

Status Report on Corrective Actions to Address Audit Findings
Department of Health and Human Services
Office of Operations Support
Health Facilities Licensing Unit: Performance Audit Report

Department of Health and Human Services
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March 2016



Legislative Budget Assistant's Office
Health Facilities Licensing Unit, Performance Audit Report
June 2014

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In accordance with Executive Order 2014-03 following is a report detailing the progress that the Health Facility Licensing Unit has made in responding to the 2014 Audit Report issued by the Legislative Budget Assistant's Office.

Finding #1: HFLU management should ensure required Life Safety Code inspections are conducted before issuing renewal licenses

Auditee Corrective Action Plan:

It has been and continues to be the goal of the Health Facility Licensing Unit to conduct timely annual Life Safety Code inspections of all facilities licensed under RSA 151 that are required to have Life Safety inspections. This goal has been undermined by a lack of personnel with Life Safety Code expertise to conduct these inspections. There had been four Life Safety Code positions in the licensing unit, the Life Safety Coordinator and three Life Safety Inspectors. The Life Safety Coordinator is responsible for conducting construction plan review and approval and conducting on-site inspections of newly constructed facilities and those that have undergone renovations. She also supervises the Life Safety Inspectors, which includes reviewing and approving Notices to Correct. She also conducts Life Safety trainings around the State. She does not have the time to conduct annual Life Safety inspections. Although there were three Life Safety Inspector positions, there has never been a time when all three positions were filled at the same time. One of these positions, Position 42859, became vacant on October 12, 2009. The position was subsequently unfunded and could not be filled. In 2013 the position was removed from the licensing unit to another unit within the Department. In addition, Position 18991 was vacant for a considerable period of time. During that time period there was only one Life Safety Inspector in the licensing unit. In an effort to utilize her in the most effective manner possible, the decision was made to limit her inspections to those facilities with beds with a priority being the non-certified Nursing Homes, Residential Care Facilities and Supported Residential Health Care Facilities. On January 3, 2013, a second Life Safety Inspector was hired. This has helped significantly; however given the number of licensed facilities, the unit would likely need 1-2 additional Life Safety Inspectors in order to complete timely annual Life Safety Code inspections. We will explore with senior management in the Department the hiring of additional Life Safety personnel.

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It has been and continues to be the goal of the licensing unit to conduct annual Life Safety inspections of all facilities licensed under RSA 151. This goal has been undermined by a lack of Life Safety personnel. Currently there are only two Life Safety inspectors in the unit. In an effort to address this issue, the decision was made to reclassify a vacant supervisory position (Labor Grade 25) to a Life Safety Inspector position (LG 21). It is the hope of the licensing unit to hire an individual who is qualified to conduct both Life Safety inspections and construction plan review and approval. The Division of Personnel approved the reclassification request on July 28, 2014. On July 29, 2014 a request for a waiver to fill the reclassified position was sent to the Senior Division Director to begin the approval process.

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Estimated completion date: Indeterminable at this time

Status Report as of June 30, 2015

It has been and continues to be the goal of the licensing unit to conduct annual Life Safety inspections of all facilities licensed under RSA 151. This goal has been undermined by a lack of Life Safety personnel. At the time of the audit there were only two Life Safety inspectors in the unit. In an effort to address this issue, the decision was made to reclassify a vacant supervisory position (Labor Grade 25) to a Life Safety Inspector position (LG 21). It was the hope of the licensing unit to hire an individual who is qualified to conduct both Life Safety inspections and construction plan review and approval. The Division of Personnel approved the reclassification request on July 28, 2014. On July 29, 2014 a request for a waiver to fill the reclassified position was sent to the Senior Division Director to begin the approval process. The request was subsequently approved by the Commissioner and the Department's Resource Management Group. The request was then sent to the Governor's Review Team. To date the request to fill the reclassified position has not received final approval. At this time there continues to be just two Life Safety inspectors in the Unit. Consequently, the Unit continues to be unable to complete timely Life Safety inspections due to the lack of qualified personnel.

