

EXECUTIVE DIGEST

REGULATION OF NURSING HOMES, ADULT FOSTER CARE HOMES, AND HOMES FOR THE AGED

INTRODUCTION	This report, issued in April 2001, contains the results of our performance audit* of the Regulation of Nursing Homes, Adult Foster Care (AFC) Homes, and Homes for the Aged (HFAs), Department of Consumer and Industry Services (CIS).
AUDIT PURPOSE	This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.
BACKGROUND	<p>CIS is responsible for the licensing and regulation of nursing homes, AFC homes, and HFAs.</p> <p>The Bureau of Health Systems is responsible for the licensing and certification of nursing homes in accordance with Sections 333.21711 - 333.21799e of the <i>Michigan Compiled Laws</i> (sections of the Public Health Code). The Bureau's responsibilities include conducting Medicare* certification surveys, conducting annual licensing survey inspections, and investigating complaints received against nursing homes. There were approximately 450 licensed</p>

nursing homes operating throughout the State as of December 31, 1999.

The Bureau of Regulatory Services is responsible for licensing AFC homes in accordance with Sections 400.701 - 400.737 of the *Michigan Compiled Laws*. The Bureau conducts biennial survey inspections, monitors AFC homes' compliance with State laws and regulations, and investigates complaints received against AFC homes. There were approximately 4,500 licensed AFC homes operating throughout the State as of December 31, 1999.

The Bureau of Health Systems was responsible for licensing HFAs, in accordance with Sections 333.21301 - 333.21333 of the *Michigan Compiled Laws* (sections of the Public Health Code), until January 2000. The responsibility for licensure was then transferred to CIS's Bureau of Regulatory Services. The licensure process required the Bureau of Health Systems to conduct annual survey inspections of each facility. The Bureau was also responsible for investigating complaints received against these facilities. There were approximately 175 licensed HFAs operating throughout the State as of December 31, 1999.

AUDIT OBJECTIVES,
CONCLUSIONS, AND
NOTEWORTHY
ACCOMPLISHMENTS

Audit Objective: To assess CIS's effectiveness and efficiency in regulating nursing homes.

Conclusion: We determined that CIS was moderately effective and efficient in regulating nursing homes. However, our assessment disclosed two material conditions*:

- CIS had not formalized and maintained policies and procedures to effectively monitor, prioritize, and

schedule annual survey inspections of nursing homes. Also, CIS did not conduct timely annual survey inspections of some nursing homes in accordance with State and federal laws and regulations. (Finding 1)

CIS agreed that the annual survey inspections were not conducted in a timely manner as a result of inadequate staffing levels. CIS has added additional staffing, reorganized the Bureau of Health Systems, and implemented a report system to calculate survey intervals and identify homes with extended intervals. As a result, CIS informed us that it is presently within the average 12-month standard and that no nursing home surveys are in excess of the 15-month standard.

- CIS needs to improve its controls to ensure that nursing home surveys and revisits are performed and documented in accordance with federal regulations (Finding 2).

CIS agreed with the finding and informed us that it is confident that the specific procedures for which deficiencies were noted were performed; however, the appropriate documentation was missing from the applicable files. CIS has instructed the surveyors to ensure that the required documentation is appropriately placed and maintained in the files.

Our assessment also disclosed reportable conditions* related to revisits of nursing home annual surveys and complaint investigations, nursing home complaint investigations, and the licensing of HFAs and nursing homes (Findings 3, 4, and 13).

Noteworthy Accomplishments: In January 2000, the Bureau of Health Systems was reorganized to create the

Division of Nursing Home Monitoring, which was designed to more efficiently handle long-term care responsibilities. Additional staffing was added to the Division to aid in the Bureau's efforts to focus on federal and State mandates. Also, the Bureau developed computer reports to assist in monitoring progress toward those mandates. Since these changes were instituted, the Bureau has shown significant improvement in this area and is routinely meeting the mandated time frames.

The federal requirement that initial revisits be conducted within 70 days of the survey date is not totally within the control of the Bureau. The ability to conduct the initial revisit is heavily dependent upon long-term care facilities submitting timely and acceptable plans of correction. To aid in meeting the 70-day requirement, the Bureau requests facilities to produce plans of correction with compliance dates no later than 50 days following the survey date. This allows a window of approximately 10 days each for processing and revisits, providing a minimal period following the stated compliance date to be able to determine a facility's ability to sustain compliance and to accommodate the federal requirement that CIS conduct unannounced revisits. Some facilities do not comply with this request because it is not federally mandated.

The Bureau has also taken steps to upgrade and expand computer capability, which will allow more efficient monitoring of this requirement. Until completion of the project, the necessary information must be primarily compiled manually. Given the current limitations, the Bureau has shown substantial improvement in the number and percentage of cases meeting the time frames.

