

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**ILLINOIS SHOULD IMPROVE ITS
OVERSIGHT OF SELECTED
NURSING HOMES' COMPLIANCE
WITH FEDERAL REQUIREMENTS
FOR LIFE SAFETY AND
EMERGENCY PREPAREDNESS**

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Office of Inspector General

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Report in Brief

Date: September 2020
Report No. A-05-18-00037

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

In 2016, the Centers for Medicare & Medicaid Services (CMS) updated its life safety and emergency preparedness regulations to improve protections for all Medicare and Medicaid beneficiaries, including those residing in long-term care facilities (commonly known as nursing homes). The updates included requirements that nursing homes have expanded sprinkler systems and smoke detector coverage; an emergency plan that is reviewed, trained on, tested, and updated at least annually; and provisions for sheltering in place and evacuation.

Our objective was to determine whether Illinois ensured that selected nursing homes in the State that participated in the Medicare or Medicaid programs complied with CMS requirements for life safety and emergency preparedness.

How OIG Did This Audit

Of the 733 nursing homes in Illinois that participated in Medicare or Medicaid, we selected a nonstatistical sample of 15 nursing homes based on various factors, including the number of high-risk deficiencies Illinois reported to CMS.

We conducted unannounced site visits at the 15 nursing homes from October through December 2018. During the site visits, we checked for life safety violations and reviewed the nursing homes' emergency preparedness plans.

Illinois Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness

What OIG Found

Illinois did not ensure that selected nursing homes in the State that participated in the Medicare or Medicaid programs complied with CMS requirements for life safety and emergency preparedness. During our site visits, we identified deficiencies in areas related to life safety and emergency preparedness at all 15 nursing homes that we reviewed. Specifically, we found 53 instances of noncompliance with life safety requirements and 184 instances of noncompliance with emergency preparedness requirements. As a result, residents at the 15 nursing homes were at increased risk of injury or death during a fire or other emergency.

The identified deficiencies occurred because the existing life safety training program for nursing home management could not educate all Illinois nursing home management in a timely manner, and the State did not offer an emergency preparedness training program for nursing home management. (Currently, CMS requires neither of the two training programs.) Further, Illinois performed abbreviated surveys of emergency preparedness plans and had insufficient personnel for its workload. In addition, Illinois did not determine whether carbon monoxide alarms were installed in accordance with State law.

What OIG Recommends and Illinois Comments

We recommend that Illinois: (1) follow up with the 15 nursing homes to verify that corrective actions have been taken regarding the deficiencies that we identified, (2) conduct more thorough emergency preparedness reviews for the safety and protection of nursing home residents and staff, (3) work with CMS to develop emergency preparedness training and expand life safety training sessions to accommodate all nursing home management, (4) consider increasing staffing levels to address caseload thresholds for State surveyors, and (5) consider modifying its survey procedures to check for carbon monoxide alarms required by Illinois law.

In written comments on our draft report, the State agency generally agreed with our findings and recommendations. Although the State agency did note some challenges to implementing the recommendations, they acknowledged our effort to improve the oversight of nursing homes and stated that positive actions would be taken on the recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

In 2016, the Centers for Medicare & Medicaid Services (CMS) updated its life safety and emergency preparedness regulations to improve protections for all Medicare and Medicaid beneficiaries, including those residing in long-term care facilities (commonly known as nursing homes). Updates included requirements that nursing homes have expanded sprinkler systems and smoke detector coverage; an emergency preparedness plan that is reviewed, trained on, tested, and updated at least annually; and provisions for sheltering in place and evacuation.

As part of its oversight activities, the Office of Inspector General (OIG) is conducting a series of audits nationwide (Appendix B) to assess compliance with these new life safety and emergency preparedness requirements. This audit focuses on selected nursing homes in Illinois.

OBJECTIVE

Our objective was to determine whether the Illinois Department of Public Health (State agency) ensured that selected nursing homes in the State that participated in the Medicare or Medicaid programs complied with CMS requirements for life safety and emergency preparedness.

