



Elaine M. Howle *California State Auditor*

CONTACT: Paul Navarro | (916) 445-0255 | Paul.Navarro@auditor.ca.gov

# Skilled Nursing Facilities: Absent Effective State Oversight, Substandard Quality of Care Has Continued

Report published May 2018

## Summary of Public Health Related Audit Findings and Recommendations

AREA OF PUBLIC HEALTH OVERSIGHT	FINDING	RECOMMENDATION	RECOMMENDATION STATUS
Licensing	<i>Licensing decisions appear inconsistent because of Public Health's poor process and inadequate documentation</i>	<b>The Legislature</b> should require Public Health to outline the factors it will consider when approving or denying applications. This proposal should outline the specific criteria—including relevant quality-of-care metrics—that Public Health will consider. The Legislature should codify Public Health's proposal as appropriate.	<b>Legislation Introduced</b> AB 1502 (Muratsuchi) would address this recommendation by codifying what factors Public Health should assess as part of the licensing review process.
		<b>Public Health</b> should improve its licensing review process by: <ul style="list-style-type: none"> <li>Ensuring its analysts conduct complete and standardized reviews of applications.</li> <li>Determining the factors analysts will consider and how analysts will weigh those factors.</li> <li>Developing objective thresholds to elevate applications for review by higher-level management.</li> <li>Adequately documenting its decisions.</li> </ul>	<b>Partially Implemented</b> Public Health has not determined how analysts will weigh the factors it considers when making licensing decisions. Public Health has implemented processes to standardize the licensing review process and it has created objective thresholds that prompt analysts to elevate applications for review by higher-level management.
State Relicensing Inspections	<i>Public Health failed to perform relicensing inspections</i>	<b>The Legislature</b> should require Public Health to conduct state and federal inspections concurrently by aligning federal and state timelines.	<b>No Action Taken</b>
Issuance of Citations	<i>Public Health has not ensured that its penalty amounts present adequate financial disincentives and that it issues citations timely</i>	<b>The Legislature</b> should require that Public Health increase citation penalty amounts annually by—at a minimum—the cost of inflation.	<b>Legislation Introduced</b> The Governor vetoed AB 506 (Kalra) in October 2019. As introduced, this bill would have required Public Health to annually adjust penalties based on the cost of inflation, but this provision was later removed from the bill.  AB 323 (Kalra) was enrolled and presented to the Governor in September 2021. This bill includes a one-time increase of penalty amounts, but does not include an inflation factor.
		<b>Public Health</b> ensure that it issues citations in a timely manner, especially for immediate jeopardy deficiencies.	<b>Partially Implemented</b> Public Health has been issuing more citations in a timely manner according to data on its website. However, because of the pandemic, it also issued fewer citations. It is unclear the extent to which a reduction in citations—as opposed to improvements in Public Health's processes—affected its ability to issue citations timely.

*continued on next page...*

### Other Areas We Reviewed

AREA OF PUBLIC HEALTH OVERSIGHT	FINDING	RECOMMENDATION	RECOMMENDATION STATUS
<b>Incentivizing Quality of Care Improvements</b>	<i>The State's efforts to improve nursing facilities through financial incentives had a limited effect</i>	<b>The Legislature</b> should require nursing facilities to demonstrate quality-of-care improvements to receive all or some of their quality assurance fee payments. If nursing facilities do not improve, DHCS should redistribute their payments to those nursing facilities that have improved.	<b>No Action Taken</b>
	<i>California's annual cost report does not require a nursing facility to indicate how much it invests into quality-of-care improvements</i>	<b>OSHPD</b> should create a schedule that depicts how a company is investing in quality-of-care improvements.	<b>Not Implemented</b> OSHPD stated it cannot implement this recommendation without legislative changes and approval from CMS.
<b>Related Party Transactions</b>	<i>The Legislature could increase efficiency by requiring nursing facilities to submit related parties' profit and loss statements</i>	<b>The Legislature</b> should require nursing facilities to submit annually their related-parties' profit and loss statements to DHCS when total transactions exceed a specified monetary threshold.	<b>Legislation Enacted in 2018</b> The Governor approved AB 1953 (Wood) in September 2018. This bill requires nursing facility licensees to disclose related-party profit and loss statements if goods, fees, or services collectively exceed \$10,000.
	<i>OSHPD's annual cost reports did not allow nursing facilities to clearly detail their related-party transactions</i>	<b>OSHPD</b> should update its annual cost report to enable nursing facilities to fully disclose related-party transactions.  Additionally, OSHPD should provide a single location for nursing facilities to enter related-party transaction amounts next to the amounts they are claiming for Medi-Cal reimbursement.	<b>Fully Implemented</b> Effective April 1, 2020

Public Health last provided information regarding its implementation of our recommendations in May 2021. OSHPD last provided information in October 2020.