Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

PENNSYLVANIA COULD BETTER ENSURE THAT NURSING HOMES COMPLY WITH FEDERAL REQUIREMENTS FOR LIFE SAFETY, EMERGENCY PREPAREDNESS, AND INFECTION CONTROL

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Report in Brief
Date: November 2023
Report No. A-03-22-00206

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Pennsylvania Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control

Why OIG Did This Audit

In 2016, CMS updated its life safety and emergency preparedness regulations related to health care facilities to improve protections for all Medicare and Medicaid enrollees, including those residing in long-term care facilities (nursing homes). The updates expanded requirements related to sprinkler systems, smoke detector coverage, and emergency preparedness plans. Additionally, facilities were required to implement an infection control program.

Our objective was to determine whether Pennsylvania ensured that selected nursing homes in Pennsylvania that participate in the Medicare or Medicaid programs complied with Federal requirements for life safety, emergency preparedness, and infection control.

How OIG Did This Audit

Of the 701 nursing homes in Pennsylvania that participated in Medicare and Medicaid, we selected a nonstatistical sample of 20 nursing homes for our audit based on certain risk factors, including multiple high-risk deficiencies Pennsylvania reported to CMS.

We conducted unannounced site visits at the 20 nursing homes from July through October 2022. During the site visits, we checked for life safety, emergency preparedness, and infection control deficiencies.

What OIG Found

Pennsylvania could better ensure that nursing homes in Pennsylvania that participate in the Medicare or Medicaid programs comply with Federal requirements for life safety, emergency preparedness, and infection control if additional oversight was provided. During our onsite inspections, we identified deficiencies related to life safety, emergency preparedness, or infection control at all 20 nursing homes that we audited, totaling 586 deficiencies. Specifically, we found 220 deficiencies related to life safety, 288 deficiencies related to emergency preparedness, and 78 deficiencies related to infection control. As a result, the health and safety of residents, staff, and visitors at the 20 nursing homes are at an increased risk during a fire or other emergency, or in the event of an infectious disease outbreak.

The identified deficiencies occurred because of frequent management and staff turnover, which contributed to a lack of awareness of, or failure to address, Federal requirements. In addition, poor record keeping, combined with an inconsistent application of policies, also contributed to deficiencies. Finally, although not required by CMS, Pennsylvania does not require relevant nursing home staff to participate in standardized life safety training programs despite CMS having a publicly accessible online learning portal with appropriate content on life safety requirements.

What OIG Recommends and Pennsylvania Comments

We recommend that Pennsylvania follow up with the 20 nursing homes reviewed as part of this audit to verify that corrective actions have been taken regarding the deficiencies identified in this report. We also make seven additional procedural recommendations for Pennsylvania that are included in the report.

Pennsylvania did not indicate concurrence or nonconcurrence with our recommendations but did detail actions that it has taken or plans to take to address some of our recommendations. Pennsylvania provided a clarification regarding a brief pause to its investigations of all complaint survey activities at the onset of the COVID-19 public health emergency that we addressed by making the appropriate revision to the report. After reviewing Pennsylvania's comments, we maintain that our findings and recommendations are valid.

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INTRODUCTION

WHY WE DID THIS AUDIT

In 2016, the Centers for Medicare & Medicaid Services (CMS) updated its requirements related to health care facilities to improve protections for all individuals enrolled in Medicare and Medicaid, including those residing in long-term care facilities (nursing homes). The updates expanded requirements related to sprinkler systems and smoke detector coverage to better protect residents, staff, and visitors from fire hazards. Additionally, existing emergency preparedness plan requirements were expanded to include sheltering in place and evacuation provisions. Facilities were also required to update and test their emergency preparedness plans annually and train staff on them. Finally, facilities were required to develop an infection control program. CMS subsequently issued guidance to State survey agencies and nursing homes to help prevent the spread of COVID-19.

As part of our oversight activities, the Office of Inspector General (OIG) is reviewing this area because many residents of nursing homes have limited or no mobility and are particularly vulnerable in the event of a fire or other emergency. Nursing homes are also communal living environments; therefore, residents are susceptible to infectious diseases. In July 2022, we issued a report summarizing the results of a series of audits we previously conducted in eight States to assess compliance with CMS's new life safety and emergency preparedness requirements.[1] This audit, which focuses on selected nursing homes in Pennsylvania, is one in a series of audits that also assesses compliance with CMS's infection control requirements.

Appendix B contains a list of the eight previously conducted audits, the report summarizing the results of those audits, and the completed audits in this series.

OBJECTIVE

Our objective was to determine whether the Pennsylvania Department of Health (State agency) ensured that selected nursing homes in Pennsylvania that participated in the Medicare or Medicaid programs complied with Federal requirements for life safety, emergency preparedness, and infection control.

BACKGROUND

Medicare and Medicaid Nursing Home Survey Requirements

Medicare and Medicaid programs cover care in nursing homes for eligible enrollees. Sections 1819 and 1919 of the Social Security Act (the Act) establish requirements for CMS and States to perform surveys of nursing homes to determine whether they meet Federal participation requirements. For

[1] We conducted audits in New York, California, Texas, Florida, Missouri, Illinois, North Carolina, and Iowa. We summarized the results of these audits in *Audits of Nursing Home Life Safety and Emergency Preparedness in Eight States Identified Noncompliance With Federal Requirements and Opportunities for the Centers for Medicare & Medicaid Services to Improve Resident, Visitor, and Staff Safety* (A-02-21-01010), issued July 15, 2022.

Medicare and Medicaid, these statutory participation and survey requirements are implemented in Federal regulations at 42 CFR part 483, subpart B, and 42 CFR part 488, subpart E, respectively.

Requirements for Life Safety, Emergency Preparedness, and Infection Control

Nursing homes are required to comply with all Federal, State, and local laws, regulations, and codes, as well as accepted professional standards and principles (42 CFR § 483.70), including:

- *Life Safety Requirements*: Federal regulations for life safety (42 CFR § 483.90) require nursing homes to comply with standards set forth in the National Fire Protection Association (NFPA) *Life Safety Code* (NFPA 101) and *Health Care Facilities Code* (NFPA 99).[2] CMS lists applicable requirements on Form CMS-2786R, Fire Safety Survey Report.[3]

- *Emergency Preparedness Requirements*: Federal regulations for emergency preparedness (42 CFR § 483.73) include specific requirements for nursing homes' emergency preparedness plans and reference the *Standard for Emergency and Standby Power Systems* (NFPA 110)[4] as part of these requirements. CMS lists applicable requirements on its *Emergency Preparedness Surveyor Checklist*.[5]

- *Infection Control Requirements*: Federal regulations for infection control (42 CFR § 483.80) require nursing homes to comply with specific requirements for infection prevention and control programs (IPCPs) and policies and procedures for influenza, pneumococcal, and COVID-19 immunizations. CMS lists applicable requirements on its *Infection Prevention, Control, and Immunizations Surveyor Checklist*[6] and *COVID-19 Focused Survey Checklist* (Infection Control Surveyor Checklists).[7]

[2] CMS adopted the 2012 edition of both publications in a final rule published in 81 Fed. Reg. 26872 (May 4, 2016).

[3] Form CMS-2786R is available online at https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-Items/CMS009335. Accessed on Aug. 4, 2022.

[4] CMS adopted the 2010 edition of NFPA 110 in a final rule published in 81 Fed. Reg. 63860, 63929 (Sept. 16, 2016).

[5] CMS provides online guidance for emergency preparedness at https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertemergprep/emergency-prep-rule.html and https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Surveyor-Tool-EP-Tags.xlsx. Accessed on Aug. 4, 2022.

[6] CMS provides guidance for infection control during COVID-19 at https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and/qso-20-14-nh.pdf.

[7] CMS provides the latest Form CMS-20054, Infection Prevention Control and Immunization, revision for testing changes as of Jan. 2022, at https://cmscompliancegroup.com/wp-content/uploads/2022/01/CMS-20054-Infection-Prevention-Control-and-Immunization-January-2022.pdf. Accessed June 9, 2023.