BACKGROUND

Medicare and Medicaid Coverage of Nursing Homes

The Medicare and Medicaid programs cover care in nursing homes for eligible beneficiaries. Sections 1819 and 1919 of the Social Security Act (the Act) establish requirements for CMS and States to perform surveys of nursing homes to determine whether they meet Federal participation requirements. For both Medicare and Medicaid, these statutory participation and survey requirements are implemented in Federal regulations at 42 CFR part 483, subpart B, and 42 CFR part 488, subpart E, respectively.

Requirements for Life Safety and Emergency Preparedness

Nursing homes are required to comply with all Federal, State, and local laws, regulations, and codes, as well as accepted professional standards and principles (42 CFR § 483.70). Federal regulations on life safety (42 CFR § 483.90) require nursing homes to comply with standards set forth in the *Life Safety Code* (National Fire Protection Association (NFPA) 101) and *Health Care Facilities Code* (NFPA 99).¹ CMS lists applicable requirements on Form CMS-2786R, *Fire Safety*

¹ CMS adopted the 2012 edition of both publications in a Final Rule published in 81 Fed. Reg. 26872, 26874 (May 4, 2016).

*Survey Report.*² Federal regulations on emergency preparedness (42 CFR § 483.73) include specific requirements for nursing homes' emergency preparedness plans and reference the *Standard for Emergency and Standby Power Systems* (NFPA 110) as part of their requirements.³ CMS lists applicable requirements on its *Emergency Preparedness Surveyor Checklist*.⁴

The *Fire Safety Survey Report* and *Emergency Preparedness Surveyor Checklist* are used when CMS or a designated agency performs a nursing home survey. CMS also issued *Appendix I, Survey Procedures for Life Safety Code Surveys* and *Appendix Z, Emergency Preparedness Final Rule Interpretive Guidelines and Survey Procedures* (Appendix Z) for guidance in performing nursing home surveys. The results of each survey are reported and added to CMS's Automated Survey Processing Environment (ASPEN) system.

In addition to the Federal requirements for life safety and emergency preparedness, Illinois Public Law mandates that in every structure that contains more than one dwelling unit, a carbon monoxide alarm be installed within 15 feet of every room used for sleeping (Illinois P.L. No. 094-0741 §§ 10(b) and (c)).

Responsibilities for Life Safety and Emergency Preparedness

In Illinois, the State agency oversees nursing homes and is responsible for ensuring that nursing homes comply with Federal, State, and local regulations. Under an arrangement with CMS referred to as a "section 1864 agreement," the State agency is responsible for completing life safety and emergency preparedness surveys not later than once every 15 months at nursing homes that participate in the Medicare or Medicaid programs.⁵ However, the State agency may survey nursing homes more frequently to confirm that facilities have corrected previously cited deficiencies.⁶ Management and staff at nursing homes are ultimately responsible for ensuring the safety and well-being of residents and for complying with Federal, State, and local regulations. They are responsible for ensuring that facility systems, such as furnaces, water

² Form CMS-2786R is available online at <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-Items/CMS009335.html>. Accessed on August 11, 2020.

³ CMS adopted the 2010 edition of NFPA 110 in a Final Rule published in 81 Fed. Reg. 63860, 63929 (Sept. 16, 2016).

⁴ CMS provides online guidance for emergency preparedness at <https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertemergprep/emergency-prep-rule.html>. Accessed on August 11, 2020.

⁵ The Act §§ 1819(g)(2)(A)(iii) and 1919(g)(2)(A)(iii). Under the agreement, the State agency agrees to carry out the provisions of sections 1864, 1874, and related provisions of the Act.