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Status Report as of March 11, 2016

It has been and continues to be the goal of the licensing unit to conduct annual Life Safety inspections of all facilities licensed under RSA 151. This goal continues to be undermined by a lack of Life Safety personnel. In an effort to address this issue, the decision was made to reclassify a vacant supervisory position (Labor Grade 25) to a Life Safety Inspector position (LG 21). It was the hope of the licensing unit to hire an individual who is qualified to conduct both Life Safety inspections and construction plan review and approval. The Division of Personnel approved the reclassification request on July 28, 2014. On July 29, 2014 a request for a waiver to fill the reclassified position was sent to the Senior Division Director to begin the approval process. The request was subsequently approved by the Commissioner and the Department's Resource Management Group. The request was then sent to the Governor's Review Team. The Governor's review team did not approve the request. Hence, there continues to be just two Life Safety inspectors in the Unit responsible for conducting all of the Life Safety inspections required under RSA 151. An additional part time Life Safety employee was recently hired, but his time has been spent conducting construction plan review due to the

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significant backlog. The unit is exploring the possibility of making his position full time so he can conduct some Life Safety inspections thereby at least getting close to the goal of conducting life Safety inspections in a timely manner.

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Finding #2: Formalize State Fire Marshal's Authorization to Conduct Life Safety Inspections

Auditee Corrective Action Plan:

It would be appropriate to update and formalize the Department's agreement with the State Fire Marshal. To this end the licensing unit has updated and formalized its authorization to conduct Life Safety inspections in the context of a comprehensive Memorandum of Understanding. That MOU has been reviewed and revised by management and will shortly be sent to the State Fire Marshal for his review and approval.

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The Health Facility Licensing Unit has been conducting Life Safety Code inspections since 1994 pursuant to a letter of understanding between the licensing unit and the State Fire Marshal. That letter is both dated and lacking in specifics and needs to be updated. To that end, a comprehensive and updated Memorandum of Understanding was completed. John B. Martin, Manager of the Bureau of Licensing and Certification signed the MOU on July 21, 2014. J. William Degnan, State Fire Marshal signed the MOU on July 22, 2014. The MOU specifically authorizes the Health Facility Licensing Unit to conduct Life Safety Code inspections in accordance with RSA 151:6-a,II. It also conveys authority to the licensing unit to enforce all laws relative to the protection of life and property from fire, fire hazards and related matters in accordance with RSA 151:9,III.

With the signing of the MOU the Corrective Action Plan relative to Finding #2 has been fully implemented.

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Finding #3-Improve Timeliness and Scheduling

Auditee Corrective Action Plan:

Overall, we believe that the licensing unit is doing an excellent job with respect to the clinical inspections it conducts, and we believe that the unit is meeting timelines with respect to clinical inspections to a very high degree. While the auditors did find four instances where clinical inspections were conducted after the expiration of the license the delay ranged from one day to up to two weeks following the expiration of the license. In one case the delay resulted in part by the fact that the application was submitted significantly late. It is the recollection of one of the clinical inspectors that in another of the four cases the Administrator requested a delay in the inspection due to personal reasons on her part. In addition, the licensees in these cases were not in any way impacted by the fact that the clinical inspections were conducted after the expiration of the license. In accordance with RSA 541-A:30, I, if a complete application is submitted prior to the expiration of a license, the existing license will continue to be valid until such time as the licensing unit makes a decision to grant or deny the application for a renewal license. With respect to the predictability of clinical inspections, we agree that the licensing unit could be doing a better job of spreading out the inspections. We will make it a point going forward to ensure that some clinical inspections are scheduled upon receiving complete applications as opposed to waiting until the month prior to the expiration of the license such that inspections are staggered. In addition, to the extent resources allow, we will conduct monitoring visits throughout the year as opposed to relying largely on relicensing inspections. We will explore with senior management in the Department, to the extent the budget allows, the hiring of additional life safety personnel qualified to conduct construction plan review and approval and to capture data related to processing facility construction and renovation plan requests, assess timeliness of request processing, and ensure processing times comply with statute.

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To address the issue of predictability of clinical inspections the Health Facility Licensing Unit is now staggering inspections. Rather than waiting until the month of expiration of the existing license to conduct clinical inspections, which has been the unit's practice, it is now scheduling and conducting inspections upon receipt of a complete application for re-licensure. Applications are due 120 days prior to the expiration of the existing license. By scheduling clinical inspections upon receipt of the complete application the licensing unit now has a four-month window to conduct inspections as opposed to conducting them all in the final month before the expiration of the current license. In addition, as resources allow, the licensing unit is increasing the number of monitoring visits that it conducts. These monitoring visits can be conducted at any time during the one-year licensing period.

