

*A REPORT BY THE NEW YORK STATE  
OFFICE OF THE STATE COMPTROLLER*

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**Alan G. Hevesi  
COMPTROLLER**



**DEPARTMENT OF HEALTH  
OVERSIGHT OF ADULT CARE FACILITIES**

**2002-S-1**

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**DIVISION OF STATE SERVICES**

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**Report 2002-S-1**

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
Commissioner  
Department of Health  
Corning Tower  
Empire State Plaza  
Albany, NY 12237

Dear Dr. Novello:

The following is our report on the Department of Health's oversight of adult care facilities.

We performed this audit pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

*Office of the State Comptroller*  
*Division of State Services*

February 7, 2003

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# **EXECUTIVE SUMMARY**

## **DEPARTMENT OF HEALTH OVERSIGHT OF ADULT CARE FACILITIES**

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### **SCOPE OF AUDIT**

**A**dult care facilities (ACFs) provide temporary or long-term residential care to adults who are substantially unable to live independently. ACFs containing five or more adults are overseen by the Department of Health (Department). These ACFs must be regularly inspected by the Department, and complaints about the care provided by these ACFs must be investigated by the Department. A total of about 540 ACFs containing about 40,000 beds are overseen by the Department, and the Department reportedly receives more than 550 complaints a year about these ACFs.

Our audit addressed the following questions about the Department's oversight of ACFs for the period April 1, 1999 through July 31, 2002:

- Did the Department perform inspections and investigate complaints in a timely and thorough manner?
- Did the Department publish an annual report about its oversight, as required by law?

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### **AUDIT OBSERVATIONS AND CONCLUSIONS**

**W**e found that many ACFs are not inspected as frequently as required by law, and may not be inspected as thoroughly as required by law and regulation. We also found that the violations identified by inspections may not be corrected in a timely manner, and some violations may not be corrected at all. We further determined that the Department is often slow to respond to complaints, particularly in the New York City metropolitan area. As a result of these weaknesses in the Department's oversight, the health and safety of the residents in some ACFs may not be adequately protected. We also found that the Department has yet to publish an annual report about its oversight of ACFs.

Each ACF must be inspected at least once every 12 to 18 months, depending on the results of its last inspection. However, about half the ACFs in our random sample of facilities were not inspected as frequently as required. The delays

were most significant in the downstate area. For example, 10 of the 12 inspections at the New York City regional office were an average of seven months late. We also found that, because of significant weaknesses in the Department's inspection guidelines and documentation practices, Department officials have little assurance that inspections address all the areas required by law and regulation. (See pp. 5-14)

Any violations identified during an inspection of an ACF must be formally reported to the ACF and promptly corrected by the ACF. However, we found that violations are not always correctly identified in the inspection reports and the reports themselves are often delayed, especially in the downstate area. We also found that ACFs with repeated violations generally are not penalized, and the correction of violations is not closely monitored by the Department. (See pp. 15-19)

If a complaint alleges that an ACF resident has been abused, neglected or exposed to cruel or unsafe care, the Department is required by law to initiate an investigation of the complaint within 72 hours. The Department is also required by law to develop a process for receiving, investigating and reporting on all complaints. We examined a random sample of 49 complaints that had been received by the Department. We identified delays in the Department's response to 19 of these complaints (39 percent), including four delays of more than a year. Two of these delays, each of which approached two years, related to investigations that should have been initiated within 72 hours, but had yet to be initiated at the time of our review. We also found that the Department often does not report the results of complaint investigations to complainants or ACF operators, and has not developed a formal process for handling complaints or monitoring complaint investigations. (See pp. 23-29)

The Department, which became responsible for overseeing ACFs in January 1997, is required by law to submit an annual report to the Governor and Legislature describing its oversight activities. However, the Department has yet to prepare such a report. As a result, executive and legislative policymakers have not been fully informed about these activities. (See p. 31)

We note that many of the weaknesses identified in this report were also identified in our prior report (Report 98-S-60), which was issued in November 1999. However, the recommendations contained in that report generally were not implemented. We urge Department officials to be more responsive to the opportunities for improvement that are communicated via the 12 recommendations made in this report.

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## **COMMENTS OF OFFICIALS**

**D**epartment officials generally agreed with our recommendations and indicated actions planned or taken to implement them.

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Major Contributors to This Report

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# INTRODUCTION

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## Background

Adult care facilities (ACFs) provide temporary or long-term residential care to adults who are substantially unable to live independently because of physical or other limitations associated with age, physical or mental disabilities, or other factors. The residents in ACFs require less intensive care than residents in nursing homes.

Before 1997, ACFs were overseen by the former Department of Social Services. However, in January 1997, the Department of Health (Department) was made responsible for overseeing larger, institutional ACFs, and in August 1997, the newly created Office of Children and Family Services was made responsible for overseeing ACFs for four or fewer adults (called family type homes). According to information provided by Department officials, as of January 2002, the Department was responsible for overseeing a total of 544 ACFs containing 40,118 beds.

Within the Department, ACFs are overseen by the Bureau of Adult Care Facility Quality and Surveillance (Bureau). The Bureau has a Central Office in Albany and five regional offices: the Capital District Field Office in Troy; the Central Field Office in Syracuse; the Western Regional Office in Rochester; and Metropolitan Area Region offices in Long Island and New York City.

ACFs are overseen primarily through the licensing and inspection processes. According to the New York State Social Services Law, ACF operators must be licensed by the State and must be inspected every 12 to 18 months. In addition, complaints about ACFs must be investigated by the State. According to information provided by Department officials, between January 1, 1999 and March 31, 2002, a total of 1,847 such complaints were received by the Department. Each year, the results of the Department's ACF inspections and other oversight activities are to be summarized and included in an annual report that is to be submitted to the Governor and Legislature.

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## ***Audit Scope, Objectives and Methodology***

**W**e audited the Department's oversight of ACFs for the period April 1, 1999 through July 31, 2002. The primary objectives of our performance audit were to determine whether (1) ACF inspections and complaint investigations were timely and thorough, and (2) an annual report was submitted to the Governor and Legislature, as required.

To accomplish our objectives, we interviewed Department officials in the Bureau's Central Office and five regional offices. We also selected a random sample of 25 ACFs and reviewed inspection file documentation in the regional offices to determine whether the ACFs were inspected in a timely and thorough manner. In addition, we selected a random sample of 50 complaints and reviewed records in the regional offices to determine whether the complaints were handled in accordance with requirements.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Department that are within our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that we have identified through a preliminary survey as having the greatest probability of needing improvement. Consequently, by design, we use our finite audit resources to identify where and how improvements can be made. Thus, we devote little audit effort to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore,

highlights those areas needing improvement and does not address activities that may be functioning properly.