CMS uses these survey documents when CMS or a designated agency performs a nursing home survey. The results of each survey are reported and added to CMS's Automated Survey Processing Environment (ASPEN) system.[8, 9]

Responsibilities for Life Safety, Emergency Preparedness, and Infection Control

Federal law requires nursing homes to protect the health, safety, welfare, and rights of nursing home residents and to comply with requirements for participating in Medicare and Medicaid.[10] CMS is the Federal agency responsible for certifying and overseeing all of the Nation's approximately 15,000 Medicare- and Medicaid-certified nursing homes. To monitor nursing home compliance with Medicare and Medicaid participation requirements, CMS enters into agreements with States under Section 1864 of the Act (Section 1864 Agreements).[11, 12] Pursuant to these Section 1864 Agreements, State survey agencies are responsible for completing life safety, emergency preparedness, and infection control surveys (known as standard surveys) at least once every 15 months at nursing homes that participate in Medicare or Medicaid programs.[13] Nursing homes with repeat deficiencies can be surveyed more frequently. For example, CMS established the Special Focus Facility (SFF) program to identify facilities with a persistent record of noncompliance in nursing home surveys with the goal that those in the program will make rapid, sustainable improvements to graduate from the program. State surveyors conduct CMS standard surveys for those in the SFF program every 6 months. Due to the increased funding needed to conduct these additional surveys, CMS specifies the maximum number of facilities eligible for participation in each State.

In Pennsylvania, the State agency is the State survey agency that oversees nursing homes and is responsible for ensuring that nursing homes comply with Federal, State, and local regulations. From 2019 through March 2020 (prior to the COVID-19 pandemic), the State agency conducted standard surveys at least every 15 months at 17 of the 20 nursing homes we visited in Pennsylvania.[14] In response to CMS's March 2020 COVID-19 guidance, the State agency shifted its oversight to infection control surveys and suspended standard surveys in nursing homes during the COVID-19 public health emergency. The State agency resumed standard surveys following CMS guidance published in August

[8] ASPEN is a suite of software applications designed to help State survey agencies collect and manage health care provider data.

[9] In May 2021, CMS began a phased transition to the Internet Quality Improvement and Evaluation System (iQIES). This system consolidated and replaced functionality from the Quality Improvement and Evaluation System, Certification and Survey Provider Enhanced Reports, and ASPEN legacy systems. OIG used iQIES to obtain survey results and violations.

[10] The Act §§ 1819(f)(1) and 1919(f)(1); 42 CFR Part 483, subpart B, including 42 CFR § 483.70.

[11] The Act §§ 1864(a) and 1902(a)(33); 42 CFR § 488.330; CMS's *State Operations Manual*, Pub. No. 100-07, Ch. 1-Program Background and Responsibilities, §§ 1002 and 1004 (Rev. 123, Oct. 3, 2014).

[12] The Act §§ 1819(g) and 1919(g).

[13] State survey agencies oversee nursing homes in their respective States and are responsible for ensuring that nursing homes comply with Federal, State, and local regulations.

[14] The remaining three facilities' surveys would have occurred in 2020 but were suspended due to the public health emergency.

2020. Additionally, after August 2020, the State agency has utilized a risk-based approach focused on facilities with histories of multiple high-risk deficiencies to conduct more frequent surveys at four SFF program nursing homes.[15] However, between 2020 and 2022, the State agency did not conduct standard surveys at least every 15 months at 2 of the 20 nursing homes we visited because, according to the State agency, it lacked the staff resources to do so.

Management and staff at nursing homes are ultimately responsible for ensuring the safety and well-being of their residents and for complying with Federal, State, and local regulations. For example, management and staff are responsible for ensuring that facility systems (e.g., furnaces, water heaters, kitchen equipment, generators, sprinkler and alarm systems, and elevators) are properly installed, tested, and maintained. They are also responsible for ensuring that: (1) nursing homes are free from hazards, (2) emergency preparedness plans (e.g., fire evacuation and disaster preparedness plans) are updated and tested regularly, and (3) IPCPs are updated as necessary.

Nursing Home Surveys During the COVID-19 Public Health Emergency

In March 2020, CMS suspended standard surveys in nursing homes to reduce surveyors' time onsite and modified deadlines for completing surveys during the COVID-19 public health emergency. Consequently, State survey agencies (including Pennsylvania's) experienced a backlog of standard surveys. During this period, CMS shifted its oversight to infection control surveys, which are more limited in scope than standard surveys.[16] In Pennsylvania, the State agency paused its survey activities until April 2020 to ensure its staff had appropriate personal protective equipment, and then resumed surveys for all complaints. In August 2020, CMS authorized States to resume standard surveys "as soon as they have the resources (e.g., staff and/or Personal Protective Equipment) to do so."[17]

HOW WE CONDUCTED THIS AUDIT

As of December 2021, 701 nursing homes in Pennsylvania participated in the Medicare or Medicaid programs. We selected for audit a nonstatistical sample of 20 of these nursing homes based on risk factors, including multiple high-risk deficiencies reported by the State agency to CMS's ASPEN system for calendar years (CYs) 2019 and 2020.[18, 19]

[15] As facilities graduate from the SFF program, the State agency can select other underperforming facilities to fill the open slots (up to four).

[16] CMS, Prioritization of Survey Activities, Ref: QSO-20-20-ALL (Mar. 20, 2020).

[17] CMS, Enforcement Cases Held during the Prioritization Period and Revised Survey Prioritization, Ref: QSO-20-35-ALL (Aug. 17, 2020).

[18] The 20 selected nursing homes consisted of 19 with multiple high-risk deficiencies and 20 with at least 1 deficiency related to sprinkler or fire system maintenance, building exits, or infection prevention and control.

[19] We defined deficiencies as high risk if they: (1) were widespread and had the potential for more than minimal harm, (2) involved actual harm that did not escalate the deficiency to immediate jeopardy, or (3) put resident health or safety in immediate jeopardy.

We conducted unannounced site visits at each of the 20 selected nursing homes from July through October 2022. During each site visit, we checked for life safety violations, reviewed the nursing home's emergency preparedness plan, and reviewed the nursing home's policies and procedures for infection control and prevention. We considered noncompliance with a Federal requirement to be a deficiency regardless of the number of instances of noncompliance we observed. For example, if we found three fire extinguishers at one nursing home to be in noncompliance with the requirement for monthly testing, we considered it a single deficiency for reporting purposes.

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.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency could better ensure that nursing homes in Pennsylvania that participate in the Medicare or Medicaid programs comply with Federal requirements for life safety, emergency preparedness, and infection control if additional oversight was provided. During our site visits, we identified deficiencies in areas related to life safety, emergency preparedness, or infection control at all 20 nursing homes that we audited, totaling 586 deficiencies. Specifically:

- We found 220 deficiencies with life safety requirements related to building exits, fire barriers, and smoke partitions (71); fire detection and suppression systems (46); resident call systems (9); hazardous storage areas (39); smoking policies and fire drills (17); and elevator and electrical equipment testing and maintenance (38).

- We found 288 deficiencies with emergency preparedness requirements related to emergency preparedness plans (51); emergency supplies and power (19); plans for evacuations, sheltering in place, and tracking residents and staff during an emergency (32); emergency communications plans (110); and emergency preparedness plan training and testing (76).

- We found 78 deficiencies with infection control requirements or guidance related to IPCPs and antibiotic stewardship programs[20] (15); infection preventionists[21] (1); influenza and pneumococcal immunizations (20); COVID-19 immunizations (25); COVID-19 testing (14); COVID-19 case notifications (1); and COVID-19 facility visitation signage (2).

[20] Antibiotic stewardship programs measure and improve how antibiotics are prescribed by clinicians and used by patients to effectively treat infections, protect patients from harm caused by unnecessary antibiotic use, and combat antibiotic resistance.

[21] Infection preventionists are professionals who have completed specialized training in infection prevention and control and are responsible for the nursing home's infection prevention and control program.

The identified deficiencies occurred because of frequent management and staff turnover at the nursing homes, which contributed to a lack of awareness of, or failure to address, Federal requirements. Additionally, nursing homes' poor record keeping, combined with an inconsistent application of policies, contributed to deficiencies. Finally, although not required by CMS, the State agency does not require relevant nursing home staff to participate in standardized life safety training programs despite CMS having a publicly accessible online learning portal with appropriate content on life safety requirements.

As a result, the health and safety of residents, staff, and visitors at the 20 nursing homes are at an increased risk of injury or death during a fire or other emergency, or in the event of an infectious disease outbreak.

Appendix C summarizes the deficiencies that we identified at each nursing home.

SELECTED NURSING HOMES DID NOT COMPLY WITH LIFE SAFETY REQUIREMENTS

CMS's Fire Safety Survey Report form, described on page 2, lists the Federal regulations on life safety that nursing homes must comply with and references each with an identification number, known as a K-Tag (numbered K-100 through K-933).

