



November 7, 2023

VIA EMAIL

The Honorable Ronald D. Kouchi
Senate President
415 South Beretania Street
Hawai'i State Capitol, Room 409
Honolulu, Hawai'i 96813

VIA EMAIL

The Honorable Scott K. Saiki
Speaker, House of Representatives
415 South Beretania Street
Hawai'i State Capitol, Room 431
Honolulu, Hawai'i 96813

Re: “Follow-Up on Recommendations from Report No. 18-18, *Audit of the Office of Health Care Assurance’s Adult Residential Care Homes Program,*” Report No. 23-08

Dear President Kouchi and Speaker Saiki:

Please find attached our “Follow-Up on Recommendations from Report No. 18-18, *Audit of the Office of Health Care Assurance’s Adult Residential Care Homes Program,*” Report No. 23-08. The audit was performed pursuant to Section 23-7.5, Hawai'i Revised Statutes, and is a report on the Office of Health Care Assurance's implementation of recommendations made in Report No. 18-18, *Audit of the Office of Health Care Assurance’s Adult Residential Care Homes Program,* published in November 2018.

The report is accessible through the Office of the Auditor's website at:
<https://files.hawaii.gov/auditor/Reports/2023/23-08.pdf>.

If you or other Legislators would like a printed version of the report, please let me know.

Very truly yours,

Leslie H. Kondo
State Auditor

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Attachment
ec/attach:

Members of the Senate
Members of the House of Representatives
Carol Taniguchi, Senate Chief Clerk
Brian Takeshita, House Chief Clerk

Follow-Up on Recommendations from Report No. 18-18, *Audit of the Office of Health Care Assurance's Adult Residential Care Homes Program*

A Report to the Governor
and the Legislature of
the State of Hawai'i

Report No. 23-08
November 2023



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

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Follow-Up on Recommendations from Report No. 18-18, *Audit of the Office of Health Care Assurance’s Adult Residential Care Homes Program*

Office of Health Care Assurance’s Adult Residential Care Homes Program

In Report No. 18-18, *Audit of the Office of Health Care Assurance’s Adult Residential Care Homes Program*, we examined the Office of Health Care Assurance’s (OHCA) process to relicense adult residential care homes. We found that OHCA relicensed adult residential care homes (ARCHs) and expanded adult residential care homes (E-ARCHs), which provide residents with a higher level of care, without first completing the relicensing process, substituted much less rigorous unannounced care home visits for required annual relicensing inspections and, in some instances, issued licenses without even inspecting or visiting the facility as required by law. About half of the 214 care homes we sampled were allowed to operate in 2017 with either an expired license or a license issued before all required steps of the relicensing process had been completed. In addition, we found that OHCA had no written guidelines for enforcement if licensees could not or would not comply with quality of care standards, including guidance on the number of deficiencies in quality of control standards that would

We found the Office of Health Care Assurance implemented three of the recommendations, four were partially implemented, one was not implemented, and one was not implemented and is no longer applicable.

disqualify a care home from license renewal. The audit noted OHCA did not sanction or fine a single care home nor did it terminate a single care home license in the 10-year period from 2007 to 2017, even for care homes with substantial or repeat deficiencies.

We found that OHCA's primary objective appeared to support the continued operations of care homes, not ensuring the health, safety, or welfare of the facilities' residents as mandated by statute. The audit noted relicensing a care home before the inspection process is completed or doing so without verifying compliance does not provide assurance. The audit also noted the agency's failure to fully define and use its enforcement authority raised significant concerns. The audit concluded that circumstances noted in 2018 likely increased the risk to the health, safety, and welfare of care home residents.

The audit was performed pursuant to Article VII, Section 10 of the Hawai'i State Constitution and Section 23-4, Hawai'i Revised Statutes (HRS), which authorizes the Auditor to conduct post-audits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions. We focused on OHCA's management of the ARCH and E-ARCH programs, specific to the relicensing process, which included annual inspections and unannounced visits.