⁶ 42 CFR § 488.308(c). The State agency generally conducts life safety surveys every 9 to 15 months and will follow up on deficiencies either through a site visit or by reviewing documentation submitted by the nursing home, depending on the nature and severity of the deficiency. For 10 of the 15 nursing homes we visited, the State agency conducted its 2 most recent comprehensive surveys within 13 months. For two of those nursing homes, the State agency conducted both surveys within 9 months. For the other five nursing homes, the State agency conducted both surveys within 11 to 15 months.

heaters, kitchen equipment, generators, sprinkler and alarm systems, elevators, and other equipment, are properly installed, tested, and maintained. Management and staff at nursing homes are also responsible for establishing and maintaining an emergency preparedness program, including an emergency plan, that is updated and tested regularly.

HOW WE CONDUCTED THIS AUDIT

As of June 2018, a total of 733 nursing homes in Illinois participated in the Medicare or Medicaid programs. We selected a nonstatistical sample of 15 nursing homes based on a number of factors, including the number of high-risk deficiencies,⁷ capacity (number of beds), type of facility (participation in Medicare or Medicaid and whether the home was a distinct part of another facility), and geographic location. Four nursing homes had one or more high-risk deficiencies reported to CMS's ASPEN system by the State agency during Federal fiscal years 2015 through 2017.

We completed unannounced site visits at the sampled nursing homes from October through December 2018. During the site visits, we checked for life safety violations and reviewed the nursing homes' emergency preparedness.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency did not ensure that selected nursing homes in Illinois that participated in the Medicare or Medicaid programs complied with CMS requirements for life safety and emergency preparedness. During our site visits, we identified deficiencies in areas related to life safety and emergency preparedness at all 15 nursing homes that we reviewed:

- We found 53 instances of noncompliance with life safety requirements related to fire detection and suppression systems, building exits, elevator and electrical equipment, smoking policies and fire drills, hazardous storage areas, resident call systems, and carbon monoxide alarms.
- We found 184 instances of noncompliance with emergency preparedness requirements related to written emergency plans; emergency power; plans for

⁷ We defined high-risk deficiencies as those that (1) were widespread and had the potential for more than minimal harm, (2) had the potential for actual harm, or (3) posed immediate jeopardy to resident life and safety.

evacuation, sheltering in place, and tracking residents and staff during an emergency; emergency communications plans; and emergency plan training.

As a result, residents at the 15 nursing homes were at increased risk of injury or death during a fire or other emergency.

The identified deficiencies occurred because the existing life safety training program for nursing home management could not educate all Illinois nursing home management in a timely manner, and the State agency did not offer an emergency preparedness training program for nursing home management. (CMS currently requires neither of the two training programs.) Further, the State agency performed abbreviated surveys of emergency preparedness plans based on interpretive guidance from CMS and had insufficient personnel for its workload. In addition, the State agency did not determine whether carbon monoxide alarms were installed in accordance with Illinois law.

Appendix D summarizes the areas of noncompliance and the number of deficiencies that we identified at each nursing home.

SELECTED NURSING HOMES DID NOT COMPLY WITH LIFE SAFETY REQUIREMENTS

CMS's *Fire Safety Survey Report*, described earlier, lists the Federal regulations on life safety with which nursing homes must comply and references each with an identification number referred to as a "K-Tag" (K-Tags 100 through 933).⁸ However, there are no K-Tags for resident call systems and carbon monoxide alarms.

Fire Detection and Suppression Systems

Nursing homes are required to have a fire alarm system that is tested and maintained in accordance with NFPA requirements. Sprinkler systems must be installed, inspected, tested, and maintained in accordance with NFPA requirements, which include the requirement to keep 18 inches of clearance around sprinkler system heads. Cooking equipment, including special fire suppression systems, must be maintained and repairs performed on all components at intervals necessary to maintain good working condition. Nursing homes must also either evacuate or have fire watch procedures in place for times when the fire alarm or sprinkler system is out of service, and portable fire extinguishers must be inspected monthly (K-Tags 324, 345, 346, 351, and 353–355).