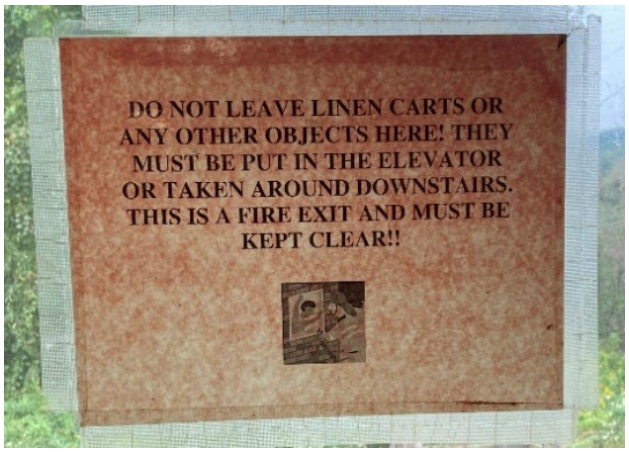
Building Exits, Fire Barriers, and Smoke Partitions

In case of a fire or emergency, nursing homes are required to have unobstructed exits, self-closing doors in exit passageways that do not require tools or keys to open and are not manually propped open, a proper number of exits, discharges from exits that are free from hazards, illuminated exit signs, and fire-stopped smoke and fire barriers (K-Tags 211, 222, 223, 241, 271, 293, 372).

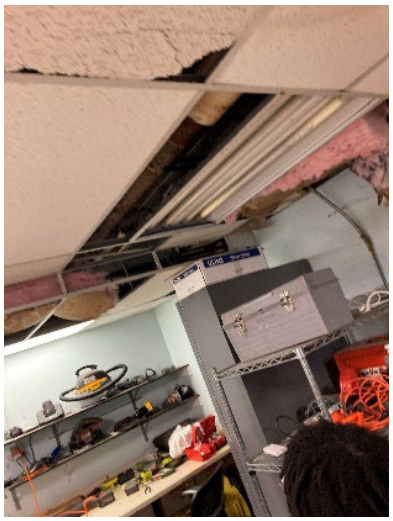
Of the 20 nursing homes we visited, 19 had 1 or more deficiencies related to building exits, fire barriers, and smoke partitions, totaling 71 deficiencies. Specifically, we found deficiencies related to penetrations (e.g., broken ceiling tiles and other openings that could contribute to the spread of smoke and fire) in the smoke or fire barrier (13 nursing homes); building exits, including exit doors and emergency exit doors that were inoperable and could not be opened (14 nursing homes); lack of illumination for the building exits (6 nursing homes); self-closing doors, including doors where the self-closing mechanism was not in good working order and doors not properly kept in a closed position (6 nursing homes); missing or non-illuminated exit signs (5 nursing homes); and an improper number of exits based on the facility's number of stories and compartments[22] (5 nursing homes). The photographs that follow depict some of the deficiencies we identified during our site visits.

[22] For each story of a facility, there should be no fewer than two exits. These exits should be remote from each other, and accessible from every part of every story in the facility. Additionally, smoke compartments (e.g., fireproof stairwells) should have two distinct exit paths.


Photograph 1 (left): *This exit door had a broken self-closing device, which prevented the door from closing automatically.* ***Photograph 2 (middle):*** *Biohazard materials were left on the floor and impeded the exit. Used biohazard materials were outside of their containers and posed a potential risk to people attempting to exit.* ***Photograph 3 (right):*** *This table was blocking an emergency exit.*

Photograph 4 (left): *This cart obstructed building exit from a fire exit path. There is also a sign telling workers to keep the area free of carts.* ***Photograph 5 (right):*** *This is a close-up of the sign in Photograph 4. The sign reads, "Do not leave linen carts or any other objects here! They must be put in the elevator or taken around downstairs. This is a fire exit and must be kept clear!!"*

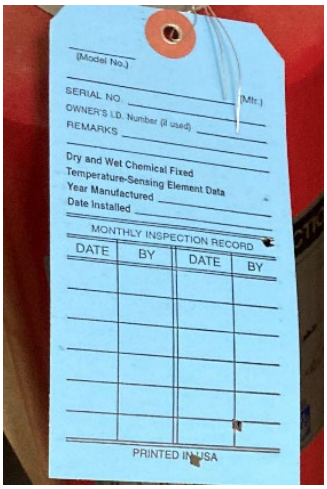

Photograph 6 (left): *This emergency exit required a code for exit.* ***Photographs 7 and 8 (middle and right):*** *Ceiling tiles were missing or damaged.*

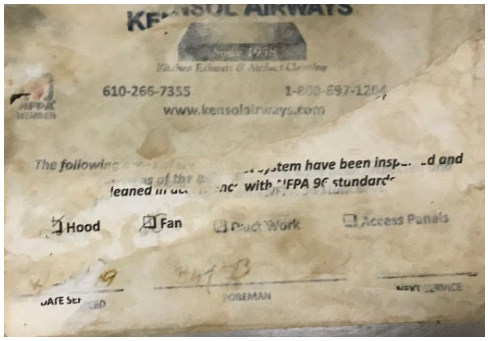
Fire Detection and Suppression Systems

Each nursing home is required to have a fire alarm system that has a backup power supply and is tested and maintained according to NFPA requirements. Sprinkler systems must be installed, inspected, and maintained according to NFPA requirements, and high-rise buildings must have sprinklers throughout. Cooking equipment and related fire suppression systems must be maintained, and repairs must be performed on all components at intervals necessary to maintain good working condition. Nursing homes must also have fire watch policies and procedures for when fire alarms or sprinkler systems are out of service (or evacuate their residents if a fire watch is not instituted), and portable fire extinguishers must be inspected monthly. Smoke detectors are required in spaces open to corridors and other areas (K-Tags 324, 342, 344–347, 351-354, 355, 421).

Of the 20 nursing homes we visited, 17 had 1 or more deficiencies related to their fire detection and suppression systems, totaling 46 deficiencies. Specifically, we found deficiencies related to fire alarm systems that were not routinely tested and maintained (7 nursing homes), improper sprinkler system installation or sprinkler heads that were obstructed (4 nursing homes), a sprinkler system that was not tested and maintained (1 nursing home), inadequate fire watch policies and procedures for periods when the fire alarm or sprinkler system is out of service (8 nursing homes),[23] cooking equipment hoods that were not serviced or fire suppression systems that were not checked monthly (6 nursing homes), and incomplete or irregular monthly portable fire extinguisher inspections (6 nursing homes). The photographs on the following page depict some of the deficiencies we identified during our site visits.

[23] When fire alarms or sprinkler systems are out of service, individuals are assigned areas to patrol to watch for fire or smoke until the systems are back in service. If a fire watch is not instituted, the building must be evacuated (K-Tags 346, 354).



Photograph 9 (left): *This fire extinguisher did not have any recorded monthly inspections.* ***Photograph 10 (middle):*** *This sprinkler head was obstructed by stored items; an 18-inch clearance is required for all sprinklers.* ***Photograph 11 (right):*** *As indicated by this inspection tag, the most recent kitchen hood inspection was in 2019, 2 years prior to our audit and with no next service date scheduled.*

Resident Call Systems

Facilities must be designed, constructed, equipped, and maintained to protect the health and safety of their residents. It is required that facilities be equipped to allow for residents to call for staff assistance through a communication system. This system should relay calls directly to a staff member or centralized work area from each resident's bedside as well as toilet and bathing facilities (42 CFR § 483.90(g)).

Of the 20 nursing homes we visited, 9 had deficiencies related to requirements for resident call systems. Specifically, we found nonfunctioning or missing call systems in toilet and bathing facilities (8 nursing homes) as well as a system blocked by furniture in a public area (1 nursing home).

Hazardous Storage Areas

In hazardous storage areas, nursing homes must install a fire barrier or an automatic fire extinguishing system with smoke-resistant partitions and self-closing doors. Hazardous chemicals must be stored in a safe manner, and general upkeep should be maintained to limit unnecessarily large amounts of combustible materials that present a fire hazard. In addition, garbage and laundry containers must not occupy more than one-half gallon per square foot of floor space. Oxygen systems must be maintained and inspected, and rooms with oxygen cylinders must have proper signage. Oxygen cylinders must be stored in a safe manner (e.g., cylinders stored in the open must be protected from weather) (K-Tags 321, 322, 500, 541, 754, 905, 908, 923).