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### ***Response of Department Officials to Audit***

**W**e provided draft copies of this report to Department officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B. Appendix C contains State Comptroller's Notes, which address certain matters contained in the Department's response.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.



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# INSPECTION PROCESS

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Each ACF must be inspected at least once every 12 to 18 months. During the inspection, certain aspects of the ACF's operations must be assessed to determine whether they comply with requirements that are intended to protect the health and safety of the residents. Any violations of these requirements must be corrected by the ACF. Moreover, significant violations must be corrected (or a formal plan for correcting the violations must be developed) within 30 days of the issuance of the inspection report to the ACF.

However, we found that many ACFs are not inspected as frequently as required, and may not be inspected as thoroughly as required. We also found that violations may not be corrected in a timely manner, and some violations may not be corrected at all. As a result, the health and safety of the residents in some ACFs may not be adequately protected.

We recommend that a number of improvements be made in the Department's administration of the inspection process. For example, formal procedures are needed to guide inspectors in their assessments of ACF operations, and a quality assurance process is needed to help ensure that these procedures will be followed. Formal tracking systems are also needed to monitor the frequency of inspections, the timeliness of inspection reports, and the progress made by ACFs in correcting violations.

We note that many of the administrative weaknesses identified in this report were also identified in our prior report (Report 98-S-60), which was issued in November 1999 and included an assessment of the Department's process for licensing ACFs. However, as is described in our follow-up review to that audit (Report 2002-F-15, which was issued in August 2002), the Department did not implement many of the recommendations contained in our prior report. We urge Department officials to be more responsive to the opportunities for improvement that are noted in this report.

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## ***Timeliness of Inspections***

ACFs must be inspected in accordance with requirements contained in the New York State Social Services Law and the Department's Regulations. These requirements address the frequency, thoroughness and other aspects of the inspection process. According to the Department's interpretation of these requirements, each ACF must be completely inspected (as defined in the Regulations), on an unannounced basis, at least once every 12 to 18 months. The frequency of inspection (12 months or 18 months) depends on the results of the previous inspection: if significant problems were found in the previous inspection, the next inspection must be performed within 12 months. If significant problems were not found in the previous inspection, the next inspection must be performed within 18 months.

To determine whether the Department was inspecting ACFs as frequently as required, we selected a random sample of 25 ACFs for review. The sample was selected from a population of 544 ACFs. The sample consisted of 11 ACFs from the Metropolitan Area Region (six overseen by the New York City office, five by the Long Island office), six ACFs from the Capital District Region, four ACFs from the Central Region, and four ACFs from the Western Region. We reviewed the inspection files in the regional offices to identify all the complete inspections that had been performed at these 25 ACFs during our audit period (April 1, 1999 through the time of our visits to the regional offices in April and May of 2002). Of 54 inspections that should have been conducted, we determined that a total of 48 complete inspections (termed full inspections or summary inspections by the Department) had been performed.

We evaluated the timeliness of inspections and found that 13 of the inspections were not timely, because they had not been performed within 12 months or 18 months (whichever was appropriate) of the last complete inspection. Also, as noted above, at the time of our review, an additional six inspections were overdue, because at six ACFs, the last complete inspection had been performed more than 12 (or 18) months prior to our review. Therefore, during our audit period, a total of 19 complete inspections, at 12 of the 25 randomly sampled ACFs, were not timely.

The timeliness of the inspection process varied in the different regional offices. The process was timely in the Western Region where none of the eight sampled inspections was late. In the Capital District Region only 1 of the 15 inspections was late, though it was late by 176 days. However, the process was not timely in the other two regions, as follows:

- In the Metropolitan Area Region, 14 of the 23 inspections were late, including 10 of the 12 inspections for the New York City office. These ten inspections ranged from 5 days late to 426 days late, and on average, were 213 days (about seven months) late. Four of the 11 inspections for the Long Island office were late. These four inspections were late by 54 days, 88 days, 95 days, and 111 days (an average of 87 days late).
- In the Central Region, four of the eight inspections were late. These four inspections were late by 4 days, 10 days, 68 days, and 83 days (an average of 41 days late).

Each of the regional offices maintains an inspection log, in which information relating to ACF inspections is recorded. To further evaluate the timeliness of the Department's inspection process, we assessed the timeliness of the most recent inspection at each of the 539 ACFs that were active at the time of our review. We found that 116 of the 539 ACFs (22 percent) were not inspected in a timely manner (i.e., within 12 to 18 months, depending on the results of the previous inspection). As in our random sample, the inspection process was less timely in the Metropolitan Area Region (106 of the 228 inspections, or 46 percent, were late) than in the other three regions (10 of the 311 inspections, or 3 percent, were late).

Based on the results of our two tests, we conclude that improvements are needed in the process used by the Department to schedule and monitor inspections, especially in the Metropolitan Area Region. While each regional office maintains an inspection log, only the Western Regional Office maintains an electronic inspection log that indicates the due date for the next complete inspection. The Capital District, Central and Long Island offices rely on manual logs that indicate the due date for the next scheduled complete inspection. The New York City office also maintains a manual inspection log, but this log does not indicate the due date of the ACF's next complete inspection. We recommend that an electronic

scheduling and tracking system be used by all the offices, and we further recommend that this system be monitored by the Bureau.

We also determined that the regional offices do not use the same criteria to determine the due date for the next scheduled complete inspection. For example, in the Capital District and MARO-NYC Regions, the inspection interval (either 12 or 18 months) is calculated from the last day on site of the prior inspection to the first day on site for the subsequent inspection. However, in the Central, Western and MARO-LI Regions, the inspection interval is calculated from the first date on site of the previous inspection to the first date on site of the subsequent inspection. Since inspections can take three or more months to complete, the interval between inspections in the Capital District and MARO-NYC Regions can be significantly longer than the interval in the other three regions. The methods vary in the different regions because a standard method has not been established by the Bureau.

We further determined that the New York City office does not use the same criteria as the other offices to determine whether an inspected ACF is in “substantial compliance” with requirements, and as a result, can be placed on an 18-month inspection cycle rather than a 12-month inspection cycle. Instead, the New York City office is more lenient than the other offices, and allows ACFs with significant violations to be placed on an 18-month inspection schedule if actions are taken by the ACF to correct the violations.