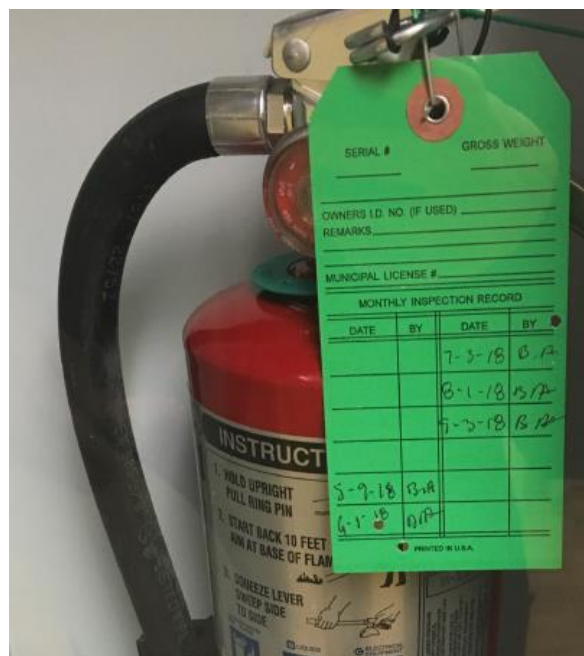
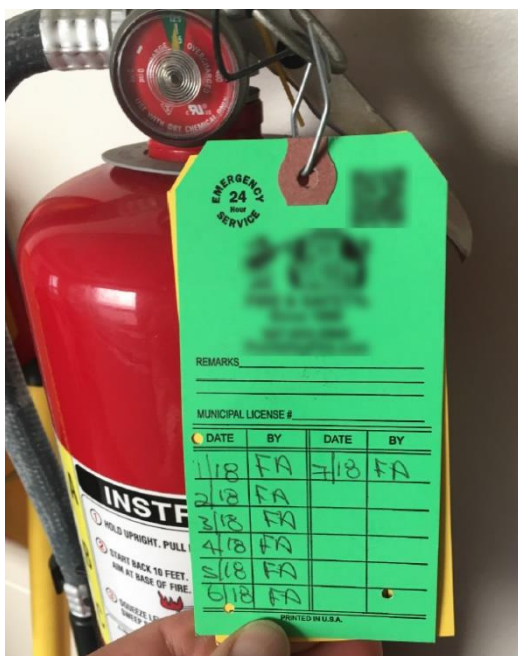
Of the 15 nursing homes we visited, 8 had 1 or more deficiencies related to their fire detection and suppression systems.⁹ Specifically, three nursing homes had sprinkler heads that were

⁸ We reported on the K-Tags with deficiencies. A full list of K-Tags reviewed is included as Appendix C.

⁹ The 8 nursing homes had a total of 13 deficiencies related to fire detection and suppression systems.

blocked or obstructed, and one nursing home failed to have its sprinkler system tested and maintained.

At one nursing home, the fire suppression system on cooking equipment was missing one semiannual inspection. Another nursing home had not updated its fire alarm and sprinkler system's out-of-service policies to address previous survey deficiencies. In addition, six nursing homes did not inspect their portable fire extinguishers monthly. (See photographs below.)



Photograph 1 (left): Fire extinguisher did not have August, September, and October 2018 inspections documented. Photograph taken on November 29, 2018.

Photograph 2 (right): Fire extinguisher did not have October and November 2018 inspections documented. Photograph taken on December 4, 2018.

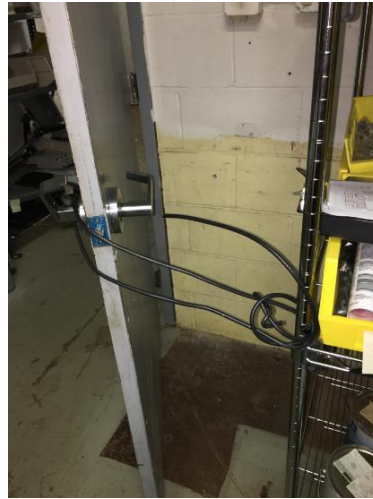
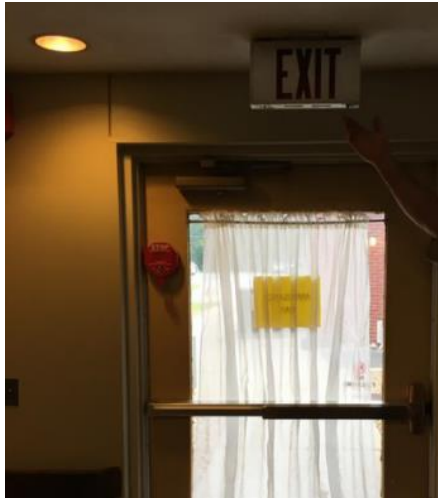
Building Exits