Of the 20 nursing homes we visited, 19 had 1 or more deficiencies related to hazardous storage areas, totaling 39 deficiencies. Specifically, we found deficiencies related to oxygen cylinders, including unsafe storage and improper signage (13 nursing homes); a lack of testing and inspection records for oxygen systems (4 nursing homes); and the identification and labeling of gas and vacuum piped systems (11 nursing homes). Additionally, we found deficiencies related to hazardous storage enclosures, including doors that were not of a proper firesafe rating (2 nursing homes), improperly

propped open (4 nursing homes), and not self-closing (2 nursing homes). The photographs that follow depict some of the deficiencies we identified during our site visits.

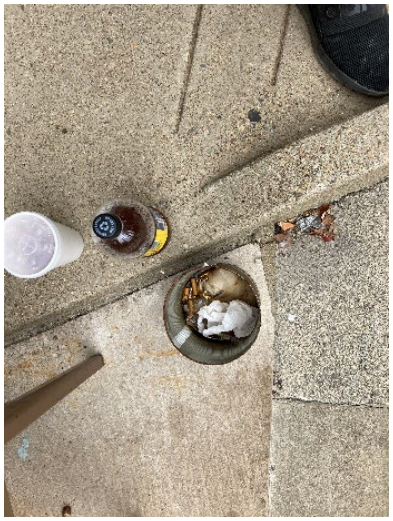
Photograph 12 (left): *Items kept around the generator posed a fire risk.* ***Photograph 13 (right):*** *A sign above the generator shown in Photgraph 12 warns about the fire risk and tells people not to place anything around the generator.*

Photograph 14 (left): *Empty oxygen cylinders were left in the "full oxygen cylinders" area.* ***Photograph 15 (right):*** *This close-up of the oxygen cylinder gauge from Photograph 14 shows that the gauge indicated that the oxygen cylinder was empty.*

Smoking Policies and Fire Drills

Nursing homes are required to establish smoking policies for residents and staff. Smoking may be permitted only in authorized areas where ash receptacles are provided. Smoking is not allowed in hazardous storage areas. Further, nonsmoking areas must include signage. Nursing homes are also required to conduct quarterly fire drills that cover each work shift. Participation by staff members is required, and the drills must be planned and conducted by a qualified individual designated by the nursing home. The drills must be held at both expected and unexpected times and include the transmission of a fire alarm signal and simulation of emergency fire conditions (K-Tags 712, 741, 925).

Of the 20 nursing homes we visited, 13 had 1 or more deficiencies related to smoking policies or fire drills, totaling 17 deficiencies. Specifically, we found deficiencies related to smoking policies that were not being followed (e.g., smoking in banned areas and in the vicinity of stored oxygen tanks) (13 nursing homes), fire drills that were not conducted quarterly covering all work shifts (3 nursing homes), and a lack of policies and procedures regarding gas equipment and sources of ignition for residents receiving respiratory therapy (1 nursing home). The photographs below depict one of the deficiencies we identified during our site visits.

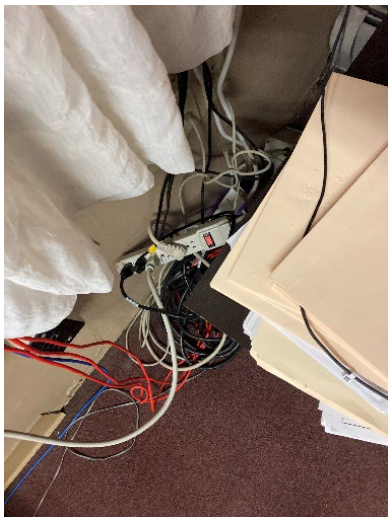



Photographs 16, 17, and 18: *A smoking area was a few feet from an oxygen tank storage area with a "no smoking" sign. These oxygen tanks were also exposed to changing weather conditions.*

Elevator and Electrical Equipment Testing and Maintenance

Nursing home elevators must be tested and maintained on a regular basis. Nursing homes must also keep a record of tests and repairs of other electrical equipment, such as patient beds and lifts. Power strips, extension cords, and portable space heaters must meet Underwriters Laboratories (UL) requirements and be used in a safe manner (e.g., extension cords are not used as a substitute for fixed wiring of a structure) (K-Tags 531, 781, 920, 921).

Of the 20 nursing homes we visited, 16 had 1 or more deficiencies related to elevator or electrical equipment testing and maintenance, totaling 38 deficiencies. Specifically, we found deficiencies related to inadequate documentation of elevator testing or maintenance, including failing to retain detailed testing reports from the elevator maintenance company (10 nursing homes). In addition, we found deficiencies related to electrical systems and equipment, including failing to maintain documentation of the inspection and maintenance of electrical receptacles at patient bed locations, a lack of required hospital-grade receptacles at patient bed locations, and failing to maintain records of electrical system tests, repairs, and modifications (12 nursing homes). We also found deficiencies related to improper use of power and extension cords (9 nursing homes) and unsafe use of portable space heaters (1 nursing home). The photograph below depicts one of the deficiencies we identified during our site visits.



***Photograph 19**: Electrical wiring was "daisy chained."*

Life Safety Training for Nursing Home Management and Staff

Under Section 1864 Agreements with CMS, State agencies agree to perform certain functions, including explaining Federal requirements to providers to enable them to maintain standards of health care consistent with Medicare and Medicaid participation requirements (CMS's *State Operations Manual* § 1010). CMS has a publicly accessible online learning portal related to such life safety training.[24] Both CMS and State agency surveyors are required to receive standardized life safety training such as the training available through CMS's online learning portal.[25] Also, as mandated by subsections 1819(g)(1)(B) and 1919(g)(1)(B) of the Act, States must conduct periodic educational programs for staff and residents of nursing homes to present current regulations, procedures, and policies.

CMS does not require all nursing home management and staff to participate in State-conducted periodic education programs. Additionally, while not required by CMS, the State agency does not require newly hired nursing home management and staff to receive standardized life safety training such as the training available through CMS's online learning portal.

SELECTED NURSING HOMES DID NOT COMPLY WITH EMERGENCY PREPAREDNESS REQUIREMENTS

CMS's *Emergency Preparedness Surveyor Checklist*, described on page 2, lists the Federal regulations on emergency preparedness with which nursing homes must comply, and references each with an identification number, known as an "E-Tag" (E-Tags E-0001 through E-0042).

[24] Learning portal available online at https://qsep.cms.gov/pubs/CourseMenu.aspx?cid=0CMSLSCPR_WBT. Accessed on Apr. 24, 2023.

[25] No State or Federal surveyor may serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary of the U.S. Department of Health and Human Services (the Act §§ 1819(g)(2)(E)(iii) and 1919(g)(2)(E)(iii)).

Emergency Preparedness Plans

Nursing homes are required to develop and maintain an emergency preparedness plan that must be reviewed and updated at least annually. The emergency preparedness plan must: (1) include a facility and community all-hazards risk assessment; (2) address emergency events and resident population needs; (3) include a continuity of operations plan; (4) address coordination with Federal, State, and local emergency management officials; and (5) have policies and procedures for emergency events based on the risk assessment. Additionally, a nursing home that is part of a group of affiliated but separately certified nursing homes electing to have a unified and integrated emergency preparedness program may elect to participate in the group's unified and integrated emergency preparedness program. If elected, the nursing home must be included in the group's unified and integrated emergency preparedness program and actively participate in the development of the group's emergency preparedness plan (E-Tags 0001, 0004, 0006, 0007, 0009, 0013, 0042).

Of the 20 nursing homes we visited, 18 had 1 or more deficiencies related to their emergency plan, totaling 51 deficiencies. Specifically, we found deficiencies related to emergency plans that were not updated at least annually (16 nursing homes), all-hazard risk assessments that were not completed (4 nursing homes), and risk assessments that did not address emergency events (5 nursing homes). We also found deficiencies related to emergency plans that did not address resident population needs, including, but not limited to, persons at-risk and the type of services the nursing home has the ability to provide in an emergency (7 nursing homes). We also found deficiencies related to emergency plans that did not include a delegation of authority or succession plan (9 nursing homes) and emergency plans that were missing relevant policies and procedures, specifically policies regarding sewage and waste disposal (4 nursing homes). Finally, we found deficiencies related to emergency plans that lacked policies for coordination with a government emergency management office (6 nursing homes).

Emergency Supplies and Power

Nursing homes' emergency preparedness plans must address emergency supplies and power, and nursing homes are required to have adequate, readily available supplies of emergency food, water, and pharmaceuticals. As a best practice, the Federal Emergency Management Agency considers 3 days of emergency supplies to be sufficient.[26] Nursing homes are also required to provide an alternate source of energy (usually a generator) to maintain temperatures to protect residents' health and safety, as well as for food storage, emergency lighting, fire protection, and sewage disposal (if applicable). Further, facilities must establish policies and procedures for heating and cooling their facility if they lose power during an emergency. Nursing homes with generators must have them installed in a safe location and are required to perform weekly maintenance checks, monthly load tests, and annual fuel quality tests if fueled with diesel.[27] Nursing homes should also

[26] The 3-day standard is a best practice recommendation, as CMS does not require a specific standard. (We did not audit for compliance with this standard.) We based our findings regarding a sufficient amount of generator fuel or other emergency supplies on a totality of the applicable criteria.