These procedural variations are the result of a lack of oversight by the Bureau. At the time of our site visits, in our discussions with Central Office and regional office staff, we determined that there were few Bureauwide guidelines regarding the inspection process. In fact, in response to our request for formal Bureauwide procedures relating to this process, we were provided with only two such documents, both of which were developed by the former Department of Social Services. One of these documents provides guidance for determining whether an ACF is in “substantial compliance” with inspection requirements, and the other document describes when follow-up inspections should be performed and what kind of documentation should be submitted by ACFs when a violation has been corrected. We recommend that formal, comprehensive guidelines for the inspection process be developed by the Bureau.

In May of 2002, subsequent to our visits to the regional offices, Bureau officials issued formal inspection procedures to the regional offices. While these procedures address some aspects of the inspection process (e.g., the procedures describe the various types of inspections, the general duties of the inspectors and their supervisors, and some of the documentation and reporting requirements), the procedures are not sufficiently detailed and not sufficiently comprehensive. For example, they do not address the establishment of a tracking or monitoring system for inspections, do not provide standard guidelines for calculating the inspection interval, and do not provide standard criteria for determining when ACFs should be placed on a 12-month inspection cycle and when they should be placed on an 18-month cycle.

According to the Social Services Law, the results of an ACF inspection must be formally reported to the ACF operator. A report must be issued for every type of inspection that is performed: full inspections, summary inspections (summary inspections are less detailed than full inspections, but are complete inspections in that all the areas required by law and regulations are addressed), partial inspections, follow-up inspections, and complaint investigations. According to Department officials and the procedures issued in May 2002, a report must be issued within 30 days of the completion of the inspection, and according to Department Regulations, the ACF has 30 days from the receipt of the report to take corrective action. Therefore, if the issuance of the report is delayed, corrective action may also be delayed.

To determine whether inspection reports were issued within 30 days of the completion of the inspection, we reviewed inspection files for our random sample of 25 ACFs. According to these files, a total of 76 inspections were performed at these ACFs during our audit period. We determined that 25 of the 76 related inspection reports were not issued within 30 days of the completion of the inspection. The timeliness of the reporting process varied in the different regional offices. While the process was timely in the Western Region (only 1 of the 17 reports in the sample was late, and by only four days), it was not always timely in the other regions, as follows:

- In the Metropolitan Area Region, 15 of the 23 reports were late, including 12 of the 14 reports issued by the New York City office. These 12 reports were between 42

and 283 days late, and on average, were 125 days late. Three of the nine reports issued by the Long Island office were late. These three reports were late by 28, 49 and 108 days (an average of 62 days late).

- In the Central Region, six of the ten reports were late. These six reports were between 4 and 99 days late, and on average, were 33 days late.
- In the Capital District Region, 3 of the 26 reports were late. These three reports were late by 3, 14 and 29 days (an average of 15 days late).

Neither the Bureau nor the regional offices have established procedures for monitoring inspection reports to ensure that they are issued in a timely manner. We recommend that such procedures be established. If an electronic system were developed to monitor the inspection process, as we recommend earlier in this report, this system could also be used to monitor the timeliness of the reporting process.

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## ***Thoroughness of Inspections***

**C**ertain areas of an ACF's operations must be addressed in a complete inspection. To provide assurance these areas will be addressed as required, the Department has developed standard inspection checklists for its inspectors. However, we found that different versions of the standard checklists are used by each regional office. Moreover, none of the checklists – neither the standard versions nor the regional variations – are complete or sufficiently detailed. We also found that the inspectors' use of the checklists often is not documented. As a result of these weaknesses, Department officials have little assurance that complete inspections are performed as thoroughly as required.

According to the Social Services Law and the Department's Regulations, a complete inspection must address the following aspects of an ACF's operations:

- the general management and financial condition of the facility;
- the operator's methods of administration;
- the methods of, and the equipment and physical plant for, providing residential care and services for residents;

- the qualifications and general conduct of the operators and employees;
- the condition of the grounds, buildings and other property; and,
- whether the laws and regulations regarding residents' rights are obeyed.

To provide assurance these areas are adequately addressed during a complete inspection, Department inspectors are expected to use three specialized checklists. The three checklists address program areas (e.g., recordkeeping and incident reporting), nutrition/medication management (e.g., menus, sanitation, medical records, medication assistance, and medication storage and disposal), and fire/safety matters (e.g., fire drills, equipment inspections, and environmental standards).

These three checklists are intended to be standard for all the regional offices. However, we found that different versions of each checklist are used by each regional office. For example, the nutrition/medication management checklist used by the Metropolitan Area Region's Long Island office is different than the one used in the other regional offices, and is not the checklist developed for use statewide. In addition, the program area checklist used by the Central Field Office is more limited than the version used by the other regional offices, and the program area checklist used by the Western Regional Office is more complete than the version used by the other regional offices.

We examined all the checklists (both the standard versions and the regional variations) to determine whether they were complete. To perform this examination, we compared each checklist to the Department Regulations specifying the areas that must be addressed by a complete inspection. We found that several of the areas specified in the Regulations were not adequately covered by the checklists, as is shown by the following two examples:

- Section 486.1 (c) of the Regulations specifies that an inspection should include an inquiry into the qualifications of ACF staff. Section 487.9 (c-e) of the Regulations specifies that ACF administrators, case managers, and activities directors are to have certain minimum qualifications, and that administrators are also required to obtain at least 60 continuing education credits every two

years. However, the area of ACF staff qualifications is addressed only on the program area checklist adapted by the Western Regional Office. When we asked the officials from the other regional offices whether their offices addressed these requirements during complete inspections, they stated they do not routinely do so. During our review of inspection documentation at these offices, we found no indication that these requirements were addressed.

- Section 487.6 (c) of the Regulations states that, if residents place their funds in an account maintained by the ACF, the account must be maintained in accordance with certain requirements (e.g., the funds in the account can be used only by the resident, the resident must not be charged a fee for the account, all account transactions must be recorded, and the account records must be reconciled monthly). However, these various requirements are addressed on the program area checklist by a single line stating “personal allowance accounts.” As a result of this lack of detail, there is insufficient assurance that all the requirements specified in the Regulations are addressed by the inspector. Officials in the Metropolitan Area Region’s New York City office told us that they are not required to review such personal accounts.

In addition, the checklists generally consist of a series of guidewords that are meant to remind the inspector of the areas to be covered. An area may consist of several requirements specified in the Regulations. For example, the program area checklist contains the phrase “incident report log.” According to the Regulations, inspectors are supposed to determine whether (a) the incident report log is complete and accurate; (b) incident reports are completed as required; (c) incident reports are submitted to the regional office when required; and (d) the resident’s version of events appears on the incident report.

