



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Oversight of Nurse Hiring and Retention

New York City Health and Hospitals Corporation



Report 2017-N-2

July 2018

Executive Summary

Purpose

To determine whether the New York City Health and Hospitals Corporation (Health and Hospitals) ensured that direct hire and temporary nurses were appropriately screened before they were hired, and had policies and procedures in place to ensure that nurses are routinely monitored once hired. Our audit scope included all currently employed direct hire nurses as of May 2, 2017 and all temporary nurses as of August 1, 2017.

Background

Health and Hospitals is a public benefit corporation created by the New York City Health and Hospitals Corporation Act of 1969. Health and Hospitals, the largest public health care system in the nation, is a network of 22 facilities, including 11 acute care hospitals, 6 diagnostics and treatment centers, and 5 nursing homes, as well as more than 70 community-based primary care sites located across the City's five boroughs. The network provides essential health care services to more than 1 million New Yorkers annually.

For the fiscal year ended June 30, 2017, Health and Hospitals reported total operating revenue of approximately \$7.3 billion and total operating expenses of approximately \$7.6 billion – personal service expenses accounted for \$3.6 billion of this amount. As of May 2, 2017, Health and Hospitals employed 9,161 permanent (direct hire) nurses throughout its network. Additionally, as of August 1, 2017, it retained the services of 1,369 temporary nurses (see Exhibit A for a breakdown by facility). Health and Hospitals requires background checks on all direct hire and temporary nurses.

Background investigations of direct hire nurses are conducted by each facility's Human Resources (HR) department if their annual salary is below \$100,000, while the New York City Department of Investigations conducts background investigations of managerial nurses earning \$100,000 or more per year. Further, all direct hire nurses employed after January 29, 2002 are required to have their background verified through fingerprinting. Vizient, Inc. (Vizient) is a contract labor manager that provides temporary nursing staff and manages agreements with staffing agencies on behalf of Health and Hospitals. These staffing agencies are responsible for conducting pre-assignment background screenings of temporary nurses employed by Health and Hospitals and for uploading supporting evidence to Vizient's technology platform – Optimizer. The staffing agencies are also responsible for completing staff profiles attesting that the screenings were completed. The HR Directors at the facilities use Optimizer to ensure that all temporary staff have had the appropriate background investigation and clearance. Additionally, facilities are required to monitor nurse performance using evaluations.

For our audit, we reviewed files for a random sample of 200 direct hire and 98 temporary nurses from five Health and Hospitals facilities or organizations – Bellevue, Kings County, Lincoln, Gouverneur, and the Home Health Agency – to verify that these nurses were properly screened prior to being hired and were continuously monitored after hire.

Key Findings

- Of the 200 direct hire nurses in our sample, 41 (21 percent) had not been fingerprinted. Of these, 38 were hired before 2002 – when fingerprinting became required.
- Unlike for direct hire nurses, Health and Hospitals does not require fingerprinting of temporary nurses.
- For direct hire nurses, various background checks were not completed before hire.
- None of the facilities followed Health and Hospitals' procedures for maintaining documentation of all screening checks, including retaining records supporting nurse candidates' credentials. At each facility we visited, temporary nurses' qualification and background screening documentation was not stored in a single, centralized location for ease of accessibility; some key documents had to be obtained from Vizient. Further, there was no evidence that Health and Hospitals reviewed background check documentation, as required.
- Performance evaluations were not completed for 25 direct hire nurses, including 24 at a single facility.

Key Recommendations

- Ensure all temporary and direct hire nurses are electronically fingerprinted so they can be monitored for potential criminal activity.
- Require facilities to complete and maintain documentation supporting that all background check requirements for nurses are met prior to their hiring.
- Ensure facilities maintain complete, readily available files for temporary nurses, and document evidence that staffing agencies' background investigations of temporary nurses have been reviewed by Health and Hospitals officials.
- Require facilities to complete and maintain evidence of annual performance evaluations of direct hire and temporary nurses assigned for more than one year.

Other Related Audit/Report of Interest

[State Education Department: Oversight of Nurse Licensing \(2016-S-83\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

July 16, 2018

Mitchell Katz, MD
President and CEO
New York City Health and Hospitals Corporation
125 Worth Street
New York, NY 10013

Dear Dr. Katz:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Nurse Hiring and Retention*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and pursuant to McKinney's Unconsolidated Laws of New York, Section 7384(9) and Section 7403 (New York City Health and Hospitals Corporation Act, as added by L 1969, ch 1016, Section 1).