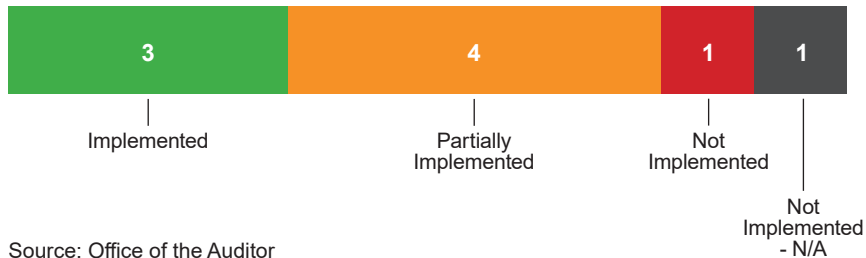
What we found in 2023

Our follow-up on OHCA's implementation of the recommendations made in Report No. 18-18, conducted between May and August 2023, involved examining relevant documents and records, interviewing relevant program personnel, and evaluating whether the program's actions addressed the recommendations.

Following the audit, OHCA instituted specific policies and procedures in the areas of inspections, annual unannounced visits, enforcement, and the online posting of inspection reports. OHCA also completed the initial phases of its centralized data management system.

Of the nine recommendations made, we found OHCA has implemented three of the recommendations, four were partially implemented, one was not implemented, and one was not implemented and is no longer applicable.

Exhibit 1 Audit Recommendations by Status



Source: Office of the Auditor

Recommendations and their status

Our follow-up efforts were limited to reviewing and reporting the implementation status of our audit recommendations. We did not audit the procedures or other measures OHCA adopted to implement the recommendations. We did not explore new issues or revisit old ones that did not relate to the original recommendations. The following details the audit recommendations we made in 2018 and the current implementation status of each recommendation based on our review of information and documents provided by OHCA.

Definition of Terms

WE DEEM recommendations:

Implemented

where the department or agency provided sufficient and appropriate evidence to support all elements of the recommendation;

Partially Implemented

where some evidence was provided but not all elements of the recommendation were addressed;

Not Implemented

where evidence did not support meaningful movement towards implementation, and/or where no evidence was provided;

Not Implemented - N/A

where circumstances changed to make a recommendation not applicable; and

Not Implemented - Disagree

where the department or agency disagreed with the recommendation, did not intend to implement, and no further action will be reported.

Recommendation 1

OHCA should complete its annual inspection process, including OHCA's acceptance of a care home's Plan of Correction and confirmation that deficiencies have been corrected, before renewing a care home's license.

Partially Implemented

Comments

What we found – 2018

In 2018, we sampled 214 care home files and found no evidence that required annual relicensing inspections were conducted for six care homes in 2017. We also found that OHCA relicensed 116 care homes (54 percent) before the annual relicensing inspection process had been completed. In 2016, OHCA did not conduct annual relicensing inspections for 22 care homes.

What we found – 2023

According to OHCA, the licensing process was restructured in 2018 after the audit. An OHCA policy and procedure on licensing and renewal inspections that went into effect two weeks after our 2018 audit was issued states that the inspection process must be “fully completed” before a license can be renewed. “Fully completed” for OHCA means a required annual relicensing inspection has been conducted and any resulting Plan of Correction accepted. Annual relicensing inspections are now conducted before the license expires, sometime within the last three months of the license term. If deficiencies are found during the relicensing inspection, the care home has 10 working days to complete a Plan of Correction. The Plan of Correction requires a care home to explain how a deficiency was corrected. The care home must also provide a future plan explaining what it will do to ensure that the deficiency does not happen again. For some deficiencies, only a future plan is required.¹ A provisional license may be issued if the care home is unable to complete an acceptable Plan of Correction before its license expires.

In addition to relicensing inspections, Hawai'i law also requires OHCA to conduct annual unannounced visits. The law requires these visits to be “separate from inspections for relicensing” and notes the visits may be conducted at intervals to be determined by the Department of Health. The purpose of these visits are to ensure the health, safety, and welfare of each resident. After the audit, OHCA also revised its policy on annual unannounced visits. According to the revised policy, these visits are conducted randomly throughout the calendar year,

¹ For example, failure to follow a past medication or nutrition order or failing to conduct a quarterly rehearsal of an emergency evacuation plan.

and are used to ensure compliance with regulations and to verify “continuous compliance with licensing requirements *including the successful completion of facilities’ Plans of Correction (POC) from the most recent annual inspection.*” (Emphasis added.)