[27] Generators that operate on diesel fuel or propane gas are generally designed with a minimum fuel tank capacity to last for 3 days at half load, which factors in an emergency fuel stock and lead time for refueling.

have a plan to keep generators fueled "as necessary" and an evacuation plan if emergency power is lost (E-Tags 0015 and 0041).

Of the 20 nursing homes we visited, 12 had 1 or more deficiencies related to emergency supplies and power, totaling 19 deficiencies. Specifically, we found deficiencies related to generators that were not properly tested and maintained (4 nursing homes) and generators that were not installed in a safe location (e.g., a fire safe area) (6 nursing homes).[28] Additionally, we found deficiencies related to insufficient alternative energy sources (i.e., generators) for one nursing home that did not have a plan to keep the generators fueled as necessary. Finally, we found deficiencies related to the availability of emergency supplies or emergency power at eight nursing homes that had insufficient water or food provisions for the subsistence needs of staff and residents. The photograph below depicts one of the deficiencies we identified during our site visits.

Photograph 20: *A generator was stored in a wooden shed with full gas canisters. An animal was nesting in the shed.*

Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff During an Emergency

Nursing homes are required to have a plan for evacuations, sheltering in place, and tracking residents and staff during and after an emergency. Nursing homes must also have a plan for transferring medical records, utilizing volunteers, and transferring residents, along with procedures for their roles under a waiver to provide care at alternate sites during emergencies (E-Tags 0018, 0020, 0022–0026, 0033).

Of the 20 nursing homes we visited, 16 had 1 or more deficiencies related to their emergency plans for evacuations, sheltering in place, and tracking residents and staff during and after emergencies, totaling 32 deficiencies. Specifically, we found deficiencies related to emergency plans that did not address transferring residents during disasters (3 nursing homes), evacuations (5 nursing homes), sheltering in place (6 nursing homes), tracking residents and staff (3 nursing homes), the use of volunteers in an emergency (11 nursing homes), and a method for transferring medical records (4 nursing homes).

[28] We note that the generators located in areas susceptible to flooding are not required to be moved to a safer location until a new generator system is installed (NFPA 110), although it would be a best practice to do so.

Emergency Communications Plans

Nursing homes are required to have an emergency communications plan that includes names and contact information for staff, entities providing services, residents' physicians, other nearby nursing homes, volunteers, government emergency management offices, and the State survey agency, among others. The emergency communications plan must be updated at least annually. Nursing homes are also required to have primary and alternate means of communication (e.g., landline and backup cell phones), a means to communicate residents' condition information and location in the event of an evacuation, and methods to share emergency preparedness plan information with residents and their families (E-Tags 0029–0032, 0034, 0035).

Of the 20 nursing homes we visited, 18 had 1 or more deficiencies related to the adequacy of their emergency communications plans, totaling 110 deficiencies. Specifically, we found 17 nursing homes with plans that did not include required names and contact information, 16 nursing homes with plans that were not updated annually, 3 nursing homes with plans that had insufficient alternate means of communication, 8 nursing homes that did not have procedures for sharing emergency plan information with residents and their families, and 5 nursing homes that did not have a means to provide information about the facility to emergency management officials. Additionally, we found that four nursing homes' plans did not have procedures for sharing residents' conditions and location information in the event of an evacuation. Finally, nine nursing homes did not have any emergency communications plan.

Emergency Preparedness Plan Training and Testing

Nursing homes are required to have training and testing programs related to their emergency preparedness plans and to provide updated training at least annually. Initial training must be provided to new staff members, independent contractors (e.g., contracted cleaning staff), and volunteers. The training, as well as annual refresher training, is required for all staff, must be designed to demonstrate knowledge of emergency preparedness procedures, and must be documented. Nursing homes must also conduct an annual community-based, full-scale testing exercise.[29] In addition, a second training exercise (full-scale testing exercise, facility-based exercise, or "tabletop" exercise[30]) must be completed annually. An analysis of all training exercises (and actual events) must be completed and documented, and the emergency preparedness plan revised, if necessary (E-Tags 0036, 0037, 0039).

Of the 20 nursing homes we visited, 17 had 1 or more deficiencies related to emergency plan training, totaling 76 deficiencies. Specifically, 5 nursing homes did not have initial training for all new

[29] The exercise can be facility-based if a community-based exercise is not possible. Nursing homes are exempt from this requirement if they activated their emergency preparedness plan during the year. QSO-20-41-ALL (Sept. 28, 2020) provides additional guidance related to the emergency preparedness exercise exemption based on the facility's activation of its emergency preparedness plan due to the COVID-19 public health emergency.

[30] A tabletop exercise includes a group discussion led by a facilitator, using a narrated, clinically relevant emergency scenario, and a set of problem statements, directed messages, or prepared questions designed to challenge an emergency preparedness plan.

and existing staff; 9 did not conduct or document annual training; 9 did not conduct a full-scale testing exercise; 14 did not conduct a second training exercise; 12 did not conduct an analysis of the training exercise; and 11 nursing homes did not update their training plan annually. Finally, seven nursing homes did not have any emergency preparedness training and testing program.

SELECTED NURSING HOMES DID NOT COMPLY WITH INFECTION CONTROL REQUIREMENTS

CMS's Infection Control Surveyor Checklists, described on page 2, list the Federal regulations on infection control that nursing homes must comply with, and reference each with an identification number, known as an "F-Tag" (F-Tags F-880 through F-888).

Infection Prevention and Control and Antibiotic Stewardship Programs

Nursing homes are required to have a facilitywide IPCP for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and contractors. Written standards, policies, and procedures for the IPCP must include a surveillance system designed to identify possible communicable diseases or infections, when and to whom possible incidents should be reported, when and how to isolate individuals, hand-hygiene procedures, and the circumstances that would prohibit employees from direct contact with residents or their food. Nursing homes must also have a system for recording identified incidents and corrective actions taken, and must conduct an annual review of their IPCPs and update them as necessary. Nursing homes are also required to have an antibiotic stewardship program that includes protocols for using antibiotics and a system to monitor antibiotic use (F-Tags 880, 881).

Of the 20 nursing homes we visited, 9 had 1 or more deficiencies related to their IPCP and antibiotic stewardship program, totaling 15 deficiencies. Specifically, we found deficiencies related to IPCP policies and procedures that did not include the circumstances that would prohibit employees from direct contact with residents or their food (four nursing homes), when and to whom possible incidents should be reported (three nursing homes), and when and how isolation should be used (two nursing homes). Additionally, we found deficiencies regarding the IPCP annual review: one nursing home did not complete an annual review, and two nursing homes completed an annual review but did not update their IPCPs annually. We also found that two nursing homes did not have a system for recording identified incidents and corrective actions taken. Finally, we found that one nursing home was not able to provide evidence of an antibiotic stewardship program.

During our site visits, mpox was declared a public health emergency from August 4, 2022, through January 31, 2023. As a result, we engaged the 20 nursing homes to determine whether they: (1) received guidance from CMS or the State agency related to mpox, (2) updated their IPCPs to mitigate mpox, and (3) experienced any cases of mpox among residents or staff.

Of the 20 nursing homes we visited, 16 indicated that they received or had accessed guidance related to mpox, 10 indicated that they had updated their IPCPs, and, while none reported experiencing any cases amongst residents, 1 nursing home did experience a case among staff.

Infection Preventionists

Nursing homes are required to designate at least one individual as the infection preventionist responsible for the facility's IPCP. The infection preventionist must have primary professional training in nursing, medical technology, microbiology, epidemiology, or another related field; be qualified by education, training, experience, or certification; work at least part time at the facility; and have completed specialized training in infection prevention and control. At least one infection preventionist must be a member of the facility's quality assessment and assurance committee and regularly report to the committee on the facility's IPCP (F-Tag 882).

Of the 20 nursing homes we visited, 1 had 1 deficiency related to its infection preventionist. Specifically, the infection preventionist had not completed specialized training in infection prevention and control.