In light of the lack of detail in the checklists, we question whether they can provide adequate guidance to the inspectors. If the checklists were supported by detailed written procedures describing the specific steps that were to be taken by the inspector, then the checklists could serve as a reminder, as intended. However, the checklists are not supported by detailed written procedures, because no such procedures have been

developed by the Bureau. We recommend that such procedures be developed. We also note that the Bureau has not established a quality assurance process for ACF inspections to provide reasonable assurance that the inspections are performed in accordance with procedures. We recommend that such a process be established.

Each of the checklists addresses various areas of ACF operations, and contains spaces for an inspector's comments relating to those areas of operation. According to regional office officials, the checklists used during a complete inspection should be maintained in the inspection files, along with the inspector's notes and other documentation, to support the inspector's conclusions for the inspection.

To determine whether the three checklists were used as required during complete inspections, we reviewed the inspection files for our random sample of 25 ACFs. As was noted previously, a total of 48 complete (full or summary) inspections were performed at these ACFs during our audit period. The documentation for 45 of these 48 inspections was available in the inspection files (the documentation for the other three inspections had yet to be filed). We determined that, for 27 of these 45 inspections (60 percent), at least one of the three checklists was not on file or was not complete. In the Western and Central Regions, all three checklists were on file for all 15 inspections in the sample. However, in the Capital District and Metropolitan Area Regions, one or more checklist was not on file or had not been completed for 27 of the 30 inspections in the sample (90 percent).

We further noted that many of the checklists on file were only partially completed (i.e., some of the spaces for inspector comments on these checklists were left blank). For example, a total of 53 checklists were on file for the most recent inspections at the 25 ACFs in our sample. However, 47 of these 53 checklists (89 percent) were only partially completed. On only six of the checklists were there indications that all the areas on the checklist had been addressed by the inspector. We therefore conclude that Department officials have little assurance that complete inspections actually address all the areas required by law and regulations.

Officials in each of the regional offices told us that complete inspections are difficult to perform because of staffing problems.

For example, certain parts of a complete inspection (such as the parts relating to nutrition and medication) are often performed by specialized inspectors who are qualified in those areas. However, at the time of our visit, the Central Field Office did not have an inspector for nutritional issues and had only recently obtained an inspector for medication issues. Prior to the arrival of the medication inspector, other inspectors not familiar with all the issues relating to medication would attempt to watch medication being distributed to residents, but they did not perform a full inspection in this area.

Officials in each of the regional offices also told us that an area of a checklist may be left blank if the inspector determines that the area fully complies with requirements. We believe this approach does not provide adequate assurance that the area was actually inspected. An official in one of the regional offices agreed, stating that no areas on a checklist should be left blank; according to this official, if no problems are found in an area, a notation should be made on the checklist to indicate that the area was reviewed. We believe this approach provides better assurance all areas have been inspected.

In response to our preliminary audit findings, Department officials stated there is not an expectation that checklists need to be completed in their entirety, but are to be used as a guide to depict areas of non-compliance. However, if checklists are incomplete or not used, Department officials lack assurance that regional office inspectors have conducted a thorough inspection.

In our prior audit report addressing the Department's oversight of ACFs (Report 98-S-60), we recommended that Department officials take steps to determine that inspection activities are documented in adequate detail and inspection records are maintained in a standard organized format. However, Department officials have yet to issue formal procedures describing how inspection activities should be documented and inspection records should be maintained. We again recommend that such procedures be issued. In the absence of these procedures, the inspections are less likely to be as thorough as required by law and regulations, and as a result, are less likely to provide the level of protection intended by law and regulations.

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## ***Correction of Problems Identified by Inspections***

If a violation is identified by an inspection of an ACF, prompt corrective action must be taken by the ACF. If the same violation is found in a subsequent inspection, the ACF may be penalized. However, we found that violations detected during the inspection process are not always correctly identified as violations in the inspection report, and as a result, may not be subject to prompt corrective action. We also found that ACFs with repeated violations generally are not penalized, and the correction of violations is not closely monitored by the Department. As a result of these weaknesses in the Department's oversight, unsafe and otherwise improper conditions in ACFs are less likely to be corrected promptly and may not be corrected at all.

In the inspection reports issued to ACFs, instances of non-compliance with the requirements governing ACF operations are classified as either "findings" or "violations." According to Bureau officials, inspectors are to be guided by Informational Letter 1-95, issued in 1995 by the former Department of Social Services, when classifying instances of non-compliance as either findings or violations. According to this document, a "violation" is any instance(s) of non-compliance that:

- indicates a systematic failure or inability to comply with regulation(s);
- creates conditions which directly cause or expose resident(s) to harm or risk to their health, mental health or well-being;
- interferes with the Department's ability to monitor the ACF's operation; or
- fails to correct previously identified findings in a timely manner.

A finding is defined as any instance of non-compliance that is not significant enough to be classified as a violation. According to Department Regulations, the ACF is required to correct all instances of non-compliance, regardless of whether they are findings or violations. However, for violations, corrective action must be taken within 30 days of the issuance of the inspection

report. The correction of findings is not subject to a specified time limit.

We reviewed the 76 inspection reports issued to the 25 selected ACFs during our audit period to determine whether the findings and violations described in these reports had been classified in accordance with the guidelines contained in Informational Letter 1-95. Based on our interpretation of the guidelines, we determined that 12 instances of non-compliance that should have been classified as violations were incorrectly classified as findings. For example:

- An ACF in the Central Region was cited for a finding because the emergency call system was not audible on some areas of the second floor. Since this defect could have exposed some residents to harm, it should have been classified as a violation.
- An ACF in the Central Region was cited for a finding because evacuation procedures were not posted in some rooms, as required. Since this oversight could have exposed some residents to harm, it should have been classified as a violation.
- An ACF in the Capital District Field Office was cited for a finding when inspectors noted the accumulation of flammable material behind dryers on three floors. Since this defect could have exposed some residents to harm, it should have been classified as a violation.

Due to the incorrect classification of these violations as findings, the ACFs were neither required to take prompt corrective action (within 30 days) nor notify Department officials that corrective action had been taken. As a result, corrective action is more likely to be delayed.