Our recommendation called for OHCA to confirm deficiencies have been corrected before renewing the care home’s license. However, OHCA still does not confirm that a care home has corrected identified deficiencies, and OHCA relies entirely on the care home’s representation that the deficiencies were addressed. OHCA uses unannounced visits to verify deficiencies were corrected, but those visits occur after the care home’s license is renewed, often many months later. Deficiencies may be identified during a relicensing inspection and a resulting Plan of Correction addressing how deficiencies will be corrected in the future approved at the time the license is renewed. While a Plan of Correction may have been accepted, we note an OHCA nurse consultant may not have an opportunity to *verify* whether the Plan of Correction has been “fully completed” until months after the license has been renewed.

After the audit, OHCA also implemented a centralized Management Information System (MIS) which it uses to track current ARCH and E-ARCH licensees. Information captured includes dates of annual inspections and license expiration dates. According to the OHCA Licensing Section Supervisor, he reviews a list of ARCHs and E-ARCHs monthly to confirm facilities are currently licensed and ensures required annual inspections have been scheduled and conducted.

In 2018, we recommended OHCA confirm that deficiencies were corrected before renewing a care home’s license to better ensure that the residents are living in a safe environment. OHCA’s mission remains consistent relating to protecting the residents. Because OHCA does not inspect the care home’s correction of deficiencies identified during the annual relicensing inspection before renewing the license, we deem this recommendation to be partially implemented.

How Relicensing Works

OHCA IS RESPONSIBLE for licensing and relicensing ARCHs and E-ARCHs. ARCHs and E-ARCHs are relicensed annually and an inspection is a required component of the relicensing process. Relicensing inspections, which usually take between two to four hours to complete, consist of a walk-through of the facility and a review of certain records, including information such as smoke detection and fire alarm drills, emergency procedures, and staff in-service clearances and certifications. If no deficiencies are found, a new license is generated and mailed to the licensee. If ten or fewer deficiencies are found, OHCA nurse consultants who conduct inspections prepare a Statement of Deficiencies, which they give to the licensee on site. If more than ten deficiencies are found, review by a section supervisor is required. Licensees are then required to provide a written explanation of how they plan to correct each deficiency and ensure that the deficiencies do not happen again. Licensees have 10 working days to complete their Plan of Correction and return it to the nurse consultant. If not, the nurse consultant will issue an Unacceptable Plan of Correction, requiring the licensee to submit an improved plan to correct the deficiencies. Deficiencies must be resolved to OHCA’s satisfaction before a license is renewed.

Recommendation 2

OHCA should use provisional licenses only as stipulated in Chapter 11-100.1, Hawai'i Administrative Rules, including to allow a care home to operate while it addresses and corrects deficiencies identified during a relicensing inspection.

Implemented

Comments

What we found – 2018

The audit also discussed OHCA's use of provisional licenses and short-term licenses. A provisional license may be issued for a specified period of time at the discretion of the department for the purpose of giving care homes additional time to correct deficiencies. While provisional licenses are defined in OHCA's administrative rules, short-term licenses are not defined by statute or rule. We noted that, while provisional licenses can only be issued for a specific period of time and no more than two consecutive provisional licenses can be issued, short-term licenses had no such restrictions leading us to describe the licenses as "improvised." We recommended OHCA use provisional licenses instead of short-term licenses to allow a care home to operate while it addresses and corrects deficiencies identified during a relicensing inspection, as permitted by Section 11-100.1-3, Hawai'i Administrative Rules (HAR).

What we found – 2023

The licensing process was restructured in 2018 after the audit. The policies reiterate provisional licenses may be issued to allow time for a licensee to generate an acceptable Plan of Correction. Provisional licenses shall be for a period of no more than 90 days, a maximum of two consecutive provisional licenses may be issued, and no more than three provisional licenses are allowed within a three-year period unless warranted by unique and extenuating circumstances. Under the new policy, a short-term license cannot be used to allow a care home additional time to submit a Plan of Correction.

Recommendation 3

OHCA should discontinue the use of short-term licenses, which are not defined by statute or administrative rules.

