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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
FINANCE AND ADMINISTRATIVE SERVICES
LEANN DROSTE
ACTING DIRECTOR

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DIRECTOR

Emailed 9/1/15

September 1, 2015

Mr. Jeffrey S. Bankowski, Chief Internal Auditor
Office of Internal Audit Services
State Budget Office
George W. Romney Building – Sixth Floor
111 S. Capitol, P.O. Box 30026
Lansing, Michigan 48909

Dear Mr. Bankowski:

In accordance with the State of Michigan, Financial Management Guide, Part VII, attached are the summary table identifying our responses and our corrective action plans to address recommendations contained within the Office of the Auditor General's Performance Audit of the Adult Foster Care and Homes for the Aged Licensing Division, (formerly of) Michigan Department of Health and Human Services, covering the period October 1, 2010 through April 30, 2014. Executive Order No. 2015-4 transferred the division to the Department of Licensing and Regulatory Affairs (LARA) effective April 10, 2015.

If you have any questions regarding this report, please feel free to call me at (517) 335-9247.

Sincerely,

(SIGNED)

Allen Williams, Director
Finance & Administrative Services
Office of Audit & Financial Compliance

Enclosure

cc: Audit Distribution List
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AUDIT RESPONSE SUMMARY

Performance Audit of Adult Foster Care and Homes for the Aged Licensing Division Department of Licensing and Regulatory Affairs (LARA) October 1, 2010 through April 30, 2014

I. Citations complied with:

- #1.
- #2.
- #3.
- #5.
- #6.
- #7.
- #8.
- 10.

II. Citations to be complied with:

#4. Partially implemented. The estimated date for submission of the proposed administrative rule revisions is March 31, 2016.

#9. The estimated date of full compliance is October 31, 2015.

III. Citations agency disagrees with:

None

Audit Response
Performance Audit of Adult Foster Care and Homes for the Aged Licensing Division
Department of Licensing and Regulatory Affairs (LARA)
October 1, 2010 through April 30, 2014

FINDING #1 – Improved Inspection Documentation Needed

We recommend that the Division sufficiently document on-site licensing inspection review procedures and conclusions to assist [the Department] with ensuring proper oversight of facility and home licensees.

Final Response:

LARA agrees and has complied.

LARA revised its Licensing Study Report (LSR) template in June 2014 to include relevant information regarding the procedures used to conduct the inspections. LARA has also implemented an Inspection Record to document licensing staff inspection activities. This record affirmatively identifies rules assessed and records reviewed. This record will not be included as a part of the official LSR issued. Instead, it will be retained in the facility license file with the LSR. The facility license file will not retain staff inspection notes following issuance of the LSR and completion of the Inspection Record.

LARA will continue to ensure that the LSR report format includes information needed by the licensee to document compliance and by the public who need to know the license status and compliance with regulations.

The references to AFC resident funds and valuables have been deleted from the LSR report format. Instead, assessment of compliance with administrative rules related to resident funds and valuables, which is required at each renewal on-site inspection as a key indicator, are now documented on the Inspection Record.

FINDING #2 – CAP Follow-up Should be Documented to Help Ensure Resident Safety

We recommend that the Division maintain documentation of its follow-up of licensees' CAPs to verify that licensees corrected rule violations and to strengthen [the Department's] assurance that residents are protected from harmful or unsafe situations.

Final Response:

LARA agrees and had complied.

LARA has revised Licensing Policy Manual Item 510 to require that the written approval of the CAP includes the regulatory staff's plan to verify the licensee's compliance with the approved CAP. The CAP approval letter template has been revised to include the plan. The inspection

Record is now used to document in the facility license file when compliance with the CAP has been verified on site at the facility. A new BITS event has been established called “Verification of Corrective Action” which is line-referenced to the CAP approval event. The comment section of this event records the method of verification.

FINDING #3 – More Timely Annual Home Licensing Inspections are Required to Comply with State Law

We recommend that the Division timely conduct required annual on-site licensing inspections of homes.

Final Response:

LARA has complied with this recommendation.

LARA revised Licensing Policy Manual Item 230 to require that on-site annual inspections and LSRs be completed before the license application expiration date. Licensing Policy Manual Item 100, Prioritization of Workload, was revised to reflect that the inspection and report, as opposed to the issuance of the renewal license, is the priority. Also, timely inspections of homes has been made an annual employee performance objective and will remain so until the cumulative performance for the program is 90% or better for two consecutive years. Area managers will continue ongoing monitoring activities which include reviewing monthly reports from BITS during monthly consultations with licensing staff.

Beginning October 1, 2015, HFR inspections will be required at least once every 3 years as a result of statutory changes.

FINDING #4 – Incident Reporting Rules and Policies Need Consistent Enforcement and to be More Sufficiently Developed

We recommend that the Division consistently enforce and develop sufficient incident reporting rules and policies to help strengthen processes intended to protect the health and safety of facility and home residents.

Final Response:

LARA agrees with the recommendation and will comply.

LARA had developed a new policy manual item for incident reporting. Licensing policy now includes criteria for determining when a late incomplete incident report is or is not to be cited for noncompliance. LARA also revised the AFC incident report form to include space for licensing consultants to document the actions taken in response to receipt of the incident report. Staff will be required to document this same action on BITS. LARA revised Licensing Policy Manual Items 230 and 300 and Appendix 100 to require that incident reports be kept in the facility

license file, or in an electronic folder on the S: drive with a notation in the facility license file indicating the location of the incident reports on the S: drive, until follow-up occurs at the next on-site inspection or investigation.