In addition, the decision was made to reclassify a vacant supervisory position (Labor Grade 25) to a Life Safety Inspector position (LG 21). It is the hope of the licensing unit to hire an individual who is qualified to conduct both Life Safety Code inspections and construction plan

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review and approval. The Division of Personnel approved the reclassification request on July 28, 2014. On July 29, 2014 a request for a waiver to fill the reclassified position was sent to the Senior Division Director to begin the approval process.

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Estimated completion date: Indeterminable at this time

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As indicated above, as of August 2014 the clinical inspectors were staggering their inspections so as not to promote predictability in the process. Unfortunately, in December 2014 one of the clinical inspectors left State service and shortly thereafter another went out on extended medical leave. That left only two clinical inspectors who were responsible for conducting over 400 annual clinical inspections. It was impossible for the two inspectors to complete timely clinical inspections prior to the expiration of a facility's license. Hence, staggering inspections was not an option. This situation is starting to improve. In April the Unit received permission to recruit and hire an inspector to replace the one that left in December 2014. That position is currently posted externally. Also in April the Unit received permission to hire a temporary, part-time inspector. The person hired is a former inspector for the Unit who retired in 2013. She has many years of experience conducting clinical inspections of health facilities. In addition, the inspector who went out on medical leave has returned. Prior to going out on medical leave she had only been trained to inspect certified community residences. She is now being cross trained to conduct clinical inspections of licensed health facilities. Once the vacant position is filled and the other inspector has been cross trained the Unit will be well positioned to resume conducting staggered clinical inspections. This applies only to clinical inspections. As indicated above, due to the shortage of Life Safety inspectors the Unit cannot currently conduct timely life safety inspections prior to the expiration of a facility's license. Staggering life safety inspections prior to the expiration of licensed is not currently feasible and will not be until additional life safety staff is hired.

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As indicated above, as of August 2014 the clinical inspectors were staggering their inspections so as not to promote predictability in the process. Unfortunately, in December 2014 one of the clinical inspectors left State service and shortly thereafter another went out on extended medical leave. That left only two clinical inspectors who were responsible for conducting over 400 annual clinical inspections. It was impossible for the two inspectors to complete timely

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clinical inspections prior to the expiration of a facility's license. Hence, staggering inspections was not an option. In April 2015 the Unit received permission to hire a temporary, part-time inspector. The person hired is a former inspector for the Unit who retired in 2013. She has many years of experience conducting clinical inspections of health facilities. In addition, the inspector who went out on medical leave returned. Prior to going out on medical leave she had only been trained to inspect certified community residences. She has now been cross trained to conduct clinical inspections of certain types of licensed health facilities. In addition, in April 2015 the Unit received permission to recruit and hire an inspector to replace the one that left in December 2014. That position has been posted externally for nearly a year. Unfortunately, in that time only two candidates applied for the position, both registered nurses as required under the Supplemental Job Description. One had no relevant experience and was not selected. The other was offered the position, but she declined to accept it due to the salary associated with the position. Fortunately, three applications for this position were recently received. All of the three applicants appear well qualified. Interviews are being schedule for the weeks of March 14th and March 21st. Once the vacant position is filled and the new person has been trained the Unit will be well positioned to resume conducting staggered clinical inspections, particularly if the Unit is able to keep the part time clinical inspector. This applies only to clinical inspections. As indicated above, due to the shortage of Life Safety inspectors the Unit cannot currently conduct timely Life Safety inspections prior to the expiration of a facility's license. Staggering Life Safety inspections prior to the expiration of licensed is not currently feasible and will not be until additional life safety staff is hired.

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Estimated completion date: Assuming one of the three applicants for the vacant clinical inspector position is hired within the next two weeks, that person should be adequately trained before the end of the summer. By that time the Unit will have enough clinical inspectors to conduct timely and staggered clinical inspections. A completion date of September1, 2016 is likely for clinical inspections. The completion date for Life Safety inspections remains indeterminable.