Influenza and Pneumococcal Immunizations

Nursing homes are required to develop policies and procedures so that each resident is offered influenza and pneumococcal immunizations unless an immunization is medically contraindicated or the resident has already been immunized. These policies and procedures must also ensure that, before offering the immunizations, each resident or resident's representative receives education regarding the benefits and potential side effects of the immunizations and has the opportunity to refuse them. Nursing homes are also required to ensure that the resident's medical record includes documentation that indicates whether education was provided and that the resident either received or did not receive these immunizations (F-Tag 883).

Of the 20 nursing homes we visited, 8 had 1 or more deficiencies related to medical record documentation of influenza or pneumococcal immunizations, totaling 20 deficiencies. Specifically, we found deficiencies related to medical records that lacked documentation that the facility provided required education regarding the influenza or pneumococcal immunizations (eight nursing homes[31]) and medical records that lacked documentation that residents did or did not receive an influenza or pneumococcal immunization and whether any nonreceipt of influenza or pneumococcal immunizations was due to medical contraindications or refusal of the immunizations (three nursing homes).[32]

COVID-19 Immunizations

Nursing homes are required to develop policies and procedures to ensure that each resident and staff member is offered the COVID-19 vaccine unless the immunization is medically contraindicated or the resident or staff member has already been immunized and that staff (except exempt staff) are

[31] These eight nursing homes did not provide education on pneumococcal immunizations, and six of the eight also did not provide education on influenza immunization.

[32] These three nursing homes did not provide required documentation for whether the pneumococcal immunization was received, and two of the three did not provide documentation for the influenza immunization.

fully vaccinated for COVID-19.[33, 34, 35] These policies and procedures must also ensure that, before offering the immunizations, all staff and each resident or resident's representative receive education regarding the benefits and potential side effects of the COVID-19 vaccine, and the facility documents this education and the immunization status of staff and residents. The policies and procedures must also provide each resident or resident's representative the opportunity to accept or refuse the COVID-19 vaccine (F-Tag 887, 888).

Of the 20 nursing homes we visited, 10 had 1 or more deficiencies related to COVID-19 vaccinations, totaling 25 deficiencies. Specifically, we found deficiencies related to the lack of required elements in nursing homes' COVID-19 immunization policies and procedures. The nursing homes' policies and procedures did not:

- require that medical records include documentation on education regarding benefits and risks associated with the COVID-19 vaccine (five nursing homes);
- require that medical records include documentation of receipt or refusal of the COVID-19 vaccine (two nursing homes);
- require that the facility maintain documentation that staff is in receipt of education regarding the benefits and risks associated with the COVID-19 vaccine (three nursing homes);
- require staff and residents or residents' representatives to receive education regarding the benefits or potential side effects of immunization (one nursing home),
- require staff and residents to be offered the COVID-19 vaccination (one nursing home), and
- ensure that all staff are fully vaccinated for COVID-19 (one nursing home).

We also found deficiencies related to nursing homes lacking a process for tracking and securely documenting information provided by staff who have requested, and have been granted, an exemption from COVID-19 vaccine requirements. We found that two nursing homes did not have a process to ensure that documentation requesting an exemption was signed and dated by a licensed practitioner. Additionally, three nursing homes did not have information to specify clinical contraindications for staff along with recognized clinical reasons for those contraindications. Finally,

[33] Staff are considered fully vaccinated if it has been 2 or more weeks since they completed a primary vaccine series for COVID-19 (i.e., a single-dose vaccine or all required doses of a multi-dose vaccine).

[34] The policies and procedures do not apply to staff who exclusively provide telehealth, telemedicine, or support services outside of the facility setting (exempt staff).

[35] The requirement for staff vaccination was in place during our audit period. However, 88 Fed. Reg. 36485 (June 5, 2023) removed staff vaccination requirements, noting that since facilities were no longer operating under public health emergency circumstances, staff vaccination provisions would not be enforced between the end of the Federal COVID-19 public health emergency declaration and August 4, 2023, when the removal of vaccination requirements became effective.

two nursing homes did not have a statement by an authenticating practitioner recommending staff member exemptions from the COVID-19 vaccine based on contraindications.

COVID-19 Testing

During our audit period, nursing homes were required to test residents and staff, including contractors and volunteers, for COVID-19.[36] Federal regulations stated that the nursing home must, at a minimum, conduct testing based on parameters set forth by the Secretary of the U.S. Department of Health and Human Services, including testing frequency; numbers of individuals in the facility diagnosed with COVID-19; numbers of individuals with symptoms consistent with COVID-19 or with known or suspected exposure to COVID-19; testing criteria for asymptomatic individuals (such as positivity rate of COVID-19 in a county); and the response time for test results. Nursing homes were also required to document, in each resident's record, that testing was offered and completed, as well as the results of each test. Nursing homes were also required to establish policies and procedures for addressing individuals who refuse to be tested or are unable to be tested and for contacting State and local health departments to assist in testing efforts when necessary (F-Tag 886).

Of the 20 nursing homes we visited, 9 had 1 or more deficiencies related to COVID-19 testing, totaling 14 deficiencies. We found deficiencies related to nursing homes' policies and procedures that did not address response times for COVID-19 tests (two nursing homes) or individuals who refused to be tested or were unable to be tested (two nursing homes). In addition, we found deficiencies related to nursing homes that did not comply with requirements set forth regarding each instance of testing. Specifically, three nursing homes did not document that testing was completed and the results of each test for staff, and six nursing homes did not document in resident records that testing was offered and completed and the results of each test.

COVID-19 Case Notifications

Nursing homes are required to notify residents, their representatives, and families by 5 p.m. the calendar day following either a single confirmed COVID-19 infection or three or more residents or staff with new onset of respiratory symptoms occurring within 72 hours of each other. The notification must include weekly cumulative updates, as well as information on mitigating actions implemented to prevent or reduce risk of transmission, including any altered facility operations, and must not include any personally identifiable information (F-Tag 885).

Of the 20 nursing homes we visited, 1 had a deficiency related to COVID-19 case notifications. Specifically, the nursing home did not include any cumulative updates for residents, their representatives, and families whenever three or more residents or staff had new onset respiratory symptoms occur within 72 hours of each other.

[36] 88 Fed. Reg. 36485 (June 5, 2023) removed COVID-19 testing requirements (42 CFR § 483.80(h)). While these COVID-19 testing requirements were still in place during our audit, they were no longer applicable once the public health emergency ended on May 11, 2023, and the requirements were effectively removed Aug. 4, 2023.

COVID-19 Facility Visitation Signage

In addition to complying with Federal regulations on infection control (42 CFR § 483.80), nursing homes are required to follow supplementary guidance from CMS related to COVID-19, including guidance related to posting signage at the facility entrances with visitation and screening procedures (QSO-20-20-ALL).

Of the 20 nursing homes we visited, 2 had deficiencies related to following CMS supplementary guidance on COVID-19 facility visitation signage, totaling 2 deficiencies. Specifically, the nursing homes did not post appropriate signage at entrances.

DEFICIENCIES RESULTED FROM MANAGEMENT AND STAFF TURNOVER, POOR RECORDKEEPING, AND A LACK OF TRAINING

Deficiencies in life safety, emergency preparedness, and infection control occurred because of frequent management and staff turnover at the nursing homes, inconsistent application of policies, and lack of awareness of training and documentation requirements. Specifically, the majority of nursing home management teams stated that they experienced frequent management and staff turnover, which significantly contributed to their inability to consistently and effectively apply life safety, emergency preparedness, and infection control policies. Additionally, several nursing home management teams also noted that the use of agency, or traveling, nurses led to an inconsistent application of policies as these individuals were not familiar with facility-specific policies. Further, most of the nursing homes we visited did not conduct all of the required trainings or provide training documentation because management and staff were unaware of the requirements to conduct the training or maintain training record documentation. Finally, although not required by CMS, the State agency does not require relevant nursing home staff to participate in standardized life safety training programs despite CMS having a publicly accessible online learning portal with appropriate content on life safety requirements.

Combined, these factors may have contributed to a lack of awareness of, or failure to address, Federal requirements, potentially resulting in deficiencies such as those detailed in our report.

CONCLUSION

At the conclusion of our inspections, we shared the deficiencies we identified with nursing home management and staff so that immediate corrective action could be taken. We also shared the identified deficiencies with the State agency and CMS for followup, as appropriate.

Although nursing home management and staff are ultimately responsible for ensuring resident safety, the State agency could better ensure that nursing homes comply with Federal health and safety requirements.