Not Implemented - N/A

Comments

What we found – 2018

We found OHCA was using short-term licenses and recommended the use of provisional licensees as allowed by Section 11-100.1-3, HAR. We also noted short-term licenses were not defined by either statute or rule and that unlike provisional licenses which can only be issued for a specific period of time and for no more than two consecutive periods, short-term licenses had no such restrictions.

What we found – 2023

We determined that our recommendation was flawed, and for that reason, we deem the implementation status to be “Not Applicable.” While neither the statute nor OHCA’s administrative rules refer to a “short-term license,” which was the basis for our concern in 2018, Hawai’i law allows OHCA to issue licenses for “up to a year.” The licenses that OHCA calls “short-term” are for periods less than a year and, therefore, are consistent with the statute.

We did find that the licensing process was restructured after the audit in 2018 and specific instances when short-term licenses may be issued are enumerated. The current policy states short-term licenses may be issued for less than one year for “non-enforcement” reasons to bridge the care home to its original license renewal date. Examples of reasons why a license may be allowed for less than a one-year period include a change in the number of approved residents or a change in approved ambulatory level during the period of the original license. A short-term license may also be issued when there is a change in the type of facility, for example from an ARCH to an E-ARCH.

While beyond our assessment of OHCA’s implementation of our recommendation, we are compelled to note our concern about OHCA’s current use of short-term licenses because of the increased risk to care home residents. OHCA’s overarching mission is “to ensure the health, safety, and welfare” of each care home resident. We question whether allowing a care home to materially change its operations beyond what its current license allows under a short-term license without a substantive review of the care home capacity to support the change is reasonable and consistent with OHCA’s mission.

Training Records

OHCA says staff were trained on new policies and procedures the agency adopted after the 2018 audit, but we were unable to confirm this information. The agency does not maintain records of trainings. And, while the agency provided a checklist of training items for new employees, specific policies and procedures, including state licensing and renewal inspection process, were not listed on the form.

Recommendation 4

OHCA should establish policies and procedures to verify or otherwise confirm that care homes have implemented approved Plans of Correction to correct deficiencies identified during inspections or unannounced visits, including policies and procedures to conduct follow-up visits for certain types of deficiencies.

Partially Implemented

Comments

What we found – 2018

We found that OHCA relicensed 116 care homes (54 percent) in a sample of 214 care homes before the relicensing inspection process was completed. Of those, 22 had 2016 relicensing inspections that were still unprocessed and incomplete. Eight care homes in our sample had 20 or more deficiencies, but OHCA relicensed them before those deficiencies were resolved. We found that in most cases, OHCA renewed care home licenses before Plans of Correction were accepted and, in some cases, before inspections were conducted.

What we found – 2023

The licensing process was restructured in 2018 after the audit. Revised policies and procedures state the inspection process must be fully completed before a renewal license is issued. The inspection process includes submission of a Plan of Correction by the care home and acceptance of that Plan of Correction by OHCA. Licensees are contacted if a Plan of Correction is not submitted within 10 days of receipt of a Statement of Deficiencies or if a submitted Plan of Correction is deemed to be unacceptable. A provisional license may be issued to allow time for a licensee to generate an acceptable Plan of Correction. Provisional licenses expire after 90 days, and no more than two consecutive provisional licenses can be issued by OHCA. A care home license can be suspended for failure to maintain proper documentation.

For care homes with approved Plans of Correction, the policies and procedures state that annual unannounced visits shall be used to follow up on deficiencies noted during the annual inspection and to verify that implementation of approved Plans of Correction have been made. We confirmed that, if any additional deficiencies are discovered during an unannounced visit, another Statement of Deficiencies is issued and another unannounced visit is performed to verify or otherwise confirm the care home has implemented all approved Plans of Correction and corrected all deficiencies identified.

As we note above, OHCA’s policy on licensing inspections and renewals states the annual inspection process must be “fully completed” before a renewal license can be issued. Its annual unannounced visits policy states successful completion of a facility’s Plan of Correction is verified during these visits. Again, while a Plan of Correction may have been accepted, an OHCA nurse consultant may not verify the Plan of Correction has been “fully completed” until months after the license has been renewed.