According to Informational Letter 1-95, if inspectors determine during a subsequent inspection that a finding identified in a prior inspection has not been corrected, the finding should be reclassified as a violation. However, in our review of the inspection reports for the 25 selected ACFs, we identified 30 instances in which an ACF was cited for the same finding in subsequent inspections, but this finding was not reclassified as a violation. For example, an ACF in the Capital District Region was cited in consecutive inspections because its medical

records were not current or had conflicting information, and an ACF in the Central Region was cited in consecutive inspections because some rooms had too many electrical adapters, smoke barrier doors were not smoke-tight and oxygen containers were not properly stored.

Department officials stated that some of these classifications were correct because the subsequent finding did not relate to the exact same circumstances as the prior finding. In our judgment, the Department's opinion on this matter is too narrow and does not adequately consider the impact of these violations on the health and safety of residents. Even though the subsequent finding in these instances did not relate to the same room or the same resident as the prior finding, the finding itself was the same and indicated that certain procedures or controls needed to be corrected to prevent the recurrence of the finding. Because of the incorrect classifications, the ACFs were not required to take this corrective action promptly.

Informational Letter 1-95 also states that, if a violation identified in a prior inspection is identified again in a subsequent inspection, the ACF may be referred to the Central Office for enforcement action (i.e., a penalty such as a fine or license suspension). In our review of the inspection reports for the 25 selected ACFs, we identified a total of eight instances in which a violation identified in a prior inspection was identified again in a subsequent inspection. However, in none of these instances did we find documentation indicating that the ACF was referred for enforcement action. Following are some of the repeated violations that we identified:

- An ACF overseen by the New York City office was cited in consecutive inspections for failing to report significant weight changes in residents to their physicians.
- An ACF overseen by the New York City office was cited in consecutive inspections because the signal system in a resident's room was not working.
- An ACF in the Capital District Region was cited in consecutive inspections because a significant amount of dirt and grease had accumulated in the kitchen hood over the oven.

If the Department does not take action to enforce requirements that are repeatedly violated, ACFs may be less likely to comply with these or other requirements. Since the requirements are intended to protect the health and safety of ACF residents, the residents' health and safety could be compromised by lax enforcement.

According to Sections 486.2 (j) and (k) of the Department's Regulations, all violations described in the inspection report must be corrected by the ACF within 30 days of the issuance of the report to the ACF. If correction requires more than 30 days, a Plan for Correction must be submitted to the Department within 30 days of the issuance of the inspection report to the ACF. The ACF operator is required to notify the Department, in writing, within one week after the corrective action has been completed by submitting a Notice of Correction to the Department.

We reviewed the inspection files for the 25 selected ACFs to determine whether the ACFs submitted a Notice of Correction or Plan for Correction as required for the violations described in the inspection reports issued during our audit period. We determined that, in three instances, three different ACFs overseen by the New York City office failed to submit a Notice of Correction or a Plan for Correction in response to the violations described in their inspection reports. These violations included inoperative signaling systems in residents' rooms, smoke barriers that were not smoke-tight, and an administrator who had not been approved by the Department.

In addition, in four instances, four different ACFs failed to submit their Notice of Correction or Plan for Correction within the required 30-day timeframe (we considered documents submitted within 37 calendar days to be on time, to allow for time spent in the mail). Three of the ACFs were not significantly late in their submissions (they were between 8 and 13 days late), but an ACF on Long Island was 249 days late in submitting its Plan for Correction. The violations to be corrected by this ACF included corridors without smoke detection systems, fire equipment not maintained in accordance with requirements, and residents' access to toxic chemicals not adequately restricted.

If a Notice of Correction or Plan for Correction is not submitted in response to the violations described in the inspection report,

there is less assurance that the violations have been corrected promptly or at all. If these documents are submitted late, there is less assurance that the violations have been corrected in a timely manner. If the violations identified during inspections are not corrected in a timely manner, the health and safety of ACF residents could be compromised.

To help ensure that violations are corrected in a timely manner, the Department needs to monitor the corrective actions of the ACFs. However, Department officials have not established a centralized system for tracking the receipt of Notices of Correction and Plans for Correction, and for following up with ACFs when these documents are overdue. While the regional offices have established some procedures for these purposes, the procedures are not sufficient and vary from office to office. For example, the Metropolitan Area Region's Long Island office maintains an electronic log indicating when the documents are due, but does not follow up with ACFs when the documents are overdue. In the Central Region, officials neither maintain a log nor follow up on overdue documents. We recommend that a centralized system be established for monitoring and follow-up action.

We also note that the correction of findings needs to be monitored more closely by the Department. Prior to calendar year 2000, ACFs were required to submit a Summary of Findings report to the appropriate regional office to document the actions taken to correct the findings described in the inspection report. However, ACFs are no longer required to submit this documentation. We believe this change is contrary to Section 486.2 of the Department's Regulations, which states that ACF operators must notify the Department in writing within one week after they complete corrective action that was initiated by a Department inspection. Department officials told us the Summary of Findings report is not needed because they will be able to determine whether a finding has been corrected during the next inspection of the ACF. However, as is noted earlier in this report, inspections of ACFs are often delayed. We therefore recommend that the Department comply with the Regulations and require written notification of the actions taken to correct findings.

## **Recommendations**

1. Develop an electronic tracking system that can be used by the regional offices and monitored by the Bureau. This system should be used to:
  - schedule complete inspections of ACFs within the timeframes required by law,
  - monitor the timeliness of inspection reports, and
  - monitor the submission of Notices of Correction and Plans for Correction by ACFs.
2. Require the Bureau to monitor the timeliness of complete inspections, inspection reports, and the submission of Notices of Correction and Plans for Correction, and to take corrective action when these activities are not timely.
3. Develop formal comprehensive guidelines for the inspection process, including:
  - standard criteria for determining when an ACF can be placed on an 18-month inspection cycle;
  - detailed procedures describing the specific steps to be taken by inspectors during an inspection; and
  - procedures describing how inspection activities should be documented and inspection records should be maintained.
4. Perform quality assurance reviews of selected ACF inspections on an ongoing basis to determine whether the inspections comply with the Social Services Law, the Department's Regulations, and the Department's formal comprehensive guidelines for the inspection process. Take corrective action when inspections do not comply with these requirements.

### **Recommendations (Cont'd)**

5. Use quality assurance reviews to determine whether the findings and violations described in inspection reports are classified correctly, and repeated findings are correctly classified as violations.
6. Use the penalties provided by law and regulations when repeated violations are found during inspections.
7. Require ACFs to submit written notification of the actions taken to correct findings described in inspection reports.



