.*

This finding is valid. The Steton electronic inspection system implemented with staff in June of this year has the capability of assisting with this task. We acknowledge the need for the tracking that the auditors reference and look forward to working with the software engineers at Steton to accomplish this goal.

Recommendation 7 *Develop a review process to help ensure food establishment inspection reports provide specific time frames to correct each violation.*

Again, now that failed policies prohibiting time frame definition for compliance are no longer in place, and with the help of Steton, we feel that this is achievable over time. Inspection reports are being reviewed and the auditors finding will result in a plan to complete the recommendation in a satisfactory manner.

Recommendation 8 *Review policies and procedures addressing the timeliness of health care facility inspections.*

The Bureau of Health Care Quality and Compliance (BHCQC) accepts this recommendation. This policy will be critical to achieving statutory changes that occurred during the 2009 session.

Recommendation 9 *Develop periodic reports identifying health care facilities that have been inspected, due for an inspection, and past due.*

The BHCQC accepts this recommendation.

Recommendation 10 *Increase supervisory oversight to ensure compliance with policy requiring that a statement of deficiencies is sent within 10 days after the health care facility inspection is completed.*

The BHCQC accepts this recommendation.

Recommendation 11 *Develop policy and procedures addressing actions Licensure and Certification should take when a plan of correction is not received timely.*

The BHCQC accepts this recommendation.

Recommendation 12 *Develop periodic reports that track when health care facility inspections are completed, date the statement of deficiencies is sent to the facility, and date the plan of correction is received to ensure violations noted during inspections are corrected timely.*

The BHCQC accepts this recommendation.

Recommendation 13 *Provide supervisory oversight to ensure health care facility complaint investigations are initiated and statements of deficiencies are sent to facilities within required time frames.*

The BHCQC accepts this recommendation.

Recommendation 14 *Establish policy and procedures requiring complainants be notified of the results of a health care facility complaint investigation.*

The BHCQC accepts this recommendation.

Recommendation 15 *Revise policies and procedures addressing timeliness of x-ray machine inspections and follow up when problems are found.*

The BHCQC accepts this recommendation.

Recommendation 16 *Develop periodic reports identifying x-ray machines inspected, due for an inspection, and past due.*

The BHCQC accepts this recommendation.

Recommendation 17 *Ensure that final year-end performance measure results are included in the Division's biennial budget request.*

Using the tools that we have in place now, as opposed to not having a system to capture this data in the past; we feel that we will be able to accomplish this measure. The finding is acknowledged as valid.

Recommendation 18 *Develop written procedures requiring that calculations and supporting documents used to determine performance measure results be retained for at least 3 years.*

We agree that much of the data and supporting documentation referenced in this item was not available. Improvements have begun to capture that data and store it in a manner to improve accessibility and retention.

Recommendation 19 *Revise performance measures to determine the percentage of required inspections completed and violations corrected timely.*

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Paul Townsend, CPA, CIA
October 2, 2009
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The Steton electronic inspection system will be helpful with this gap in the program. We acknowledge the deficiency, are already making substantive changes in line with the auditor's recommendations, but wish to point out that until at least a year's worth of data is stored electronically, this may be cumbersome to achieve. We feel the existing shared drive will be helpful since it has two years worth of data stored on it. We will persist in completing this recommendation to the best of our capability – knowing that over time with improved technology this will become less tedious.

Recommendation 20 *Ensure that performance measures evaluate all key inspection activities.*

FaR EHS is much more than just a food protection program. There are many other mandated inspections as well as food that we have to complete. It is gratifying to see that the auditor recognizes this fact with the inclusion of this last critically important item. Already in the last fiscal year we have completed 100% of required inspections in two non-food arenas. We will continue to strive to have similar success in all inspection activities and thank the auditors for their work in assisting us with improving our program and product.

In closing, we again thank you for your credible and timely audit. You will find attached our accepted checklist from pages 41 and 42 of your findings. If you have any questions or comments, please contact me at 684-4224.

Sincerely,


Richard Whitley, Administrator

Attachment

cc: Michael J. Willden, Director, DHHS
 Mary Wherry, Deputy Administrator, NSHD
 Marla McDade-Williams, Bureau Chief, BHCQC
 Joe Pollock, Deputy, Environmental Health Services

Health Division Response to Audit Recommendations

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Develop policies and procedures to help ensure food establishment and school kitchen inspections are performed timely.....	<u> X </u>	<u> </u>
2	Develop periodic reports (e.g., monthly, quarterly, annually) identifying food establishments and school kitchens inspected, due for an inspection, and past due.....	<u> X </u>	<u> </u>
3	Revise the written priority for conducting food establishment inspections based on risk to public health.....	<u> X </u>	<u> </u>
4	Monitor food establishment inspections to ensure written priority is followed.....	<u> X </u>	<u> </u>
5	Develop policies and procedures on food inspections follow up including specific time frames for food establishments to correct violations and provisions requiring staff to document violations were corrected..	<u> X </u>	<u> </u>
6	Develop periodic reports that identify violations found during food establishment inspections and track the status of corrective actions until violations are corrected	<u> X </u>	<u> </u>
7	Develop a review process to help ensure food establishment inspection reports provide specific time frames to correct each violation	<u> X </u>	<u> </u>
8	Revise policies and procedures addressing the timeliness of health care facility inspections	<u> X </u>	<u> </u>
9	Develop periodic reports identifying health care facilities that have been inspected, due for an inspection, and past due.....	<u> X </u>	<u> </u>
10	Increase supervisory oversight to ensure compliance with policy requiring that a statement of deficiencies is sent within 10 days after the health care facility inspection is completed.....	<u> X </u>	<u> </u>
11	Develop policy and procedures addressing actions Licensure and Certification should take when a plan of correction is not received timely.....	<u> X </u>	<u> </u>

**Health Division
Response to Audit Recommendations
(continued)**

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
12	Develop periodic reports that track when health care facility inspections are completed, date the statement of deficiencies is sent to the facility, and date the plan of correction is received to ensure violations noted during inspections are corrected timely.....	<u> X </u>	<u> </u>
13	Provide supervisory oversight to ensure health care facility complaint investigations are initiated and statements of deficiencies are sent to facilities within required time frames	<u> X </u>	<u> </u>
14	Establish policy and procedures requiring complainants be notified of the results of a health care facility complaint investigation.....	<u> X </u>	<u> </u>
15	Revise policies and procedures addressing timeliness of x-ray machine inspections and follow up when problems are found	<u> X </u>	<u> </u>
16	Develop periodic reports identifying x-ray machines inspected, due for an inspection, and past due	<u> X </u>	<u> </u>
17	Ensure that final year-end performance measure results are included in the Division's biennial budget request .	<u> X </u>	<u> </u>
18	Develop written procedures requiring that calculations and supporting documents used to determine performance measure results be retained for at least 3 years.....	<u> X </u>	<u> </u>
19	Revise performance measures to determine the percentage of required inspections completed and violations corrected timely	<u> X </u>	<u> </u>
20	Ensure that performance measures evaluate all key inspection activities	<u> X </u>	<u> </u>
	TOTALS	<u> 20 </u>	<u> 0 </u>