Additionally, we question whether OHCA’s use of the unannounced visits to verify deficiencies have been corrected is appropriate. Section 321-1.9, HRS, which refers to “inspections relating to follow-up visits, visits to confirm correction of deficiencies, [and] visits to investigate complaints or suspicion of abuse or neglect,” seems to reflect that the Legislature intended those interactions to be an “inspection,” which according to OHCA is different from an unannounced visit.

Recommendation 5

OHCA should conduct at least one unannounced visit for each care home as required by Section 321-15.6, HRS, not as a substitute for an annual inspection, and should consider conducting more unannounced visits for each care home per year to verify that the care home is implementing its Plan of Correction and/or the care home is adequately providing care for its residents.

Implemented

Comments

What we found – 2018

Section 321-15.6, HRS, requires the Department of Health (DOH) to conduct at least one unannounced care home visit, *in addition to* the inspection for relicensing, for every ARCH and E-ARCH on an annual basis and at intervals determined by the department to ensure the health, safety, and welfare of each resident. As described by OHCA, an unannounced visit is a walk-through of the facility that focuses on safety issues and takes an average of 10 minutes to complete. The audit noted annual inspections are more comprehensive and include an examination of a resident's records by an OHCA nurse consultant and can take between two to four hours to complete.

What we found – 2023

The licensing process was restructured in 2018 after the audit. A policy and procedures on annual unannounced visits were implemented in January 2019. According to OHCA, annual unannounced visits are conducted at least once a year for every licensed care home. Revised policies and procedures state annual unannounced visits are used to ensure care homes are maintaining compliance with regulations, residents are supervised by caregivers at all times, and that there is no evidence that residents' welfare or health is compromised. According to the OHCA Licensing Section Supervisor, he reviews a list of ARCHs and E-ARCHs annually to ensure required unannounced visits have been scheduled and conducted.

Unannounced visits are also used to follow-up on deficiencies noted during the annual inspection. We confirmed that, if any deficiencies besides the ones found in the annual visit are discovered during an unannounced visit, another Statement of Deficiencies is issued and another unannounced visit is performed to verify or otherwise confirm the care home has implemented all approved Plans of Correction and corrected all deficiencies identified.

As we note above, while a Plan of Correction may have been accepted, a nurse consultant may not verify the Plan of Correction has been "fully completed" until months after the license has been renewed.

Recommendation 6

OHCA should develop a centralized data management system for management and staff to review and update information as well as monitor inspections and licenses.

Partially Implemented

Comments

What we found – 2018

The audit found OHCA's licensing records in disarray, noting that licenses, Statements of Deficiencies, Plans of Correction, and Unacceptable Plans of Correction were misfiled; original reports for required annual inspections and unannounced care home visits were missing from files; and key documents contained typographical errors or incorrect dates. In addition, licenses may have been issued to care homes without OHCA retaining a copy of the license, as we were unable to locate valid licenses in some files; those records may have been with an OHCA nurse consultant, but there was no way to determine if this was the case without asking each nurse consultant. The OHCA licensing secretary explained that OHCA nurse consultants often remove active care home files during relicensing or an investigation and that the files may be on their desks until the work is completed. In other words, sometimes multiple people were needed to locate some of the physical files, and OHCA's staff do not track the intra-office movement of files.

What we found – 2023

In its November 9, 2018 response to the audit, OHCA stated that improvements were already underway to develop a management information system (MIS) to track workload, staff assignments, and completed work; transition from a paper-based system to a fully electronic inspection process; and to develop an automated system to post electronic inspection reports online.

The Scope of Services from an April 15, 2019 contract for the MIS lists four phases for the project:

- **Phase 1** - Build the data repository of facilities and certified entities and generate license fee invoices and record payments;
- **Phase 2** - Automate the survey and inspection process and scheduling, and collect payments online;
- **Phase 3** - Provide online access for remediation of deficiencies and provide online fillable applications; and
- **Phase 4** - Develop a public portal to display information about facilities and certified entities; process and issue licenses and certificates.

