

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 18, 2019

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Oversight of Resident Care-Related
Medical Equipment in Nursing
Homes
Report 2019-F-35

Dear Dr. Zucker:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health to implement the recommendations contained in our audit report, *Oversight of Resident Care-Related Medical Equipment in Nursing Homes* (Report [2016-S-80](#)).

Background, Scope, and Objective

The Department of Health (Department) oversees nursing homes in New York State through its Division of Nursing Homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities Surveillance (Division). The Division also acts as an agent for the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), in monitoring quality of care in nursing homes. The Division is responsible for ensuring nursing homes are in compliance with federal and State regulations designed to optimize the health, safety, and quality of life for the approximately 117,000 people living in nursing homes in the State.

The Division assesses and certifies nursing home compliance through Certification surveys, which include both Standard Health (quality of care) and Life Safety Code (LSC) (fire and safety) inspections. LSC surveys cover inspections of all essential mechanical, electrical, and resident care equipment to ensure their safe operating condition.

As of July 2016, nursing homes that participate in federal reimbursement programs are required to comply with 2012 National Fire Protection Association (NFPA) safety codes

and standards. With the adoption of NFPA regulations, among other actions, nursing homes are required to:

- Establish policies and protocols regarding the testing intervals of patient care-related electrical equipment; develop a program for electrical equipment maintenance considering manufacturer service manuals; and retain records of tests and repairs.
- Inspect generators weekly, and exercise the generators under load for 30 minutes 12 times a year and for 4 continuous hours once every 36 months.
- Maintain readily available written records of generator maintenance and testing.

The Department created a Long Term Care Equipment Inventory Form (Inventory Form) to provide surveyors with a list of the different types of equipment commonly used at nursing homes, including residents' personal equipment, durable medical equipment (DME), therapy/personal hygiene equipment, and gas/ventilator systems. The Department requires its surveyors to review service records and manufacturer requirements for a random sample of resident care-related equipment, based on the size of the facility's resident population (i.e., number of beds) and for at least one piece of non-resident care-related equipment. There are currently 623 nursing home facilities active in New York State.

We issued our initial audit report on September 19, 2018. The audit objective was to determine whether the Department's monitoring and inspection of nursing homes is sufficient to determine if nursing homes perform comprehensive inspections, testing, and maintenance of resident care-related medical equipment. The audit covered the period January 1, 2015 through October 27, 2017.

We found the Department completes Certification surveys in a timely manner and reports deficient practices to the public, as required. However, we identified gaps in the Division's procedures that weaken its ability to effectively monitor nursing homes' equipment inspection, testing, and maintenance programs. For example, the Inventory Form used by surveyors does not include several types of resident care-related equipment. The Inventory Form does contain an "Other" category, yet it wasn't always used by facilities. Consequently, surveyors did not have a complete list of the types of equipment in use at the facilities to aid them in their sample selection. In addition, surveyors do not obtain an inventory list from the facility – something that could be useful in selecting their equipment sample. Further, the Department does not require surveyors to document which equipment they select for review. Instead, the surveyors are only required to document test results that identify a deficiency. Therefore, the Division has limited information on the types of equipment tested and limited assurance that surveyors test the required number of equipment pieces.

We also questioned whether the Department's standard sample sizes were optimal for identifying equipment deficiencies at facilities with larger inventories or histories of poor survey results. The standard sample size is based on a facility's number of beds instead of the number of equipment pieces. While the sample sizes meet federal requirements, they are very small relative to the number of equipment pieces in the facilities. Our audit

also identified facilities that did not maintain some equipment according to manufacturer recommendations or lacked records of their maintenance. Additionally, 13 of 36 facilities visited could not provide documentation that the four-continuous-hour generator tests were being conducted every 36 months as required, and 4 facilities were not aware of the requirement.

The objective of our follow-up was to assess the extent of implementation, as of October 25, 2019, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials made progress in addressing the problems we identified in the initial audit. However, improvements are still needed. Of the initial report's three audit recommendations, one was implemented, one was partially implemented, and one was not implemented.

Follow-Up Observations

Recommendation 1

Improve oversight of nursing home resident care medical equipment by:

- *Periodically updating the Inventory Form to add types of medical equipment known to be in use at nursing home facilities, such as DME items identified in this report;*
- *Using inventories of nursing home facility resident care equipment, if applicable, to identify whether there are types of equipment in use that are not on the Inventory Form to aid in sample selection; and*
- *Requiring surveyors to document their equipment samples.*

Status – Partially Implemented

Agency Action – The Department updated its Inventory Form to include a space for surveyors to document whether or not a nursing home has an inventory list. If a nursing home does maintain a list, the surveyor incorporates it into the review of the nursing home's equipment. However, the Department does not periodically update the Inventory Form with types of medical equipment known to be in use at nursing home facilities. In addition, the Department did not agree that documenting equipment reviewed would improve the survey process by helping identify noncompliance with electrical equipment testing and maintenance regulations.

Recommendation 2

Formally evaluate whether equipment sample sizes should be based on factors such as the size of a facility's medical equipment inventory and facility prior survey histories.

Status – Not Implemented

Agency Action – In our initial audit, we found that the Department's equipment sample sizes were very small relative to number of equipment pieces in the facilities. The

Department did not agree with this recommendation at the time of our initial audit and has not changed its position. As such, it did not take any actions to implement it.

Recommendation 3

Remind facilities of the requirements for preventive maintenance of medical equipment and generator tests and record keeping of these activities.

Status – Implemented

Agency Action – The Department reissued its Inspection & Maintenance of Patient Care Related Electrical Equipment and Generator Testing policy in August 2018 reminding nursing homes of the requirements specifically related to the preventive maintenance of medical equipment and generator tests and record keeping of these activities. The policy requires nursing homes to inspect generators weekly and run them under load for at least 30 minutes monthly and for 4 continuous hours once every 36 months. Complete documentation of all inspections, maintenance, and testing must be maintained at the facility. In addition, nursing homes are required to test and inspect patient care-related electrical equipment before it is put into service and after any repairs or modifications are made.

Major contributors to this report were Ed Durocher, Cynthia Herubin, Claudia Christodoulou, and Anthony Calabrese.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Brian Reilly, CFE, CGFM
Audit Director

cc: Ms. Lori Conway, Department of Health