RECOMMENDATIONS

We recommend that the Pennsylvania Department of Health:

- follow up with the 20 nursing homes reviewed as part of this audit to verify that corrective actions have been taken regarding the life safety, emergency preparedness, and infection control deficiencies identified in this report;

- provide annual written reminders to nursing homes with K-tag, F-tag, and E-tag requirements;

- work with CMS to develop standardized life safety training for nursing home management teams and staff;

- work with CMS to improve standardized emergency plan testing and training for nursing home management teams and staff;

- develop additional infection control training resources for nursing home management teams and staff;

- implement verification standards to confirm completion of written training and training drills;

- work with CMS to refine the current risk-based approach to identify nursing homes at which surveys should be conducted more frequently than once every 15 months, such as those with frequent management turnover; and

- develop a plan in conjunction with CMS to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple high-risk deficiencies.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our recommendations but did detail actions that it has taken or plans to take to address some of our recommendations. Additionally, the State agency noted that it was committed to collaborating with CMS to address four of our recommendations. The State agency provided a clarification regarding a brief pause to its investigations of all complaint survey activities at the onset of the COVID-19 public health emergency that we addressed by making the appropriate revision to the report. After reviewing the State agency's comments, we maintain that our findings and recommendations are valid.

The State agency's comments are included in their entirety as Appendix D.

STATE AGENCY COMMENTS

Regarding our first recommendation, the State agency indicated that it had performed full health surveys at all 20 nursing homes since our site visits. In addition, all facilities but one have had a revisit survey to verify that corrective actions have been implemented; the last one is scheduled.

Regarding our second recommendation, the State agency quoted the Medicare State Operations Manual's expectation that nursing homes "take the initiative and responsibility for continuously monitoring their own performance." Additionally, the State agency pointed out that nursing homes must attest to compliance with Federal and State regulations as part of their annual licensure requirements; the State agency also considers this an annual reminder of K-tag, F-tag, and E-tag requirements.

Regarding our third, fourth, seventh, and eighth recommendations, the State agency noted that it was willing to collaborate with CMS to address our recommendations.

Regarding our fifth recommendation, the State agency referenced three platforms for additional infection control training resources for nursing homes. The platforms and resources mentioned were: (1) courses available through the Public Health Foundation, (2) the State agency's Long-Term Care RISE program, and (3) courses and knowledge articles available through the Patient Safety Authority.

Regarding our sixth recommendation, the State agency maintained that verification of written training and drills are reviewed during every survey as required by CMS.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's comments, we maintain that our findings, conclusions, and recommendations are valid. We are pleased that the State agency has followed up with the 20 nursing homes and that all facilities have either had a revisit or is scheduled for one. We are also pleased that the State agency is open to collaborating with CMS.

Despite the guidance in both the State Operations Manual and the annual licensure process, frequent turnover in nursing home staff often led to a lack of staff awareness regarding K-tag, F-tag, and E-tag requirements. Additionally, we found that the infection control trainings provided by the State agency during our audit did not address the infection control areas in which nursing homes experienced deficiencies. Finally, several nursing homes were not able to provide documentation and verification of required trainings despite reviews conducted during standard surveys. Therefore, we maintain that additional specific reminders, specific training, and more specific requirements are needed to reduce deficiencies in these areas.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

As of December 2021, 701 nursing homes in Pennsylvania participated in Medicare or Medicaid programs. Of these 701 nursing homes, we selected a nonstatistical sample of 20 nursing homes for our audit based on risk factors, including multiple high-risk deficiencies the State agency reported to CMS's ASPEN system for CYs 2019 and 2020.[37]

We did not assess the State agency's overall internal control structure. Rather, we limited our assessment of internal controls to those applicable to our audit objective. Specifically, we assessed the State agency's policies, procedures, and practices applicable to monitoring nursing homes' compliance with life safety, emergency preparedness, and infection control requirements. Our assessment would not necessarily disclose all material weaknesses in the State agency's internal controls.

We conducted unannounced site visits at the 20 nursing homes throughout Pennsylvania from July through October 2022.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- held discussions with CMS and State agency officials to gain an understanding of the process for conducting nursing home life safety, emergency preparedness, and infection control surveys;
- obtained from the Internet Quality Improvement and Evaluation System (iQIES) a list of all 701 active nursing homes in Pennsylvania that participated in the Medicare and Medicaid programs as of December 2021;
- compared the nursing home list provided by iQIES with a listing of nursing homes generated by the State agency's website to verify completeness and accuracy;
- obtained from iQIES a listing of all Pennsylvania nursing homes that had 1 or more deficiencies during CYs 2019 through 2020;[38]
- analyzed the list of nursing homes with reported deficiencies to determine which homes were high risk because they had reported deficiencies that: (1) were widespread and had the potential for more than minimal harm, (2) involved actual harm that did not escalate the

[37] The 20 nursing homes consisted of 19 with multiple high-risk deficiencies and 20 with at least 1 deficiency related to sprinkler or fire system maintenance, building exits, or infection prevention and control.

[38] iQIES houses the survey results that were reported by the State agency through ASPEN in 2019 and 2020.

deficiency to immediate jeopardy, or (3) presented immediate jeopardy to resident life and safety; [39]

- selected 20 nursing homes for onsite inspections and, for each of the 20 nursing homes:
    - reviewed deficiency reports prepared by the State agency for the nursing home's 2019 and 2020 surveys and
    - conducted unannounced site visits at the nursing home to check for life safety violations, review the nursing home's emergency preparedness plan, and review the nursing home's infection control policies and procedures; and
- discussed the results of our inspections with the selected nursing homes, the State agency, and CMS officials.

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.

[39] Deficiencies that the State agency enters into the ASPEN system are uploaded to CMS's Certification and Survey Provider Enhanced Reports system and are available to the public through the Quality and Certification Oversight Reports online reporting system (https://qcor.cms.gov).

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
New Jersey Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control	A-02-22-0104	9/29/2023
Georgia Could Better Ensure That Nursing Homes Comply With Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control	A-04-22-08093	9/7/2023
Certain Nursing Homes May Not Have Complied With Federal Requirements for Infection Prevention and Control and Emergency Preparedness	A-01-20-00005	7/26/2022
Audits of Nursing Home Life Safety and Emergency Preparedness in Eight States Identified Noncompliance With Federal Requirements and Opportunities for the Centers for Medicare & Medicaid Services to Improve Resident, Visitor, and Staff Safety	A-02-21-01010	7/15/2022
Iowa Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-07-19-03238	2/16/2021
North Carolina Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-04-19-08070	9/18/2020
Illinois Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-05-18-00037	9/17/2020
Missouri Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-07-18-03230	3/13/2020
Florida Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-04-18-08065	3/6/2020
Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes	A-06-19-08001	2/6/2020
California Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-09-18-02009	11/13/2019
New York Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness	A-02-17-01027	8/20/2019

APPENDIX C: DEFICIENCIES AT EACH NURSING HOME

Table 1: Summary of All Deficiencies by Nursing Home

Nursing Home	Life Safety Deficiencies	Emergency Preparedness Deficiencies	Infection Control Deficiencies	Totals
1	3	2	0	**5**
2	12	1	0	**13**
3	6	11	5	**22**
4	7	15	4	**26**
5	7	6	1	**14**
6	21	25	4	**50**
7	11	12	2	**25**
8	14	13	0	**27**
9	9	4	0	**13**
10	16	15	4	**35**
11	14	8	0	**22**
12	12	29	2	**43**
13	17	31	3	**51**
14	3	18	5	**26**
15	17	10	4	**31**
16	4	21	11	**36**
17	17	13	2	**32**
18	7	12	9	**28**
19	10	20	17	**47**
20	13	22	5	**40**
Totals	**220**	**288**	**78**	**586**

Table 2: Life Safety Deficiencies

Nursing Home	Building Exits, Fire Barriers, and Smoke Partitions	Fire Detection and Suppression Systems	Resident Call System	Hazardous Storage Areas	Smoking Policies and Fire Drills	Elevator and Electrical Equipment Testing and Maintenance	Totals
1	0	1	0	1	1	0	**3**
2	6	3	1	1	0	1	**12**
3	2	2	0	1	0	1	**6**
4	2	1	0	3	0	1	**7**
5	1	2	0	2	0	2	**7**
6	3	8	0	3	3	4	**21**
7	3	1	1	2	1	3	**11**
8	1	4	1	3	1	4	**14**
9	2	1	0	2	1	3	**9**
10	4	5	1	1	2	3	**16**
11	4	4	1	1	1	3	**14**
12	6	1	0	3	1	1	**12**
13	8	4	0	2	0	3	**17**
14	2	0	0	1	0	0	**3**
15	5	3	1	3	2	3	**17**
16	2	0	0	0	0	2	**4**
17	8	2	1	4	1	1	**17**
18	3	0	1	2	1	0	**7**
19	4	1	1	3	1	0	**10**
20	5	3	0	1	1	3	**13**
Totals	**71**	**46**	**9**	**39**	**17**	**38**	**220**