A July 1, 2018 Memorandum of Agreement between OHCA and a contractor describes the functional components of Phase 1 as including (1) a repository for facility and certified entities (e.g., all facilities, agencies, and organizations under OHCA which includes adult day care centers, adult day health centers, clinical laboratories, dieticians, freestanding surgical outpatient facilities, and others); and (2) license fee invoicing and payment recording.²

Health Care Facility Management Information System (HCFMIS)

1 Scope of Work

Phase 1	Phase 2 R1	Phase 2 R2	Phase 3	Phase 4
Build the repository of facilities and certified entities	Automate the scheduling process	Automate the inspection process	Enable online remediation of deficiencies	Public Portal to display information about facilities and certification entities
Generate license fee invoices and record payments	Leave Requests, Scheduling P1 Product Enhancements	Collect payments online	Self-service Online Application License Submissions	Process and Issue Licenses
IN PRODUCTION	IN PRODUCTION	TBD – Scope & Cost	TBD – Scope & Cost	TBD – Scope & Cost

This document presents the scope of work to achieve the following phases:

- Phase 2 R2: Digitized Inspections
- Phase 3: Remediations and Online Application Filing
- Phase 4: Public Portal Inspections Results and License Issuance
- Requested Enhancements
- Maintenance and Operations (M&O)

Source: OHCA

According to the agency, Phase 1 has been completed and is, as the agency describes, in production. Phase 2 is partially complete and includes centralized data on all OHCA licensees and certificate holders which allows staff to monitor renewal dates. Also included is a centralized calendar with staff schedules of inspections and meetings and centralized inspection and onsite visit information that documents completion of surveys and visits. According to the agency, the centralized leave request and notification system was developed prior to the DOH’s implementation of the statewide Hawai‘i Information Portal time and leave project. This MIS is based on Microsoft Dynamics 365. The facility types captured include ARCHs, E-ARCHs, as well as other licensing types which OHCA oversees such as adult foster care homes and dieticians.

² Invoicing is described later in the Memorandum of Agreement as “a basic method of generating an invoice for each licensee that will be assessed an annual renewal fee”; the function we observed during a demonstration of the MIS in 2023 generated a Microsoft Word document.

We reviewed a draft scope of work document representing the next phases of the MIS project, which include completion of Phase 2. Next steps include executing a new contract with an IT vendor to complete Phases 2 through 4 as well as updates and change orders from early phases. OHCA anticipates completion of all phases of the MIS project by the end of fiscal year 2025.

As noted above, Phase 1 of the MIS project included the ability to generate license fee invoices and to record payments. We previously reviewed a special fund used by OHCA to record payments of license and certification fees.³ OHCA reported that revenue to the special fund significantly increased in fiscal years 2019 and 2020 due to its ability to issue invoices and to record payments of license and certification fees. A response from the agency states OHCA began collecting and depositing fees in May of 2019. According to the agency, prior to May of 2019, license and certification fees were not collected because OHCA did not have a system to issue invoices and did not have staff to issue invoices manually. (See Report No. 21-03, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Health.*)

Prior to May of 2019, license and certification fees were not collected.

As noted above, this MIS includes a leave and calendaring system that allows the administrator to schedule inspections and unannounced visits that do not conflict with vacations, holidays, sick leave, and other types of leave. During a demonstration of the MIS, we observed leave requests submitted by OHCA employees flowed through the system for approval by a manager. The agency states the Health Care Facility Management Information System's leave and calendaring function does not share data with Hawai'i Information Portal. Consequently, employees are required to submit leave requests in both systems and a manager is required to review and approve duplicate leave requests. To eliminate the inefficiencies created by inputting the same information into the two systems, we suggest the agency consult with the Office of Enterprise Technology Services.

³ The Office of Health Care Assurance Special Fund was legislatively established in 1999. The fund is used to help offset the operating costs and educational program expenses of the Department of Health's Office of Health Care Assurance. Revenues are from administrative penalties and licensing fees.

Recommendation 7

OHCA should develop policies and procedures to guide the relicensing process, including clear deadlines by which staff must, for example, issue Statements of Deficiencies to the licensee, review Plans of Correction, and complete inspections, to ensure timely license renewal.

Implemented

Comments

What we found – 2018

We found that OHCA had no internal timelines or deadlines for each step of the relicensing process to ensure tasks are completed within a specific timeframe and, ultimately, before a care home's one-year license expires.

What we found – 2023

The licensing process was restructured in 2018 after the audit. We reviewed revised OHCA policies and procedures that include deadlines for issuing Statements of Deficiencies, reviewing Plans of Correction, scheduling and completing inspections, and other items related to the relicensing inspection process.