In case of fire or emergency, nursing homes are required to have (1) self-closing doors in exit passageways that do not require tools or keys to open and are not manually propped open, (2) smoke compartments with no less than two distinct egress paths to exits, (3) discharges from exits (i.e., the immediate area outside the door) that are illuminated and free from hazards, and (4) illuminated exit signs (K-Tags 222, 223, 241, 271, 281, and 293).

Of the 15 nursing homes we visited, 8 had 1 or more deficiencies related to building exits.¹⁰ Specifically, emergency exit doors at two nursing homes could not be opened, and the discharge area from the exit door was not illuminated at three nursing homes and was blocked

¹⁰ The 8 nursing homes had a total of 12 deficiencies related to building exits.

or impeded at two nursing homes. Another nursing home had an activity room that did not have two distinct egress paths to exits. In addition, three nursing homes had self-closing doors that were propped open or would not self-close. One nursing home had two non-illuminated exit signs. The photographs below depict some of the deficiencies we identified during our site visits.



Photograph 3 (left): Exit sign was not continuously illuminated.

Photograph 4 (center): Door with self-closing device was propped open.

Photograph 5 (right): Door with self-closing device was propped open.

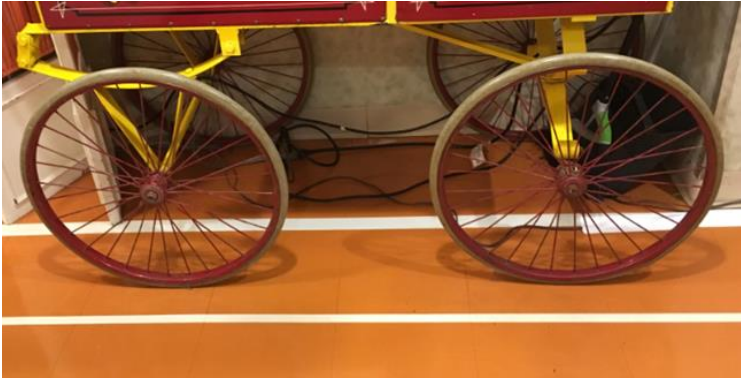
Elevator and Electrical Equipment

If a nursing home has an elevator, it must be tested and maintained regularly. If power strips are used, they must meet Underwriters Laboratories (UL) requirements and be used in a safe manner. Extension cords may be used temporarily but must be removed immediately after use (i.e., not as a substitute for fixed wiring) (K-Tags 531 and 920).

Of the 15 nursing homes we visited, 8 had 1 or more deficiencies related to elevator or electrical equipment.¹¹ Specifically, we found that one nursing home did not fully document that its elevator was tested or maintained.¹² Also, eight nursing homes used power strips unsafely, used power strips that did not meet the correct UL requirements, or used extension cords as a substitute for fixed wiring. The photographs below depict some of the deficiencies we identified during our site visits.

¹¹ Of the 15 nursing homes we visited, 8 had elevators. The eight nursing homes had a total of nine deficiencies related to elevator or electrical equipment.

¹² The nursing home was missing one elevator safety test.



Photographs 6 and 7 (close-up): Extension cords were used as a substitute for fixed wiring.



Photograph 8 (left): Power strip was unsafely connected to appliances near a water source.
Photograph 9 (right): Power strip did not meet UL requirements and was used unsafely.