Audit Objective: To assess CIS's effectiveness and efficiency in regulating AFC homes.

Conclusion: We determined that CIS was generally effective and efficient in regulating AFC homes. However, our assessment noted reportable conditions related to report and automated information system data, the good moral character of licensees, the financial stability and capability of licensees, AFC biennial licensing inspections, and AFC complaint investigations (Findings 5 through 9).

Noteworthy Accomplishments: The Division of Adult Foster Care Licensing, Bureau of Regulatory Services, has consistently achieved over its 95% performance objective for responding in a timely manner to alleged violations of the *Michigan Compiled Laws* and/or administrative rules, conducting license renewal inspections and processing license renewals prior to the license expiration date, responding to inquiries for written information within 10 workdays of receiving the inquiry, and providing license renewal packets to licensees within 120 to 150 calendar days prior to the expiration of the current license. The Division has revised its monthly management reporting process to more accurately collect data on a quarterly reporting basis related to measuring established Division performance objectives. An information clearinghouse of in-service professional enhancement to further the expertise of the Division's licensing staff in the AFC area was made accessible to all AFC licensing staff on the Division's intranet site.

Audit Objective: To assess CIS's effectiveness and efficiency in regulating HFAs.

Conclusion: We determined that CIS was not effective or efficient in regulating HFAs. Our assessment disclosed three material conditions:

- CIS did not conduct annual surveys of HFAs in a timely manner, as required by State law. Also, CIS had not established and maintained formal policies and procedures to effectively monitor, prioritize, and schedule the required HFA annual surveys. (Finding 10)

CIS agreed with the finding. During the audit period, there were only two licensing staff members assigned to regulate over 170 HFAs. CIS informed us that, since the reassignment of the HFA Program in January 2000, two additional licensing staff members were added and a compliance plan has been established to ensure that all annual licensing inspections are done on a 12-month cycle.

- CIS did not ensure that HFAs corrected deficiencies found in annual surveys in a timely manner. Also, CIS had not established and maintained formal policies and procedures to adequately address its role and responsibilities in the survey process. (Finding 11)

CIS agreed with the finding. CIS informed us that it will provide assurance that HFAs correct deficiencies in a timely manner and establish and maintain formal policies and procedures addressing the roles and responsibilities in the survey process.

- CIS did not conduct timely investigations of complaints received against HFAs (Finding 12).

CIS agreed with the finding. CIS indicated that a compliance plan has been developed to ensure that all annual, initial, complaint, and follow-up inspections are done in a timely manner. CIS also indicated that it has established complaint investigation procedures and that all complaint investigations have been initiated and completed in accordance with the new established time frames.

Our assessment also disclosed reportable conditions related to the licensing of HFAs and nursing homes and the monitoring of newly opened HFAs (Findings 13 and 14).

Noteworthy Accomplishments: After reassignment of the HFA Program to the Bureau of Regulatory Services in January 2000, the Bureau has taken several steps to increase the effectiveness and efficiency of the Program. The steps taken include the hiring of two additional licensing staff members; assignment of an experienced manager in regard to implementation of the Public Health Code; reassignment of the process of intake, logging, handling, and tracking of all complaints related to HFAs and to the Program itself; reassignment of case loads to even work loads; a comprehensive review of laws, administrative rules, and policies and procedures for enforcement to ensure proper enforcement practices; implementation of a compliance plan for the completion of annual inspections of all HFAs; and implementation of a six-month temporary permit to new applicants that would allow CIS to determine compliance prior to the admission of residents.

**AUDIT SCOPE AND
METHODOLOGY**

Our audit scope was to examine the program and other records related to the Department of Consumer and Industry Services' regulation of nursing homes, adult foster care homes, and homes for the aged. Our audit was

conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our audit procedures included examining CIS records and activities for the period October 1, 1996 through December 31, 1999.

We obtained an understanding of the regulations, policies, and procedures used by CIS to regulate nursing homes, AFC homes, and HFAs to ensure that they operated in compliance with applicable State and federal laws and regulations. We selected samples of licensed nursing homes, AFC homes, and HFAs and samples of individual complaints made against these homes. We tested the related case files and evaluated the related survey inspections and complaint investigation processes. We also reviewed and evaluated CIS's system for scheduling and performing annual survey inspections of nursing homes and HFAs and for administering the decentralized AFC Program.

**AGENCY RESPONSES
AND PRIOR AUDIT
FOLLOW-UP**

Our audit report includes 14 findings and 20 corresponding recommendations. CIS's preliminary response indicated that it agreed with the findings.

CIS complied with 4 of the 13 prior audit recommendations included within the scope of our current audit. We repeated 1 prior audit recommendation and the 8 other prior audit recommendations were rewritten for inclusion in this audit report.