Recommendation 8

OHCA should promulgate administrative rules that describe the types of violations for which it may consider assessing a monetary fine or other action, including suspending or revoking a care home's license.

Not Implemented

Comments

What we found – 2018

OHCA has the authority to issue administrative penalties or fines to ARCH and E-ARCH licensees for noncompliance with State law. However, the audit found that OHCA did not sanction or fine a single care home nor did it terminate a single care home license in the 10-year period from 2007 to 2017. The audit also found there were no rules or other written guidelines that define when and how punitive action can be carried out. At the time of the audit, OHCA's branch chief told us that OHCA was in the process of developing administrative rules but could not provide a reason why those rules had not yet been completed.

What we found – 2023

The enforcement process was restructured in 2018 after the audit. New policies and procedures related to enforcement are intended to ensure that, among other things, enforcement actions for facilities not in compliance are standardized and consistently applied. According to the policies and procedures, enforcement actions include but are not limited to license suspension, license modification, license revocation, and monetary fines and are issued through written Notices of Violation and Order. Examples of the types of violations that warrant enforcement and imposition of monetary fines are included.

The agency has been working on administrative rules since January of 2019. We reviewed draft administrative rules dated December 15, 2022 that define misconduct and specify instances that may subject a care home to disciplinary action. The draft rules state that orders may include suspension, modification of a license, revocation, or imposition of fines pursuant to Section 321-20, HRS, which allows fines of up to \$1,000 for each day of violation. The draft rules also provide that orders assessing administrative penalties must state the nature of the violation, the legal basis, the right to request an administrative hearing (pursuant to Chapter 91, HRS), and to retain legal counsel. The draft rules state the order must be provided by certified mail or hand-delivered.

While OHCA has drafted administrative rules related to enforcement, the draft rules have not been promulgated.

Recommendation 9

OHCA should implement policies and take all measures necessary to comply with the posting requirements of Section 321-1.8, HRS, including posting all approved Plans of Correction for relicensing inspections. OHCA should also consider posting unanswered Statements of Deficiencies for care homes that do not submit a Plan of Correction within the ten-day deadline and Plans of Correction resulting from unannounced visits that identified deficiencies.

Partially Implemented

Comments

What we found – 2018

Section 321-1.8, HRS, requires the department to post reports on its website of all inspections it performs of state-licensed care facilities, including ARCHs and E-ARCHs. The audit showed that OHCA was falling well-short of these requirements with Plans of Correction posted for only half of ARCH and E-ARCH facilities in our sample of 214 care homes on the Department of Health's website. In fact 18 care homes from our sample of active files were not even listed at all on the website.

What we found – 2023

OHCA's policy and procedures for posting inspection reports online was restructured after the audit in 2018 and now include policies and procedures for posting approved Plans of Correction following relicensing inspections. It is the policy of DOH and OHCA to post inspection reports on the OHCA website within five working days of the conclusion of the inspection. If a Plan of Correction is submitted and approved, the Plan of Correction is posted and the original inspection report removed. An acceptable Plan of Correction includes findings and rules which describe the deficiency. According to the agency, protected health and other information may be redacted.

Our recommendation also stated OHCA should consider posting unanswered Statements of Deficiencies for care homes that do not submit a Plan of Correction within the 10-day deadline and Plans of Correction resulting from unannounced visits that identified deficiencies. According to OHCA, under its new policy, unanswered Statements of Deficiency are posted and not replaced, although care homes whose licenses are no longer active may be removed at the discretion of the agency.

Currently, information posted is not tied to OHCA's Management Information System, and according to OHCA, an office assistant posts PDF versions of Notices of Deficiencies and Plans of Correction directly to the website.