Photograph 10: Power strip did not meet UL requirements and was used on patient-care-related electrical equipment.

Smoking Policies and Fire Drills

Nursing homes are required to establish smoking policies for residents and staff. Smoking is permitted only in authorized areas where ash receptacles of noncombustible material and safe design are provided. Further, no-smoking areas must include signage. Nursing homes are also required to conduct fire drills each calendar quarter that cover each work shift. Participation by staff members is required, and the drills must be planned and conducted at expected and unexpected times under varying conditions by a qualified individual (K-Tags 712 and 741).

Of the 15 nursing homes we visited, 7 had 1 or more deficiencies related to smoking policies or fire drills.¹³ Specifically, four nursing homes were not following their smoking policies, which required, for example, banning smoking except in allowable marked areas and eliminating combustible trash in ashtrays. In addition, four nursing homes did not ensure that fire drills were conducted each quarter covering all work shifts or did not document fire drill attendance to verify staff participation. The following photographs depict some of the conditions we identified during our site visits.



Photograph 11 (left): Cigarette butts were found in grassy area next to diesel generator.
Photograph 12 (right): Cigarette butts were found on the ground within 15 feet of entrance (designated and marked nonsmoking area).

¹³ The seven nursing homes had a total of eight deficiencies related to smoking policies and fire drills.



Photographs 13 and 14 (closeup): Cigarette butts and combustible trash were found in an unsafe receptacle and area not designated for smoking.

Hazardous Storage Areas

In hazardous storage areas, nursing homes must install self-closing doors. Oxygen piping systems must be inspected and tested, and rooms with oxygen cylinders must be properly placarded with cylinders stored in a safe manner so that the cylinder is not damaged or tipped over, which could cause a dangerous pressurized oxygen release (K-Tags 321, 908, and 923).

Of the 15 nursing homes we visited, 6 had 1 deficiency related to hazardous storage areas. Specifically, three nursing homes had hazardous storage areas with doors that were unable to latch upon self-closing, two nursing homes had oxygen cylinders stored in an unsecure manner or improperly placarded, and one nursing home did not have its oxygen piping system inspected or tested.

Resident Call Systems

Nursing homes must be adequately equipped to allow residents to call for staff assistance through a communication system that relays the call directly to a staff member or to a centralized staff work area from each resident's bedside and toilet and bathing facilities. If a restroom is not locked and residents can gain entry, the restroom should have a means for residents to communicate with a staff member in case of emergency; otherwise the restroom should be locked so residents cannot access it.

Of the 15 nursing homes we visited, 4 had deficiencies related to the resident call system. Specifically, the four nursing homes had unlocked restrooms in common areas accessible to residents without a call system, and one of those four nursing homes had one resident sleeping room with a call system that needed repair.

Carbon Monoxide Alarms

Carbon monoxide is a colorless, odorless, deadly gas produced by fuel-burning appliances and motor vehicles. Illinois law mandates that at least one approved alarm be placed within 15 feet of every room used for sleeping (Illinois P.L. No. 094-0741 §§ 10(b) and (c)). In accordance with the Illinois Office of State Fire Marshal's (OSFM's) interpretation of P.L. No.094-0741 (Policy No. O6-FP-001), a facility is exempt if the fossil fuel-fired boiler used for heat or hot water, or both, is located in a separate room that is ventilated to the outside of the building and is not connected by ductwork or ventilation shafts to the other areas of the building. As of the date of our site visits, the State agency did not check for carbon monoxide alarms when conducting life safety surveys because it was not required by the *Fire Safety Survey Report*.¹⁴

Of the 15 nursing homes we visited, only 1 did not meet the OSFM exemption; that nursing home did not have carbon monoxide alarms within 15 feet of every room used for sleeping.