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The New York City Health and Hospitals Corporation (Health and Hospitals) is a public benefit corporation created by the New York City Health and Hospitals Corporation Act of 1969 to oversee the provision and delivery of comprehensive health care in New York City's public hospitals and clinics. Health and Hospitals, the largest public health care system in the nation, provides essential inpatient, outpatient, and home-based services to more than 1 million New York City residents annually in more than 70 locations across the five boroughs, including 11 acute care hospitals, 6 diagnostic and treatment centers, and 5 nursing homes.

For the fiscal year ended June 30, 2017, Health and Hospitals reported total operating revenue of approximately \$7.3 billion and total operating expenses of approximately \$7.6 billion, with personal service expenses (e.g., health care professionals' salaries and benefits) accounting for nearly half (\$3.6 billion) of that amount. To provide care for its patients, Health and Hospitals relies on a large network of nurses, both direct hire (hired by the facilities) and temporary (hired as needed through temporary staffing agencies via Vizient, Inc. [Vizient], Health and Hospitals' staffing resource contractor). As of May 2, 2017, Health and Hospitals employed 9,161 direct hire nurses throughout its health care system and, as of August 1, 2017, 1,369 temporary nurses (see Exhibit A).

As a condition of their hiring, Health and Hospitals requires that nurse candidates undergo various screenings (e.g., criminal history, verification of work eligibility) to ensure they are in compliance with relevant hiring policies and procedures. For direct hire nurses, these background checks are performed by the hiring facility's Human Resources (HR) department or the New York City Department of Investigations (DOI). For temporary nurses, the staffing agencies are contractually responsible for conducting these screenings and for submitting supporting evidence to Vizient. Staffing agencies must also provide attestation of the screenings, although the hiring facility's HR department is ultimately responsible for ensuring that all temporary staff have been screened. Once hired, facilities are required to monitor the nurses' performance and provide a written evaluation assessing their competency at least once a year.

For purposes of this audit, we reviewed files for a sample of 200 direct hire nurses and 98 temporary nurses at five Health and Hospitals facilities or organizations (Bellevue, Kings County, Lincoln, Gouverneur, and Home Health Agency) to verify that they were properly vetted before, and monitored during, their employment.

Audit Findings and Recommendations

Health and Hospitals generally complied with its policies for the screening of its direct hire and temporary nurses. However, it has not taken action to ensure that direct hire nurses who began before 2002, or any of its temporary nurses, are fingerprinted. Given the risks, and to ensure public safety, we believe tighter controls are warranted to ensure that all currently employed nurses, regardless of hire date, are fingerprinted so they can be properly monitored for potential criminal activity. We also identified numerous instances of deficient screening and monitoring, potentially increasing the risk that unsuitable or ineligible individuals are being hired to provide care and/or are allowed to continue practicing.

Screening and Monitoring of Direct Hire Nurses

As outlined in Health and Hospitals' Operating Procedures, facilities are required to conduct background checks of direct hire nurse candidates, including:

- Fingerprinting (required for nurses hired after January 29, 2002) to identify criminal convictions and criminal charges pending;
- Verification of employment eligibility (Form I-9);
- Verification of State-issued licenses;
- Search of exclusion lists issued by the Office of the Inspector General (OIG), Office of the Medicaid Inspector General (OMIG), and U.S. General Services Administration System for Award Management (SAM), which replaced the Excluded Parties List System (EPLS); and
- Confirmation that minimum qualification requirements (MQRs) have been met.

Once hired, nurse employment performance is monitored through annual evaluations. The written evaluation assesses their competency and must be maintained in their personnel records.

Our review of files for the sample of 200 direct hire nurses identified some key areas of deficiency, most notably in terms of documentation, that call into question the integrity of facilities' screening and monitoring outcomes. (See Exhibit B for a summary by facility.) For instance, we found:

- 4 instances where nurses were not licensed at time of hire;
- 111 instances where the files did not contain documentation showing that all required screenings were performed; and
- 25 instances where files contained no documentation of annual evaluations.