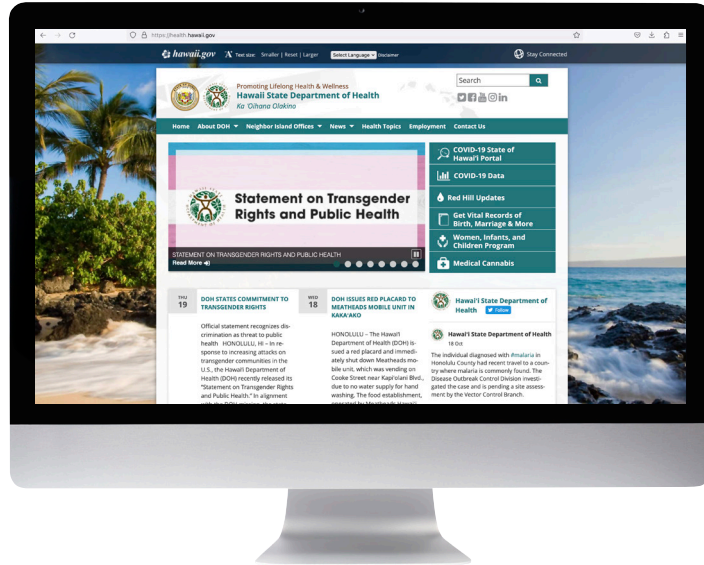
Lastly, we note that Plans of Correction resulting from unannounced visits are not included on OHCA’s website. Section 321-1.8, HRS, requires OHCA to provide public access to inspection reports by posting copies on its website. OHCA, however, interprets Section 321-1.8, HRS, quite literally, meaning that it construes the posting requirement to apply to reports from OHCA’s “inspections,” not its unannounced “visits.” In 2018, we described the unannounced visits as “a walk-through of the facility that focuses on safety issues and takes an average of 10 minutes to complete.” But, we reported above, OHCA now uses unannounced visits to also confirm that deficiencies found during a care home’s annual inspection have been corrected.⁴

Section 321-1.9, HRS, requires OHCA to conduct both unannounced visits and inspections. That section also refers to “inspections” relating to *follow-up visits* and *visits to confirm correction of deficiencies*, stating that those inspections shall be conducted without notice. While we do not agree with OHCA’s interpretation of Section 321-1.8, HRS, even if OHCA’s belief that the section requires only the posting of reports of inspections is accurate, OHCA likely must post the reports from unannounced visits because OHCA uses those visits to verify that previously identified deficiencies have been corrected.

We also are compelled to note that Act 213 (2013 Reg. Session), which became Section 321-1.8, HRS, reflects the legislative intent to provide transparency of OHCA’s reports: “The Legislature finds that the public would benefit from greater access to information on the quality and conditions of care facilities in Hawai‘i.” Section 1 of Act 213 further states, “The purpose of this Act is to require the Department of Health to make available to the public free of charge, information collected from the department’s inspections.” We suggest that the clear legislative intent does not support OHCA’s narrow construction of Section 321-1.8, HRS, as limiting the posting requirement to only its annual inspection reports.

While OHCA posts information on its “Healthcare Facilities Inspection Reports” webpage, we were unable to locate a link from OHCA’s webpage on the DOH website to the Healthcare Facilities Inspection Reports webpage and are uncertain how consumers can locate information about ARCHs or E-ARCHs without first identifying ARCHs and E-ARCHs as “Healthcare Facilities.” Act 213 (2013 Reg. Session) noted that although the department performs inspections to ensure a standard of quality of

⁴ We additionally question whether OHCA’s use of the unannounced visits to verify deficiencies have been corrected is appropriate. Section 321-1.9, HRS, which refers to “inspections relating to follow-up visits, visits to confirm correction of deficiencies, [and] visits to investigate complaints or suspicion of abuse or neglect,” seems to reflect that the Legislature intended those interactions to be an “inspection,” which according to OHCA is different from an unannounced visit.



Search words

<input type="text" value="care homes"/>	<input type="submit" value="Q"/>	No relevant information.
<input type="text" value="senior care homes"/>	<input type="submit" value="Q"/>	No relevant information.
<input type="text" value="ARCH E-ARCH"/>	<input type="submit" value="Q"/>	Some unreadable computer code
<input type="text" value="healthcare facilities"/>	<input type="submit" value="Q"/>	One link: Healthcare Facilities Inspection Reports

Source: Office of the Auditor

healthcare facilities using state moneys, the public cannot easily access the information contained in the inspection reports. We suggest OHCA review its webpage, specifically navigation from any department and/or program websites and provide information to consumers about where inspection reports for ARCHs and E-ARCHs can be found more readily as described.

For these reasons, we deem the recommendation to be partially implemented.