SELECTED NURSING HOMES DID NOT COMPLY WITH EMERGENCY PREPAREDNESS REQUIREMENTS

CMS's *Emergency Preparedness Surveyor Checklist* and Appendix Z, described earlier, list the Federal regulations on emergency preparedness with which nursing homes must comply and reference each with an identification number referred to as an "E-Tag" (E-Tags 0001 through 0042).¹⁵

Written Emergency Plans

Nursing homes are required to have an emergency plan in place, and the plan must be easily located. Nursing homes are also required to update the plan at least annually; include a facility and community all-hazards risk assessment; address emergency events and resident population needs; include types of services available during an emergency and continuity of operations plan; address coordination with Federal, State, and local government emergency management officials; and have policies and procedures for emergency events based on the risk assessment (E-Tags 0001, 0004, 0006, 0007, 0009, and 0013).

Of the 15 nursing homes we visited, 8 had 1 or more deficiencies related to their emergency plans.¹⁶ Specifically, one nursing home did not have an official plan in place, and five nursing homes did not ensure that their emergency plans were updated annually. In addition, the plans at eight nursing homes did not include a facility and community all-hazards risk assessment,

¹⁴ Although there is not a K-Tag for carbon monoxide alarms, nursing homes are required to comply with all applicable Federal, State, and local laws in accordance with 42 CFR § 483.70(b).

¹⁵ We reported on the E-Tags with deficiencies. A full list of E-Tags reviewed is included in Appendix C.

¹⁶ The 8 nursing homes had a total of 37 deficiencies related to emergency plan requirements.

seven nursing homes did not address emergency events, five nursing homes did not address resident population needs, two nursing homes did not address continuity of operations, four nursing homes did not provide for coordination with all Government emergency management officials, and five nursing homes did not have policies and procedures for emergency events based on the risk assessment.

Emergency Power

Nursing homes must have an emergency plan that addresses emergency power. Nursing homes are required to provide an alternate source of energy (usually a generator) for maintaining temperatures to protect patient health, food storage, emergency lighting, fire protection, and sewage disposal (if applicable). Nursing homes that have a generator must have it installed in a safe location and must perform weekly maintenance checks, monthly load tests, and annual fuel quality tests (if the generator operates on diesel fuel) (E-Tag 0041).

Of the 15 nursing homes we visited, 5 were missing either monthly load tests, annual fuel quality tests, or both.

Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff During and After an Emergency

Nursing homes are required to have a plan for evacuations, sheltering in place, and tracking residents and staff during and after an emergency. Nursing homes must also have a plan for transferring residents and their medical records, sharing information about the general condition and location of residents, using volunteers, and procedures for their role under a waiver to provide care at alternate sites during emergencies (E-Tags 0018, 0020, 0022–0026, and 0033).

Of the 15 nursing homes we visited, 13 had 1 or more deficiencies related to their emergency plans for evacuations, sheltering in place, and tracking residents and staff during and after emergencies.¹⁷ Specifically, four nursing homes' emergency plans did not address evacuations and the needs of their residents, five did not address sheltering in place, and three did not address tracking residents and staff during and after emergencies. Further, 4 nursing homes' emergency plans did not address transferring residents during disasters, 3 did not address transferring medical records, 6 did not address sharing information about the general condition and location of residents, 11 did not address using volunteers, and 11 did not address their role under a waiver to provide care at alternate sites during emergencies.

¹⁷ The 13 nursing homes had a total of 47 deficiencies related to tracking residents and staff.

Emergency Communications Plans

Nursing homes are required to have a communications plan that includes names and contact information for staff, entities providing services, residents' physicians, other nearby nursing homes, volunteers, Government emergency management offices, and the State agency, among others. The plan must be updated at least annually. Nursing homes are also required to have primary and alternate means of communication, such as cell phones or radios, a means to communicate the nursing home's needs and its ability to provide assistance to the authority having jurisdiction, and a method to share emergency plan information with residents and their families (E-Tags 0029–0032, 0034, and 0035).