It is incumbent on Health and Hospitals to strengthen controls over facilities' screening and monitoring of nurses to ensure they are properly vetted and evaluated.

Nurses Not Licensed at Time of Hire

According to Health and Hospitals' policies, all nurses must be licensed in New York State in order to work at Health and Hospitals facilities. Licensing is performed by the State Education

Department, which requires applicants to be of good moral character and to meet education and examination requirements. We found that four direct hire nurses were not licensed at the time of their hiring. Health and Hospitals officials asserted that three of these nurses had limited permits that allowed them to work before receiving their licenses. However, officials were only able to provide us with supporting documentation for one nurse, and we note that the limited permit submitted to us was issued after the nurse's start date. All four nurses ultimately received their licenses between 2 and 16 months after they had been hired.

Employment Eligibility Verification

E-Verify is an Internet-based system that uses information from the U.S. Citizenship and Immigration Services' Form I-9 (Employment Eligibility Verification) to confirm whether prospective employees are eligible to work in the U.S. Facility HR departments are responsible for using this system to verify new hires' work eligibility within three days of their start date and for maintaining E-Verify results. For 30 of the 200 direct hire nurses in our sample, there was no evidence that the I-9 verification was done or maintained. In response, Health and Hospitals officials told us that they retrained staff on the Form I-9 procedures in spring 2017, and that the facilities will audit their personnel files to confirm that a Form I-9 is on file for each employee.

Fingerprinting

Health and Hospitals began requiring fingerprinting in 2002. Its fingerprinting system (digital as of 2004) is linked to New York State Division of Criminal Justice Services (DCJS) and Federal Bureau of Investigation (FBI) databases, enabling the conduct of criminal history searches for new hires and, thereafter, the monitoring of staff through automatic updates of any criminal activity. Of the 200 direct hire nurses in our sample, files for 41 lacked documentation of fingerprinting. DCJS further confirmed that these 41 nurses were not in its fingerprinting database. We note that most (38) of these direct hire nurses were hired before 2002, when fingerprinting was not required. Given the risk at stake, we believe tighter controls are warranted to ensure that all currently employed nurses, regardless of hire date, are fingerprinted so they can be properly monitored for potential criminal activity.

Verification of Minimum Qualification Requirements

Facility HR departments are responsible for verifying education, experience, licensure, certifications, and the authenticity of candidates' documents that support their reported credentials. According to Health and Hospitals' Operating Procedure 20-53, written records of the verification and copies of all supporting documents should be retained at the facilities. For six nurses – including four in management positions – we found no evidence that verifications had been conducted at the time of hire. As such, Health and Hospitals has no assurance that these staff met the MQRs for their positions.

Exclusion List Searches

The OIG, OMIG, and U.S. General Services Administration SAM/EPLS maintain lists of individuals who have violations or sanctions imposed against them, preventing them from providing care. Prior to hiring direct hire nurses, facility HR departments are responsible for performing name searches within these exclusion lists, verifying any matches, and retaining records of results. Our review identified 34 instances where facilities failed to perform one or more of these searches for a direct hire nurse candidate at the time of hire. In response to our preliminary findings, Health and Hospitals officials stated that HR department staff had been retrained in these procedures.

Performance Evaluations

According to Health and Hospitals' Operating Procedures, all Health and Hospitals employees must receive a formal written performance evaluation at least once a year to review and assess competency, work performance, and expectations for the next appraisal period. Unsatisfactory evaluations may lead to disciplinary actions, such as demotion or termination. In addition, all evaluations are part of the nurse's personnel record. For 25 direct hire nurses in our sample, including 24 at one facility alone, there were no current performance evaluations on file. Lacking these records, Health and Hospitals has no assurance that facilities are monitoring nurses' performance to ensure they are meeting the expectations set forth in their job descriptions.

In response to our preliminary findings, Health and Hospitals officials stated that HR department staff will be retrained on detailed, standardized guidelines and procedures for new hires (implemented in September 2017). Additionally, Health and Hospitals indicated that, beginning in 2018, it will monitor performance evaluation compliance on a quarterly basis and will hold managers accountable for non-compliance.