The revised policy and improved documentation requirements will allow LARA to better demonstrate when regulatory staff consider risks to the residents and exercise appropriate professional judgment when deciding whether or not to issue rule violations.

All critical incident reports are now printed and kept in a binder in Central Office by the Program Analyst. An electronic copy of the critical incident report is also maintained by the Program Analyst. These will be maintained at Central Office for five years.

LARA supports the recommendation to strengthen the family home administrative rules related to incident reporting. LARA will propose a family home rule requiring incident reporting consistent with the group home requirements for incident reporting when new family home rules are next promulgated in fiscal year 2016. The department plans to begin the process to revise administrative rules by March 31, 2016. During this process the department will look at making consistent reporting requirements as outlined in Finding 4.d.

FINDING #5 – Improved Monitoring of Facility and Home Employee Background Checks Could Help Improve Resident Safety

We recommend that the Division improve its monitoring of facility and home employee background checks to help ensure that licensees conduct required checks consistently and timely and that licensees do not allow individuals with unsuitable backgrounds to have direct access to or provide direct services for residents.

Final Response:

LARA agrees and has complied.

LARA has revised Licensing Policy Manual Item 230 to additionally require regulatory staff to randomly select one employee file for verification of criminal background check during 10% of renewal or annual on-site inspections. In addition, LARA revised Licensing Policy Manual Item 516 to require staff to contact licensees immediately upon receipt of notice of employee disqualification to ensure licensees understand that the employee can no longer work in the facility. Staff will follow-up on employee disqualifications when next on site.

Management was already performing various monitoring activities such as spot checks of staff reports and shadowing consultants in the field to ensure that they are doing required tasks. This will continue to be done to ensure that the new practices are being performed.

FINDING #6 – Required AFC Licensing Information was not Reported to the Legislature

We recommend that [the Department] submit statutorily required reports containing AFC licensing information to the Legislature.

Final Response:

LARA agrees and has complied.

LARA now has a process to send the report, cover letter, and the signature letter to the Children's Services Administration by November 10 of each year. LARA will retain a hard copy and an electronic copy of these documents. In addition, LARA has added the report to its MiPromises Tracking System.

FINDING #7 – Improvements Needed to Ensure that APS Consistently Receives Complaints from the Division Against Facilities and Homes

We recommend that the Division notify APS when it receives complaints alleging abuse, neglect, and/or exploitation of facility and/or home residents to help [the Department] ensure that it takes the appropriate actions to protect the health and safety of residents.

LARA agrees and has complied.

LARA has revised its Licensing Policy Manual to clarify the definitions and circumstances of abuse, neglect, and exploitation investigated by the MDHHS APS program and which are referred to APS. LARA created a new BITS event, and policy requires staff to document APS referrals on BITS. Staff were informed of and instructed on the policy revisions through both email communications and meetings.

FINDING #8 – More Timely Completion of Complaint Investigation is Necessary to Ensure Proper License Oversight

We recommend that the Division complete complaint investigations timely to help ensure that it promptly assesses and addresses potential licensing rule violations that could impact the health and safety of facility and home residents.

LARA agrees and has complied.

LARA has revised Licensing Policy Manual Item 100 to differentiate the prioritization of complaint investigation versus completion of complaint investigation reports. When complaint investigations do not substantiate licensing violations, or when the licensing violations substantiated do not pose a risk to the quality of resident care, completion of the report is designated a lesser priority than other high-risk circumstances.

LARA also revised Appendix 115 of the Licensing Policy Manual to require that area managers conduct monthly caseload consultations with regulatory staff which include proactive discussions of compliance with standards of promptness for licensing actions.

FINDING #9 – Processes to Conduct and Document Investigations of Unlicensed Facilities and Homes Need Improvements

We recommend that the Division timely conduct, and fully document, investigations of unlicensed facilities and homes to help [the Department] ensure that vulnerable adults do not reside in facilities and homes that laws require to be licensed and regulated.

LARA agrees and will comply.

LARA has revised Licensing Policy Manual 100 to include that unlicensed facility investigations are considered high-risk for the purpose of prioritization of workload activities.

In addition, LARA will revise Licensing Policy Manual Items 300 and 360 to establish a separate standard of promptness for completion of unlicensed facility investigations that reflects the more complex nature of these investigations and BCAL's dependency upon the voluntary cooperation of the operation being investigated. The Department of the Attorney General is currently assisting us on policy revisions for some of the more complex unlicensed programs.

Upon completion of the policy revisions, staff training will be conducted to ensure staff understand the new investigation policies and procedures and will be competent implementing them. Complaints, including unlicensed facility complaints, will continue to be tracked and monitored monthly. Managers will also continue to be responsible for ensuring unlicensed complaints are completed timely according to policy.

Our expected date of full compliance is October 31, 2015.

FINDING #10 – Improvements Needed in Maintaining Information of Parties Involved in Complaint Allegations

We recommend that the Division properly maintain coding information containing the identity of individuals who are the subject of facility and home complaint investigation to allow [the Department] to identify key individuals contained in SIRs and to protect the confidentiality of residents, resident relatives, and complainants.

LARA agrees and has complied.

LARA has revised policy to require regulatory staff to include the code sheet with the draft SIR or LSR submitted to the area manager for review and approval. This will ensure that code sheets have been completed when required. Staff training was conducted to ensure staff understood the revised policy. Area managers are responsible for monitoring for compliance and following-up, if necessary.