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## INVESTIGATION OF COMPLAINTS

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The Department receives more than 550 complaints a year about the care provided to residents of ACFs. The Department is required by the Social Services Law to respond within 72 hours to complaints alleging abuse or neglect of residents, and to develop a process for receiving, investigating and reporting on all complaints. However, we identified delays of weeks, and in some cases months, in the Department's response to complaints, including complaints alleging abuse or neglect of residents. We also found that the Department often does not report the results of its complaint investigations to complainants or ACF operators, and has not developed a process for handling complaints or monitoring complaint investigations. We recommend that such processes be developed, and actions be taken to reduce delays in initiating these investigations.

We note that our prior audit report (Report 98-S-60) also identified delays in the Department's initiation of complaint investigations, and also recommended that a monitoring process be established. This recommendation was not implemented, and as a result, the Department's investigations of complaints continue to be delayed.

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### *Process for Handling Complaints*

According to Section 461-o of the Social Services Law, the Department is required to establish procedures governing the receipt and investigation of complaints about the care provided to residents of ACFs. These procedures are to address the process to be used to obtain information from the complainant, protect the confidentiality of the complainant, establish timeframes for the investigation, and report investigation results to the complainant and ACF operator. The timeframes established by the procedures are to require that the investigation of certain kinds of complaints (i.e., complaints alleging the abuse or neglect of a resident, and complaints involving incidents that expose a resident to cruel or unsafe care) be initiated no more than 72 hours after the complaint was received.

We asked Department officials whether such procedures had been established. They told us that they had not issued any formal policies or procedures for ACFs since assuming responsibility for ACFs in January 1997. They stated that the only Bureauwide procedures relating to complaint investigations were issued in April 1983 by the former Department of Social Services.

We examined these procedures and found that they consist of one page of general information. The procedures indicate that an individual in each regional office is to be made responsible for handling complaints. A monthly log of complaints is to be maintained in each regional office, and the complaints recorded in the log are to be categorized as urgent or not urgent. If the complaint is urgent, an investigation should be initiated immediately. If the complaint is not urgent, it can be investigated during the next scheduled inspection of the ACF. When possible, the complainant is to be notified by letter of the results of the investigation and a report is to be issued to the ACF.

While these procedures address, in a general manner, some of the requirements contained in Section 461-o of the Social Services Law, they are not complete. For example, the procedures do not address the process to be used in obtaining information from the complainant, and do not address the timeframes for non-urgent investigations. The procedures also fail to provide specific guidance for the requirements they do address (for example, they do not provide criteria for determining whether complaints are urgent). We therefore conclude that these general procedures do not fulfill the requirements contained in Section 461-o of the Social Services Law.

In the absence of adequate Bureauwide procedures, each of the regional offices has established its own procedures for specific aspects of the complaint investigation process. These procedures address activities such as obtaining information from complainants, recording information about complaints, initiating investigations, tracking the progress of investigations, ensuring investigations are thorough, and reporting investigation results to complainants and ACFs. While the procedures at each regional office are similar in many respects, there are also important differences.

For example, most complaints are received by telephone, and four of the five offices (Capital District, Central, New York City and Long Island) have an answering machine to receive calls when staff are not available. However, the Western Regional Office does not have an answering system in place. As a result, investigations of urgent matters in that region may be delayed until staff are available to answer the phone. We note that investigations of urgent matters in the other regions may also be delayed for the same reason, because the answering machines in those regions are not always checked for messages on a regular basis.

In addition, while two of the offices (Central and Western) maintain electronic complaint logs, the other three offices maintain manual logs. With manual logs, it is more difficult to analyze complaint information and track the progress of investigations. We also determined that the manual log in the New York City office may have been incomplete, because it had not always been maintained on a current basis and had been reconstructed from other information. The five offices also vary significantly in the extent to which they acknowledge the receipt of complaints. For example, some offices formally acknowledge receipt by sending a letter to the complainant, while other offices do so by the telephone or provide no acknowledgement of receipt.

We recommend that the Department comply with the Social Services Law and develop detailed written procedures for all aspects of the complaint investigation process. In addition, to provide assurance that these procedures are being followed, the Department should perform ongoing quality assurance reviews of selected investigations. In the absence of these controls, Department officials have less assurance that complaints will always be handled in an appropriate and consistent manner.

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### ***Initiation of Investigations***

To determine whether the Department was investigating complaints in accordance with the general requirements contained in the Social Services Law, we reviewed the investigation records maintained in the regional offices for a sample of 50 complaints. Our sample consisted of ten complaints from each of the five regional offices. We randomly selected these complaints from the complaint logs maintained by the regional offices. The selected complaints were sampled

from populations totaling 1,872 complaints received between January 1, 1999 and the date of our visit to each office in April or May of 2002. Since officials in the New York City office were unable to locate the case file for one of the selected complaints, we were unable to review the investigation of that complaint.

We note that 15 of the 49 complaints reviewed were at least partly substantiated by the Department's investigations. The other 34 complaints were either unsubstantiated (27 complaints), or were still being investigated at time of our review (seven complaints).

According to the Social Services Law, if a complaint alleges that a resident has been abused, neglected or exposed to cruel or unsafe care, the Department is required to initiate an investigation of the complaint within 72 hours of the receipt of the complaint. Such an allegation was made by a total of 12 of the 49 complaints in our sample. However, we found that, for 6 of these 12 complaints (50 percent), an investigation was not initiated within 72 hours.

For two of the six complaints, an investigation had yet to be initiated at the time of our review on April 17, 2002, even though one of the complaints had been received on June 23, 2000 (22 months earlier) and the other had been received on July 6, 2000 (21 months earlier). One of these complaints alleged that a resident was being physically and verbally abused by former and current ACF staff; the other complaint alleged that residents were being molested and threatened by ACF staff. Both of these complaints were received by the Metropolitan Area Region's New York City office. During the course of our audit, we notified MARO-NYC officials of the nature and status of these complaints. However, the officials did not respond, indicating the nature of any corrective actions taken.

The other four complaints were investigated, but the initiation of the investigations was 17, 61, 69 and 111 days (an average of 65 days) later than required by law. Two of these complaints were received by the Capital District Field Office, and two were received by the Central Field Office. One of the four complaints alleged that residents were not being given their medication, while another complaint alleged that a resident was not being bathed and was being served inappropriate food. One of the four complaints was substantiated, and another was partly substantiated.

To some extent, the delays in these investigations may have been caused by weaknesses in the Department's process for classifying complaints as urgent or not urgent. Only one of the six complaints (one of the two received by the New York City office) was classified as urgent by the regional office. Three of the complaints were, in our opinion, incorrectly classified as non-urgent (they all indicated that residents had been abused, neglected or exposed to cruel or unsafe care), and two of the complaints were not classified at all. We note that two other complaints in our random sample were also either incorrectly classified or not classified at all.