Table 3: Emergency Preparedness Deficiencies

Nursing Home	Emergency Preparedness Plan	Emergency Supplies and Power	Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff During an Emergency	Emergency Communications Plans	Emergency Preparedness Plan Training and Testing	Totals
1	0	0	0	0	2	**2**
2	0	0	0	0	1	**1**
3	2	0	1	3	5	**11**
4	3	1	0	5	6	**15**
5	3	0	1	1	1	**6**
6	7	2	2	7	7	**25**
7	1	2	1	5	3	**12**
8	7	0	0	1	5	**13**
9	1	0	1	2	0	**4**
10	2	1	2	5	5	**15**
11	1	0	2	5	0	**8**
12	4	1	5	13	6	**29**
13	6	3	4	12	6	**31**
14	1	2	2	8	5	**18**
15	2	1	1	6	0	**10**
16	2	1	3	10	5	**21**
17	1	1	1	6	4	**13**
18	1	0	2	7	2	**12**
19	2	3	1	7	7	**20**
20	5	1	3	7	6	**22**
Totals	**51**	**19**	**32**	**110**	**76**	**288**

Table 4: Infection Control Deficiencies

Nursing Home	Infection Prevention and Control and Antibiotic Stewardship Programs	Infection Preventionists	Immunizations		COVID-19 Testing	COVID-19 Notifications	Facility Signage	Totals
			Non-COVID-19*	COVID-19				
1	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0
3	2	0	2	1	0	0	0	5
4	1	0	0	2	1	0	0	4
5	1	0	0	0	0	0	0	1
6	1	0	2	0	1	0	0	4
7	2	0	0	0	0	0	0	2
8	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0
10	1	0	2	1	0	0	0	4
11	0	0	0	0	0	0	0	0
12	0	0	0	0	2	0	0	2
13	0	1	0	0	2	0	0	3
14	0	0	2	3	0	0	0	5
15	0	0	0	2	2	0	0	4
16	2	0	4	3	2	0	0	11
17	0	0	0	2	0	0	0	2
18	4	0	2	1	1	0	1	9
19	0	0	4	9	2	1	1	17
20	1	0	2	1	1	0	0	5
Totals	**15**	**1**	**20**	**25**	**14**	**1**	**2**	**78**

*Influenza and pneumococcal immunizations.

pennsylvania
DEPARTMENT OF HEALTH

October 13, 2023

Nicole Freda
Regional Inspector General for Audit
Services Office of Audit Services, Region III
801 Market Street, Suite 8500
Philadelphia, PA 19107-3134

Dear Ms. Freda,

The purpose of this letter is to respond to the September 13, 2023, draft report *Pennsylvania Could Better Ensure That Nursing Homes Comply with Federal Requirements for Life Safety, Emergency Preparedness, and Infection Control*.

The Pennsylvania Department of Health (Department) surveys long term care facilities annually for state licensure and federal certification. These surveys are completed by CMS trained surveyors and done per strict adherence to the State Operations Manual, as validated on a continuous basis by CMS surveyor monitoring surveys. All long-term care facilities exhibiting deficiencies with required Life Safety Code, Emergency Preparedness, Infection Control or any other state or federal requirements must be found in substantial compliance to continue to maintain state licensure or be recommended for CMS certification.

The Department appreciates the thoroughness of the audit, but it appears that there has been some miscommunication regarding how the states conducted surveys between 2020 and 2022. On page 4 of the report, you state, "States, including Pennsylvania, also continued to conduct surveys for more serious nursing home complaints." The only pause in complaint survey activity in Pennsylvania was to ensure Department staff had appropriate personal protective equipment (PPE). The Department resumed complaint surveys on April 17, 2020. All complaints were triaged and investigated regardless of the perceived seriousness of the complaint.

Thank you for providing us with your recommendations. We have reviewed each of them and our feedback is below:

Deputate for Quality Assurance
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1. **Follow-up with the 20 nursing homes reviewed as part of this audit to verify that corrective actions have been taken regarding the life safety, emergency preparedness, and infection control deficiencies identified in this report:**
   All 20 facilities have had a full health survey performed by the Department since the OIG audit visits. All but one facility has had a revisit survey verifying that corrective actions have been implemented. The last one is scheduled.

   The surveys performed by the Department were completed by certified surveyors. If deficiencies are identified, the facility has 10 calendar days to respond with a plan of correction. A revisit is planned based on the facility's allegation of compliance and as outlined in SOM Chapter 7.

2. **Provide annual written reminders to nursing homes with K-tag, F-tag and E-tag requirements:**
   The Medicare State Operation Manual (SOM) Chapter 7 states, "*The nursing home reform regulation establishes several expectations. The first is that providers remain in substantial compliance with Medicare/Medicaid program requirements as well as State law. The regulation emphasizes the need for continued, rather than cyclical compliance. The enforcement process mandates that policies and procedures be established to remedy deficient practices and to ensure that correction is lasting;* ***specifically, that facilities take the initiative and responsibility for continuously monitoring their own performance to sustain compliance****."*

   Nursing homes are inspected annually by the Department. These surveys assure that nursing homes are following state and federal regulations to be a licensed facility. The annual licensure application requires facilities to attest to full compliance with all state and federal rules and regulation. The Department considers this an annual reminder.

3. **Work with CMS to develop standardized life safety training for nursing home management teams and staff:**
   The Department appreciates your recommendation and is committed to collaborating with CMS to develop standardized life safety trainings for nursing home management teams and staff.

4. **Work with CMS to improve standardize emergency plan testing and training for nursing home management teams and staff:**
   The Department appreciates your recommendation and is committed to collaborating with CMS to develop standardized emergency plan testing and training for nursing home management teams and staff.

5. **Develop additional infection control training resources for nursing home management teams and staff:**
Providers have access to multiple venues of additional training for long-term care facilities.

The Public Health Foundation offers multiple courses specific to infection control which can be located at: Home - TRAIN Learning Network - powered by the Public Health Foundation
Below is a sample of courses available:

- The Infection Preventionist
- Infection Prevention during Wound Care
- Integrating infection Prevention and Control into Quality Assurance and Performance Improvement.

The Department also implemented the Long-Term Care RISE program (LTC RISE), partnering with multiple health systems to support facilities to build resiliency and successfully manage infection prevention and control. Regular trainings are provided to nursing homes, through RISE partners, on infection prevention and control and emergency preparedness to nursing homes. These trainings vary widely and can be tailored to meet individual facility's needs.

Additionally, Pennsylvania has an independent state agency, the Patient Safety Authority, that collects reports of patient safety events from Pennsylvania health care facilities. Patient Safety Authority - Safe healthcare for all patients The Patient Safety Authority provides guidance to facilities that includes:

- Access to Infection Preventionists Contact Patient Safety Authority Staff | Pennsylvania Patient Safety Authority.
- A clearinghouse of resources on various topics related to infection prevention and control including articles, trainings and links for additional information.
- A Learning Management System with several courses dedicated to infection prevention and control.

6. **Implement verification standards to confirm completion of written training and drills:**
Verification of written training and drills is reviewed on site during every survey as required by CMS.

7. **Work with CMS to refine the current risk-based approach to identify nursing homes at which surveys should be conducted more frequently than once every 15 months, such as those with frequent management turnover:**
   The Department appreciates your recommendation and is open to collaborating with CMS to refine the current risk-based approach to identify nursing homes at which surveys should be conducted more frequently than once every 15 months, such as those with frequent management turnover.

8. **Develop a plan in conjunction with CMS to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple high-risk deficiencies:**
   The Department appreciates your recommendation and is open to collaborating with CMS to develop a plan to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple high-risk deficiencies.

   CMS has a Special Focus Facility (SFF) Program that requires the poorest performing facilities to be inspected more frequently. CMS recently made updates to the program to include the consideration of a facility's staffing level, progressive enforcement remedies, and post-graduation monitoring.

Thank you for the opportunity to comment on the draft report. We hope our responses to your recommendations and comments assist you in your evaluation. If you have any questions, please feel free to contact me at 717-547-3067 or jeparisi@pa.gov.

Sincerely,

Jeanne Parisi
Deputy Secretary for Quality Assurance

CC: Ann Chronister
Kristen Rodack, LSW
Douglas Snyder
Dr. Debra Bogen, MD, FAAP