Screening and Monitoring of Temporary Nurses

To supplement staffing needs, Health and Hospitals has an agreement with Vizient, a contract labor manager, for temporary nursing staff and vendor management services and to manage agreements with staffing agencies. These temporary nurses need to meet the same requirements as direct hire nurses. According to Health and Hospitals officials, since background checks are done by the staffing agencies, using temporary nurses speeds up the hiring process and provides the facilities with greater flexibility when addressing staff shortages. As of August 1, 2017, Health and Hospitals retained the services of 1,369 temporary nurses. If a facility has a need for temporary staffing, it posts the job listing in Vizient's technology platform (Optimizer), which is connected to the staffing agencies. The staffing agencies then submit candidates' resumes to the Health and Hospitals facilities via Optimizer. Thereafter, the facilities review candidates' qualifications and experience and conduct interviews. Once a facility makes a final selection, the corresponding staffing agency will be notified of the offer.

The staffing agencies are responsible for conducting pre-assignment background screenings of temporary nurse candidates in accordance with Health and Hospitals' Operating Procedure 20-56, as follows:

- Conduct annual (and for Home Health Agency, monthly) OIG, OMIG, and SAM/EPLS exclusion list checks;
- Investigate and verify criminal records by searching the applicable national and local databases and public records;
- Verify the validity and legality of candidates' Social Security numbers;
- Complete and maintain I-9 Forms for work eligibility verification; and
- Verify candidates' current resume, education, and work history.

Although staffing agencies are responsible for completing these screening steps (and for each nurse referred for employment, completing a staff profile attesting to screening completion), facility HR Directors are responsible for ensuring that staffing agencies perform these checks before nurses begin working at their facilities, while Health and Hospitals' Office of Internal Audits is responsible for auditing facilities' compliance. Additionally, the HR Directors at each facility we visited informed us that temporary nurses receive performance evaluations annually in the same manner as direct hire nurses.

We reviewed files for a sample of 98 temporary nurses and found that Health and Hospitals generally complied with the applicable hiring and monitoring procedures. However, as with direct hire nurse screening, we did find several internal control deficiencies, including a lack of fingerprinting to monitor the nurses' criminal records, as well as weaknesses in I-9 Form verification, exclusion list searches, and annual evaluations (see Exhibit B for a summary by facility). We note that, consistent with our review, a Health and Hospitals internal audit in May 2017 identified control weaknesses in facility nursing departments' compliance with procedures, including poor retention of documentation, untimely reviews, and incomplete information.

Employment Eligibility Verification

For the 98 temporary nurses in our sample, we found that none had I-9 Forms in their files. Although temporary nurses are not permanent employees of Health and Hospitals, according to the contract between Vizient and the staffing agencies, Health and Hospitals is responsible for ensuring employment eligibility prior to the nurse starting work. In response to our preliminary findings, Health and Hospitals officials stated that they rely on the staffing agencies' attestation that this verification was completed and documented.

Fingerprinting

According to Health and Hospitals, fingerprinting is not required for temporary nurses. Without this requirement, Health and Hospitals does not have a means to continuously monitor these nurses' criminal records during their employment assignment at Health and Hospitals facilities. In response, Health and Hospitals officials stated they cannot fingerprint temporary nurses since they are employees of contracted agencies. However, we believe it is crucial for all nurses with direct access to patients – temporary or direct hire – to be fingerprinted and monitored to allow for ongoing monitoring for criminal activity by DCJS and the FBI.

Other Non-Compliance Issues

As with direct hire nurses, we also noted issues with temporary nurses' exclusion list checks and performance evaluations, as follows:

- For 32 instances involving 12 nurses at two of the facilities in our sample, all of the exclusion list searches had not been conducted, as required.
- Despite being assigned to a facility for more than one year, 14 temporary nurses did not receive a performance evaluation.

Personnel Records

Documentation supporting the screening and selection of temporary nurses should be readily accessible and available for review when requested. At each facility we visited, we found that such documentation was not being maintained in an organized, consistent, and centralized manner, rendering these records not readily retrievable when needed. Instead, some hard copy files were kept at the nursing department or the HR department, while other key documents were stored electronically in Optimizer, Vizient's technology platform. Additionally, at one facility, some documentation we sought pertaining to temporary nurses was not uploaded to Optimizer until after we made the request. Further, there was no evidence that the documentation in Optimizer had been reviewed by HR or nursing personnel to ensure that temporary nurses were properly vetted.