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Finding #4- Improve And Expand Administrative Rules

Auditee Corrective Action Plan:

We concur with the observation that the Resident Assessment Tool (RAT) has not been incorporated by reference in the applicable rules. We will do this beginning with He-P 805, which is currently in the process of being revised. The RAT last underwent a substantive change in 2009. No substantive changes were made to the RAT during the timeframe subject to this audit; however one section was recently reworded for the purposes of clarity not substance. We will review the requirements in the forms utilized by the licensing unit to ensure

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that those requirements are consistent with requirements set forth in the rules. We will review both the rules and the forms utilized by the licensing unit to ensure that the forms made available to providers are the correct editions. We will review the rules and the change in ownership forms to ensure consistency.

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As indicated above, the Department is currently in the process of revising He-P 805. As part of this revision the Department has incorporated the Resident Assessment Tool into the draft Supported Residential Health Care Facility rule (He-P 805). The Department has also incorporated into the draft rule language to reflect that the Health Facility Licensing Unit conducts both clinical and Life Safety inspections. The Department has also added language to the draft rule regarding monitored fire drills. It has also added language regarding conducting complaint investigations. These same changes will be incorporated into the Residential Care Facility rule (He-P 804) when it undergoes revision.

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He-P 805 has been formally re-adopted. The rule as revised clarifies that the Unit conducts both clinical and life safety inspections on an annual basis. It also clarifies the circumstances pursuant to which the Department conducts complaint investigations and the steps entailed in conducting an investigation. It also clarifies the Unit's ability to conduct monitored fire drills. The Unit is in the process of revising and readopting the rule relative to Residential Care Facilities (He-P 804). The changes made to He-P 805 will be incorporated into He-P 804. Due to a lack of staffing the Unit has not yet been able to complete the process of reviewing and revising its forms to ensure the requirements set forth in the forms conform to the requirements set forth in the rules. In addition, the Department was unable to incorporate the Resident Assessment Tool by reference into He-P 805. This is due to the fact that the Resident Assessment Tool does not constitute a "form" as that term is defined under RSA 541-A ("Form" means a document that establishes a requirement for persons outside the agency to provide information to an agency and the format in which such information must be submitted. The term does not include any document, regardless of what the document is called, that (a) is provided by an agency to facilitate the submission of information that is required to be submitted to the agency by federal or state statute, regulation, or rule and does not add to or modify such requirement or (b) that is used only by the agency to provide information to persons outside the agency)." The Resident Assessment Tool is used by facilities to assess the needs of their residents. It is not a form designed to provide information to the Department.

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The Unit is currently in the process of revising He-P 804. The rule as revised will clarify that the Unit conducts both clinical and life safety inspections on an annual basis. It will also clarify the circumstances pursuant to which the Department conducts complaint investigations and the steps entailed in conducting an investigation. It will also clarify the Unit's ability to conduct monitored fire drills. For the reasons stated above, the RAT cannot be incorporated into the rule. These changes, as applicable, will be made to other rules in the He-P 800 series as they are revised and readopted.

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Finding #5- Strengthen Management of Complaints

Auditee Corrective Action Plan:

We believe that the licensing unit has an effective complaint process. Complaints are being triaged and investigated, and deficiency reports are being issued in a very timely and efficient manner. Nonetheless, we agree that we need to strengthen the documentation processes relative to complaints. We will review and revise the flow sheet as needed. In addition, as resources allow we will revise the internal policy and procedure manual to provide additional guidance to surveyors relative to the conducting of complaints. We believe the licensing unit is currently and consistently collecting required information. However, as part of our review of this area we will review the processes for complaint investigation to ensure consistency.

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The review process is ongoing.

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The review process continues to be ongoing. Due to a lack of staff we have not made progress with respect to revising the Unit's policy and procedure manual.

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The review process continues to be ongoing. Due to a lack of staff we have not made progress with respect to revising the Unit's policy and procedure manual.

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Finding #6- Formalize Policy and Procedure and Improve Records Management

Auditee Corrective Action Plan:

We will update and revise the internal policy and procedure manual for clinical and life safety inspections as resources allow.

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A specific individual has been assigned to the task of reviewing the existing Policy and Procedure Manual. Once her review is complete she will work with clinical and life safety personnel in the Health Facility Licensing Unit to revise the manual in those areas identified by the auditors.

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