According to the Social Services Law, non-urgent complaints are to be investigated in accordance with timeframes established by the Department. As previously noted, while such timeframes have not been established by the Department, they have been established by each of the regional offices. According to these timeframes, at all offices but the New York City office, the investigation of a non-urgent complaint should either (a) be initiated within 30 days of receipt, if in the judgment of the regional office official, the investigation should not be postponed until the next scheduled inspection of the ACF, or (b) be performed during the next scheduled inspection of the ACF. At the New York City office, all non-urgent complaints are to be investigated during the next scheduled inspection of the ACF. (Prior to January 1, 2002, the New York City office, like the other regional offices, required that the investigation of some non-urgent complaints be initiated before the next scheduled inspection.)

We used the timeframes relevant to each regional office at the time the complaint was received to evaluate the timeliness of their response to the 37 non-urgent complaints in our random sample. We found that, for 13 of these 37 complaints (35 percent), the investigations were not initiated in a timely manner, as follows:

- For 3 of the 13 complaints, an investigation had yet to be initiated at the time our review. At this time, the initiation of these investigations was already overdue by 79, 535 and 630 days (an average of 415 days, or about 14 months). Two of these complaints were received by the New York City office, and one was received by the Long Island office. One of the complaints received by the New York City office was received on April 17, 2000, at which

time it was decided that the complaint should be investigated during the next scheduled inspection of the ACF. This inspection was performed on July 12, 2001, but the complaint was not investigated during the inspection. The investigation was therefore 207 days overdue at the time of our review on April 17, 2002. However, the complaint itself was two years old.

- The other nine complaints were investigated, but the initiation of the investigations was between 4 and 91 days later than required (and, on average, 34 days later than required). Four of these complaints were received by the Central Field Office, three were received by the Metropolitan Area Region's Long Island office, and two were received by the Western Regional Office.

Based on our review of our random sample of 49 complaints, we conclude that neither urgent complaints nor non-urgent complaints are addressed in a timely manner. As a result of these delays in complaint investigations, situations requiring corrective action may not be identified in a timely manner. We note that, according to records maintained by the regional offices, as of March 31, 2002, investigations had not been completed, and in some instances not even begun, for 29 complaints that had been received in the year 2000 and 85 complaints that had been received in 2001. Such long delays ignore residents' rights and cannot serve the public interest.

Officials in each of the regional offices told us that complaints cannot always be addressed in a timely manner due to their current level of staffing. For example, the Long Island office receives about 170 complaints a year, but has only two staff to investigate complaints, and the Central Field Office has a total of three staff to perform both ACF inspections and complaint investigations.

We also note that the timeliness of complaint investigations is not monitored by the Bureau. The regional offices report to the Bureau only the number of complaints received and the number outstanding. We recommend that an electronic tracking system be established for complaint investigations, and this system be used by the Bureau to monitor the timeliness of the investigations. We further recommend that the Bureau take corrective action when investigations are not timely.

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## **Reporting of Investigation Results**

According to Section 461 of the Social Services Law and Section 486.2 of the Department's Regulations, upon the conclusion of a complaint investigation, the Department is to formally notify the ACF operator and the complainant of the results of the investigation. This written notification is required unless it would jeopardize the confidentiality of the complainant or compromise civil or criminal action. In addition, the complainant should not be notified if the results of the investigation are being contested by the ACF operator.

We determined that, at the time of our review, the complainant should have been notified in writing of the results of the investigation for 33 of the 49 complaints in our random sample and the ACF operator should have been notified in writing for 42 of the 49 complaints. However, according to the records provided to us by regional office officials, only 5 of the 33 complainants (15 percent), and only 26 of the 42 ACF operators (62 percent), had received this written notification.

As previously noted, the Department has not established detailed written procedures governing the complaint investigation process. In the absence of these procedures, each of the regional offices has developed its own practices, and as noted by the results of our review, these practices do not always comply with the requirements in the Social Services Law and the Department's Regulations. For example, the Capital District Field Office is the only office that provides complainants with written notification of investigation results. Officials in the other offices told us they either provide verbal notification or do not contact the complainant at all.

### **Recommendations**

8. Establish detailed written procedures for all aspects of the complaint investigation process, including:
  - the receipt of information from the complainant,
  - the recording of information in the complaint log,
  - the classification of complaints,
  - the establishment of timeframes for investigations,

### **Recommendations (Cont'd)**

- the performance and documentation of investigations,
  - the reporting of investigation results, and
  - the monitoring of investigations.
9. Develop an electronic tracking system for complaint investigations. Require the Bureau to use this system to monitor the timeliness of the investigations, and to take corrective action when investigations are not timely.
  10. Perform quality assurance reviews of selected complaint investigations on an ongoing basis to determine whether the investigations comply with the Social Services Law, the Department's Regulations and the Department's detailed written procedures for the complaint investigation process. Take corrective action when investigations do not comply with these requirements.
  11. Analyze the staffing levels at the regional offices to determine whether additional staff are needed for complaint investigations.

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## ANNUAL REPORTING REQUIREMENT

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According to Section 460-d (10) of the Social Services Law, the Department is required to submit an annual report to the Governor and the Legislature on the regulation of ACFs. This report is to include a narrative and a statistical summary showing the results of inspections and enforcement actions. The report is also to include the results of audits of selected ACFs, and recommendations for legislative action.

As of January 1997, the Department was responsible for overseeing ACFs. Therefore, the Department should have prepared an annual report for 1997 and each year thereafter. However, the Department has yet to prepare an annual report for any year during which it has been responsible for ACFs. Department officials did not provide an explanation for their non-compliance with this legislative requirement.

In the absence of this annual report, executive and legislative policymakers have not been fully informed about the quality of the care provided to residents in ACFs. As a result, laws and policies may not have been adjusted in accordance with needs.

### **Recommendation**

12. Prepare an annual report about the Department's oversight of ACFs as required by the Social Services Law.

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## MAJOR CONTRIBUTORS TO THIS REPORT

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Antonia C. Novello, M.D., M.P.H., Dr.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

December 27, 2002

Kevin M. McClune  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Mr. McClune:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report 2002-S-1, "Adult Care Facilities".

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Whalen', written over a horizontal line.