Recommendations

1. Ensure all temporary and direct hire nurses are electronically fingerprinted so they can be properly monitored for potential criminal activity.
2. Require facilities to complete and maintain documentation supporting that all background check requirements for nurses are met prior to their hiring.
3. Ensure facilities maintain complete, readily available files for temporary nurses, and document evidence that staffing agencies' background investigations have been reviewed by Health and Hospitals officials.
4. Require facilities to complete and maintain evidence of annual performance evaluations of direct hire and temporary nurses assigned for more than one year.

Audit Scope, Objectives, and Methodology

The objectives of this audit were to determine whether Health and Hospitals ensured that direct hire and temporary nurses were appropriately screened before being hired and, once hired, continuously monitored. Our audit scope included all currently employed direct hire nurses as of May 2, 2017 and all temporary nurses as of August 1, 2017.

To accomplish our objectives and assess related internal controls over nurse hiring and retention, we interviewed Health and Hospitals HR department personnel and staff at the five hospitals or organizations in our sample (Bellevue, Kings County, Lincoln, Gouverneur, and Home Health Agency), and reviewed relevant Health and Hospitals' operating procedures. We also met with DOI and Health and Hospitals Central Office officials, and communicated with representatives from Vizient and DCJS.

We judgmentally selected facilities based on size, location, and facility type. We selected a sample of 200 direct hire nurses (40 randomly selected from each of the five facilities) out of a total population of 9,161 direct hire nurses as of May 2, 2017. Due to privacy concerns, we were not given access to the actual personnel files but were provided with lists of direct hire and temporary nurses at each facility. Based on our audit work, however, we believe that the lists provided to us were sufficiently reliable for the purposes of this audit. Additionally, we selected a random sample of temporary nurses at each of the facilities, for a total of 99 temporary nurses (19 from Gouverneur and 20 each from the remaining four facilities). There were 1,369 temporary nurses as of August 1, 2017. One of the 99 temporary nurses never began the employment assignment and was removed from the sample. For all sampled nurses, we reviewed personnel files to verify that they were properly screened and continuously monitored once hired.

We conducted our performance audit in accordance with generally accepted government auditing standards. These 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.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and pursuant to McKinney's Unconsolidated Laws of New York, Section 7384(9) and Section 7403 (New York City Health and Hospitals Corporation Act, as added by L 1969, ch 1016, Section 1).

Reporting Requirements

We provided a draft copy of this report to Health and Hospitals officials for their review and formal comment. We considered their comments in preparing this final report and have attached them in their entirety to the report. In their response, Health and Hospitals officials generally agreed with our recommendations and noted actions that have already been or will be taken. Our rejoinders to certain comments are included in the report's State Comptroller's Comments, which are embedded in Health and Hospitals' response.

Within 90 days after final release of this report, we request that the President and Chief Executive Officer of the New York City Health and Hospitals Corporation report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and where the recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Exhibit A

Number of Nurses by Facility

Facility	Direct Hire Nurses ¹	Temporary Nurses ²	Totals
Bellevue	1,144	188	1,332
Elmhurst	1,084	25	1,109
Kings County	1,005	257	1,262
Lincoln	841	100	941
Jacobi	830	135	965
Coney Island	766	11	777
Woodhull	595	7	602
Queens	589	183	772
Harlem	557	224	781
Metropolitan	445	104	549
North Central Bronx	329	68	397
Henry J. Carter	240		240
Coler	231		231
Gouverneur	113	19	132
Home Health Agency	103	47	150
Sea View	101		101
McKinney Center	85		85
East New York	25		25
Renaissance	22		22
Cumberland	20	1	21
Morrisania	20		20
Segundo Belvis Ruiz	16		16
Grand Total	9,161	1,369	10,530

¹ As of May 2, 2017.

² As of August 1, 2017.

Exhibit B

Summary of Screening/Monitoring Tasks

	Bellevue	Home Health Agency	Kings County	Lincoln	Gouverneur	Totals
Direct Hire Nurses						
Sample Number	40	40	40	40	40	200
Not licensed at time of hire	0	0	3	0	1	4
No I-9 verification on file	1	1	9	5	14	30
No fingerprint results on file	10	3	10	6	12	41^a
No MQR check	0	4	1	1	0	6
No OIG search	1	1	6	1	2	11
No OMIG search	1	10	4	0	1	16
No EPLS/SAM search	1	2	4	0	0	7
No current annual evaluation	0	24	1	0	0	25
Temporary Nurses						
Sample Number	20	19	20	20	19	98^b
Not licensed at time of hire	0	0	0	0	0	0
No I-9 verification on file	20	19	20	20	19	98
No fingerprint on file	20	19	20	20	19	98
No MQR check	0	0	0	0	0	0
No OIG search	0	0	0	2	7	9
No OMIG search	0	0	0	2	10	12
No EPLS/SAM search	0	0	0	2	9	11

^a Includes three direct hire nurses (one each at Bellevue, Kings County, and Gouverneur) who were hired after January 29, 2002, when fingerprinting became a requirement for all direct hire nurses.

^b Original sample included 99 temporary nurses; however, one nurse who never started the employment assignment was removed from the sample, leaving 98.

Agency Comments and State Comptroller's Comments



April 27, 2018

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RE: Audit Report (2017-N-2) on the Oversight of Nurse Hiring and Retention

Dear Mr. Sifontes:

Thank you for the review of Nurse Hiring and Retention practices at New York City Health + Hospitals. Attached please find the New York City Health + Hospitals response to the key findings and key recommendations for the draft report, Oversight of Nurse Hiring and Retention.

New York City Health + Hospitals remains committed to patient safety. The safety of our patients is embedded in our mission. While we consider the recommendations referenced in the report, we also maintain that our nurses were appropriately licensed, eligible for employment, fingerprinted and their background was checked, as required.

Thank you and if you have any questions regarding the response, please contact Christopher Telano, Chief Internal Auditor/Senior AVP at 646.458.5623.

Best Regards,

A handwritten signature in black ink, appearing to read "Mitchell Katz".

Mitchell Katz, MD

Key Findings:**Nurses Not Licensed at Time of Hire**

NYC H+H takes the position that our nurses were appropriately licensed or permitted to practice nursing, under NYS Education Law. Specifically, NYC H+H disagrees with the finding that four (4) nurses were not licensed at the time of hire.

According to the NYS Office of Professions, NYS Education Law, Article 139, Nursing, §6907, nurses are allowed to work under a Limited Permit for one year pending licensure. Furthermore, the law states recent graduates of schools of nursing registered by the NYS Department of Education may be employed to practice nursing for 90 days immediately following graduation and pending receipt of a Limited Permit or license.

According to our review of the employee's personnel records, the four (4) nurses identified in the audit were hired under Limited Permits or were recent graduates of schools of nursing. NYC H+H did not keep records of Limited Permits for the identified nurses once their licenses were issued because it was not a requirement during the 1990s. Details regarding the four (4) nurses are as follows:

- Two nurses were hired or promoted to the title of Staff Nurse immediately following their graduation from a nursing school and received their licenses, one before the end of the initial 90 days and the other within eight (8) months.
- One nurse was hired under a Limited Permit and received her license within 11 months of their start date.
- The fourth nurse was hired under a Limited Permit and separated from service prior to completing one year of service for failure to pass their licensing examination. This nurse was subsequently rehired only after she had received her license.

NYC H+H maintains the position that our nurses were appropriately licensed or permitted to practice nursing, under NYS Education Law.

State Comptroller's Comment - Health and Hospitals did not provide evidence to support their assertion that the four nurses were appropriately licensed or permitted to work. Moreover, absent the Limited Permits, we are unable to confirm the accuracy of Health and Hospitals' assertions. Additionally, Health and Hospitals' timeline regarding the dates the nurses eventually received their licenses is not accurate as it took as long as 16 months for one nurse to be licensed.

Employment Eligibility Verification

NYC H+H takes the position that E-verify was not required for the 30 nurses identified in the audit since they were hired before the March 2013 implementation of E-Verify.

State Comptroller's Comment - Our report does not state that E-verify was required for the 30 nurses. Rather, it indicates that we audited against the requirements that were in place at the time of hire.

With regards to Form I-9, NYC H+H has confirmed that all identified nurses are authorized for employment in the United States. Our findings indicated that some of the missing Form I-9s was due to the destruction of documents maintained off site by flood or fire.