Dennis P. Whalen  
Executive Deputy Commissioner

Enclosure

**Appendix B**

cc: Dr. Barhydt  
Mr. Dougherty  
Mr. Howe  
Mr. Osten  
Mr. Reed  
Mr. Van Slyke  
Ms. Wickens

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report  
2002-S-1 Entitled  
“Adult Care Facilities”**

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The following are the Department of Health’s (DOH) comments in response to the Office of the State Comptroller’s (OSC) Draft Audit Report 2002-S-1 entitled “Adult Care Facilities”.

**General Comments**

The audit report focuses on those aspects of the Department’s oversight of Adult Care Facilities (ACFs) that have already been identified as priority areas for improvement. Unfortunately, the report continues to address existing practices and procedures which have not proven to be effective in improving the services provided to residents of ACFs, rather than suggesting approaches for more effective oversight of the industry. Many of the new initiatives undertaken by the Department to foster change in both the surveillance complaint resolution and enforcement processes were not acknowledged in this report.

* <b>Note</b> 1
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The Department has implemented several major enhancements to its surveillance functions of ACFs as indicated below:

- Staff now coordinate joint focused surveys with the Office of Mental Health (OMH) and Commission on Quality of Care (CQC) for problem ACFs;
- Over 100 surveys to monitor ACFs during periods of high temperatures were conducted this summer;
- Complaint investigation of patient deaths in ACFs have increased;
- Regulations were developed increasing the number of factors that can be used to classify violations as endangerments and expedite enforcements by not requiring a 30 day correction period and eliminating the need for resurvey prior to proceeding with enforcement action.
- Creation of an ACF training component to the Department’s Training Academy for instructing surveyors on survey and complaint procedures.

The following comments are provided in response to OSC’s specific recommendations.

### **Recommendation #1**

Develop an electronic tracking system that can be used by the regional offices and monitored by the Bureau. This system should be used to:

- schedule complete inspections of ACFs within the timeframes required by law;
- monitor the timeliness of inspection reports; and
- monitor the submission of Notices of Correction and Plans for Correction by ACFs.

### **Response #1**

An electronic tracking system has been developed and implemented. Reports on adherence to survey frequency are currently tracked and monitored by region. Work is underway to monitor timeliness of survey reports and submission of plans of correction and should be completed in 2003.

### **Recommendation #2**

Require the Bureau to monitor the timeliness of complete inspections, inspection reports and the submission of Notices of Correction and Plans for Correction and to take corrective action when these activities are not timely.

### **Response #2**

Monitoring regional office compliance by the Bureau will be conducted as soon as these components are in place. In the interim manual reports by regions will continue, as currently required.

### **Recommendation #3**

Develop formal comprehensive guidelines for the inspection process, including:

- standard criteria for determining when an ACF can be placed on an 18-month inspection cycle;
- detailed procedures describing the specific steps to be taken by inspectors during an inspection; and
- procedures describing how inspection activities should be documented and inspection records should be maintained.

### **Response #3**

Revised procedures and guidelines are being developed and are expected to be finalized by September 30, 2003.

**Recommendation #4**

Perform quality assurance reviews of selected ACF inspections on an ongoing basis to determine whether the inspections comply with the Social Services Law, the Department's regulations and the Department's formal comprehensive guidelines for the inspection process. Take corrective action when inspections do not comply with these requirements.

**Recommendation #5**

Use quality assurance reviews to determine whether the findings and violations described in inspection reports are classified correctly and repeated findings are correctly classified as violations.

**Responses #4 and 5**

Performance standards for review of regional office survey activity will be created by December 31, 2003.

**Recommendation #6**

Use the penalties provided by law and regulations when repeated violations are found during inspections.

**Recommendation #7**

Require ACFs to submit written notification of the actions taken to correct findings described in inspection reports.

**Responses #6 and 7**

This is current Department practice. No further action is required.

**Recommendation #8**

Establish detailed written procedures for all aspects of the complaint investigation process, including the:

- receipt of information from the complainant;
- recording of information in the complaint log;
- classification of complaints;
- establishment of timeframes for investigations;
- performance and documentation of investigations;
- reporting of investigation results; and
- monitoring of investigations.

* <b>Note</b> 2
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**Recommendation #9**

Develop an electronic tracking system for complaint investigations. Require the Bureau to use this system to monitor the timeliness of the investigations and to take corrective action when investigations are not timely.

**Recommendation #10**

Perform quality assurance reviews of selected complaint investigations on an ongoing basis to determine whether the investigations comply with the Social Services Law, the Department's regulations and the Department's detailed written procedures for the complaint investigation process. Take corrective action when investigations do not comply with these requirements.

**Recommendation #11**

Analyze the staffing levels at the Regional Offices to determine whether additional staff is needed for complaint investigations.

**Responses # 8, 9, 10 and 11**

The Department has completely revamped the complaint process by:

- establishing a statewide toll-free 24-hour hotline for recording complaints against ACFs;
- creating a central office complaint intake unit;
- developing written procedures for all aspects of a new complaint system;
- linking the new system to the implementation of all data on intake and complaint investigations to the uniform complaint system;
- establishing central office oversight of all complaint classifications.

* <b>Note</b> 3
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**Recommendation #12**

Prepare an annual report about the Department's oversight of ACFs as required by the Social Services Law.

**Response #12**

The Department is currently preparing the required legislative report for the period 1999-2001 and is expected to be submitted to the legislature this month. The 2002 report will be submitted to the legislature by the March 1, 2003 required timeframe.

\* See State Comptroller's Notes, Appendix C

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## ***State Comptroller's Notes***

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1. We commend Department officials for implementing several major enhancements to their surveillance functions of adult care facilities. However, we do not agree with the statements by Department officials that this audit continues to address ineffective existing practices and procedures, and does not suggest approaches for more effective oversight of adult care facilities. First, the issues identified in this report were also identified in our prior report (Report 98-S-60), which was issued in November 1999. Second, in response to our recommendations, Department officials stated they developed an electronic tracking system for inspections, developed procedures and guidelines for the inspection process, and completely revamped the complaint process. Hence, this audit has added value to the Department's oversight and monitoring of adult care facilities.
  
2. We do not agree that no further action is required. As documented in this report, adult care facilities with repeated violations are not penalized, and adult care facilities are not submitting or are not submitting in a timely manner required reports documenting the actions taken to correct findings described in inspection reports.
  
3. We commend Department officials for revamping the complaint process. However, the Department's response does not address how it will implement several aspects of Recommendations 8, 9, 10 and 11. For example, the response is silent with respect to using the electronic tracking system to monitor the timeliness of investigations, performing quality assurance reviews of selected complaint investigations, and analyzing staffing levels at the regional offices. We trust that the Department's execution of the revamped complaint system will address these matters.