Regarding the Form I-9s for all employees identified as missing, these documents are now on file. HR Staff received refresher training regarding Form I-9 and E-verify in the spring of 2017. Refresher training will be held annually to ensure all staff responsible for processing Form I-9s and E-Verify continue to follow proper procedures. Audits will be periodically conducted by Human Resources to ensure compliance with USCIS regulations regarding employment eligibility, including the documentation of Form I-9s and E-verify. In addition, NYC H+H Human Resources is conducting a System-wide audit of Form I-9 files.

Fingerprinting

We dispute the finding that 41 direct hire nurses were not fingerprinted. Only three (3) of the 41 nurses were hired after January 2002, when fingerprinting became a requirement as per NYC H+H Operating Procedure 20-53. Personnel records indicate that all three (3) nurses were manually fingerprinted. We are not required to keep actual fingerprint cards on file therefore, digital fingerprint cannot be produced.

NYC H+H was able to confirm that for one of the Nurses, a fingerprint card under the employee's hyphenated name was submitted to DCJS and results were returned on July 5, 2002. Lastly, one of the nurses in question was a manager which under our policy required a background investigation with NYC Department of Investigations (DOI), which includes digital fingerprinting by DOI. This individual was also required to have a Criminal History Record Search which was conducted by NYC H+H prior to their start date. Subsequently, this individual separated from service prior to the completion of their DOI investigation.

The third nurse was hired before May 2004 when digital fingerprinting was implemented at NYC H+H. However, a Criminal History Record Search through the NYS Court Administration confirmed that there was no record of criminal activity for this individual.

Although, fingerprinting of employees is not required under law, NYC H+H voluntarily conducts a criminal background check, which currently includes digital fingerprinting. Since the implementation of digital fingerprinting in May 2004, Human Resources conducts monthly audits to ensure that all new hires are fingerprinted.

NYC H+H maintains the position that our nurses were properly cleared for hire.

State Comptroller's Comment - The report does not state that the 38 nurses were not properly cleared for hire. Rather, it states that these nurses were not fingerprinted and acknowledges that they were hired before fingerprinting was required.

Verification of Minimum Qualification Requirements

We reviewed all of the audited files and confirmed that our staff are licensed, and qualified to perform their responsibilities, particularly since three nurse managers had prior experience with NYC H+H.

Exclusion List Searches

The excluded provider checks for identified nurses have been conducted and documented. Furthermore, in order to ensure compliance with regulations regarding excluded provider checks (e.g., OIG, OMIG and EPLS/SAM) the Office of Corporate Compliance, as an internal control, runs monthly OIG, OMIG and EPLS/SAM exclusion screening checks on all current workforce members.

Performance Evaluations

- NYC H+H agrees that an employee's overall performance should be summarized in a formal evaluation annually.
- Of the 24 Home Care employees identified without a performance evaluation, seven employees have since been separated from service and evaluations for the remaining 17 employees have been completed. The other outstanding performance evaluation at Kings County is no longer required because the employee separated from service in July 2017.
- Additionally, managers monitor quality indicators, conduct regular huddles, participate in performance improvement reviews and meet with staff in groups or individually to review assignments, assess competencies, review changes in policies/protocols and to ensure appropriate care is provided to our patients.

Screening and Monitoring of Temporary Nurses

NYC H+H contracts with Vizient for the hiring of agency staff and they directly conduct background investigations, verify employment eligibility or maintain copies of employment/background files for agency staff. However, NYC H+H has access to the Vizient employee files through the Optimizer technology and these documents are readily available. In addition, NYC H+H holds Vizient contract managers accountable for adhering to the background requirements of the contract, which includes an attestation that confirms that the background checks were completed for supplemental staff placed with NYC H+H.

NYC H+H continues to use supplemental agency staff and has since renegotiated the contract with Vizient for the management of the onboarding and background of agency nursing staff.

Key Recommendations:

Recommendation 1: *Ensure all temporary and direct hire nurses are electronically fingerprinted so they can be monitored for potential criminal activity.*

Temporary Agency Nurses

- NYC H+H takes the position that all direct hire and temporary nurses are properly vetted to ensure the appropriateness for employment.
- According to NYC H+H's User and Dissemination Agreement with DCJS, NYC H+H is not permitted to digitally fingerprint non-employees, which include agency nursing staff. Only the direct employer is permitted to receive information regarding an employee's prior or subsequent criminal activity.
- Although not required by regulation or previous NYC H+H operating procedures, effective February 1, 2018, all new temporary nurses (RNs and LPNs) are required to obtain a Certificate of Conduct from New York City Police Department, which includes fingerprinting, as well as a Nationwide Criminal History Record Search. The agency vendor will upload verification documentation prior to the first day of work. In addition, our contract with Vizient requires that NYC H+H be notified if a temporary employee has, "(i) been convicted of, or was placed in a pre-trial diversion program for, any crime involving: dishonesty or breach of trust including but not limited to, drug trafficking, forgery, theft, perjury, fraud, money laundering, or (ii) been convicted of any sex, weapons or violent crime including but not limited to homicide, attempted homicide, rape, child molestation, extortion, terrorism or terrorist threats, kidnapping, assault, battery, or illegal weapon possession, sale or use."

State Comptroller's Comment - It is commendable that Health and Hospitals is now requiring all new temporary nurses to obtain a Certificate of Conduct from the New York City Police Department, which includes fingerprinting as well as a Nationwide Criminal History Search. However, this control still differs from that applied to direct hire nurses, who not only are fingerprinted but undergo ongoing monitoring to ensure patient safety.

NYC H+H Nurses

Since the implementation of digital fingerprinting in May 2004, Human Resources has conducted monthly audits to ensure compliance with this policy for its direct hires.

According to NYC H+H Legal Counsel, the policy decision was made not to digitally fingerprint existing staff, as any information regarding the criminal history of existing staff is unlikely to be of operation or legal use due to the passage of time and other factors, including the restrictions in place under the Article 23-a of the NYS Corrections Law and NYC Fair Chance Act.

Recommendation 2: *Require facilities to complete and maintain documentation supporting that all background check requirements for nurses are met prior to their hiring.*

- Standardized onboarding/background guidelines were implemented beginning September, 2017. As of January 25, 2018, all Department of Human Resources staff responsible for background processing of new hires received training in the standardization of onboarding/background procedures. In addition, staff responsible for background investigations will receive annual training.
- HR Staff received refresher training regarding Form I-9 and E-verify in the spring of 2017. Refresher training will be held annually to ensure all staff responsible for processing Form I-9s and E-Verify continue to follow proper procedures. Human Resource audits will be periodically conducted to ensure compliance with USCIS regulations regarding employment eligibility, including the documentation of Form I-9s and E-verify. In addition, NYC H+H Human Resources is conducting a System-wide audit of Form I-9 files.
- The Office of Corporate Compliance, as an internal control, runs monthly OIG, OMIG and EPLS/SAM exclusion screening checks on all current workforce members and that practice will continue.

Recommendation 3: *Ensure facilities maintain complete, readily available files for temporary nurses have been reviewed by Health and Hospitals officials.*

- Beginning May 2018, NYC H+H is implementing an updated Credential Checklist for Nursing Agency Staff. The Credential Checklist for Nursing Agency Staff includes required background checks inclusive of NYC fingerprinting. The Credential Checklist for Nursing Agency Staff will be validated by the agency vendor and reviewed by NYC H+H officials responsible for recruitment of agency temporary nursing staff. H+H facilities will be required to have temporary nursing files readily available through the Optimizer technology.
- In addition, NYC H+H holds Vizient contract managers accountable for adhering to the background requirements of the contract, which includes an attestation that confirms all background checks were completed for agency staff placed at NYC H+H. NYC H+H continues to use supplemental agency staff and since the initial audit has renegotiated the contract with Vizient for the management of the onboarding and background of agency nursing staff.
- Homecare will be utilizing the Vizient Optimizer by the end of July 2018 so that all necessary documents can be easily maintained by Vizient and retrieved by Homecare.

Recommendation 4: *Require facilities to complete and maintain evidence of annual performance evaluations of direct hire and temporary nurses assigned for more than one year.*

- NYC H + H has introduced a redesigned managerial performance evaluation process and training to support completion and tracking of compliance.
- The compliance requirement is monitored by the Board of Directors, the Vice President of Human Resources and Executive Directors to ensure that established policies are being followed.
- Human Resources will perform internal audits to ensure optimal compliance.