Of the 15 nursing homes we visited, 12 had 1 or more deficiencies related to the adequacy of their emergency communications plans.¹⁸ Specifically, 4 nursing homes were missing a communications plan, 6 did not update their plans annually, and 11 did not include all of the required contact information. Further, five nursing homes did not identify the primary and alternate means of communication, six did not have a means to communicate the facility's needs and its ability to provide assistance, and six did not have procedures for sharing emergency plan information with residents and their families.

Emergency Plan Training and Testing

Nursing homes are required to have a training and testing program related to their emergency plan and to update the training and testing program at least annually. Initial training must be provided to new staff members, independent contractors (e.g., contracted cleaning staff), and volunteers. The training, as well as annual refresher training required for all staff, must be designed to demonstrate knowledge of emergency procedures and must be documented. Nursing homes must also conduct an annual community-based, full-scale testing exercise.¹⁹ In addition, a second training exercise (full-scale testing exercise, facility-based exercise, or "table-top" exercise) must be completed annually. An analysis of all training exercises (and actual events) must be completed and documented, and the emergency plan revised, if necessary (E-Tags 0036, 0037, and 0039).

Of the 15 nursing homes we visited, 8 had 1 or more deficiencies related to emergency plan training and testing.²⁰ Specifically, five nursing homes were missing a testing program and did not update their training plan annually, two did not provide initial training, three did not provide annual refresher training or demonstrate that staff had knowledge of emergency

¹⁸ The 12 nursing homes had a total of 66 deficiencies related to emergency communications.

¹⁹ The exercise can be facility-based if a community-based exercise is not possible. Further, a nursing home is exempt from this requirement if it activated the emergency plan during the year.

²⁰ The 8 nursing homes had a total of 29 deficiencies related to emergency plan training.

preparedness procedures, two did not conduct annual full-scale training exercises, six did not conduct a second training exercise, and six did not conduct analyses of their training exercises.

STATE AGENCY OVERSIGHT OF COMPLIANCE WITH LIFE SAFETY AND EMERGENCY PREPAREDNESS REQUIREMENTS

Although CMS does not require a life safety training program, the State agency has such a program for nursing home management; however, it cannot accommodate the education of all nursing home management on how to comply with Federal requirements in a timely manner. The State agency offers only 1 life safety training annually that can accommodate only 50 to 100 people for all facility types, not just nursing homes. There are 733 nursing homes in Illinois, each employing an administrator responsible for complying with requirements.

The State agency does not offer an emergency preparedness training program for nursing home management. State agency officials added that it is the responsibility of nursing home management to be knowledgeable about requirements and that abundant guidance is available on CMS's website.

Although the State agency performed surveys in a timely manner, State agency officials said that low staffing levels created caseload thresholds that prevented surveyors from performing a thorough review of the emergency preparedness plan while also reviewing the facility grounds for life safety violations. Further, State agency officials stated that they believed a thorough review of the emergency preparedness plan was not required based on interpretive guidance from CMS.²¹ CMS staff informed OIG that it expects a thorough review of the emergency preparedness plan to be conducted. CMS staff provided OIG with additional direction that states:

All regional offices, state, and federal surveyors must review and confirm that a facility has conducted an all-hazards risk assessment based on its specific circumstances. They also conduct a thorough review of the facilities' EP plan to ensure all of the other components, such as a subsistence plan, a communication policy, annual table top training, and a community-based training exercise are included in the plan. They also assess whether the EP plan has been reviewed at least annually.

Regarding carbon monoxide alarms, the one instance of noncompliance with State requirements occurred because the nursing home was unaware of the requirement. The State agency did not determine whether carbon monoxide alarms were installed in accordance with Illinois law when conducting life safety surveys because it was not required by the *Fire Safety Survey Report*.

²¹ The guidance is included in an email from the CMS Regional Office to the State agency.

CONCLUSION

At the conclusion of each OIG inspection, we shared the deficiencies we identified with nursing home management and staff so that immediate corrective actions could be taken. We also immediately shared the identified deficiencies with the State agency and CMS for followup, as appropriate.

Although nursing home management and staff are ultimately responsible for ensuring resident safety, we believe that the State agency can reduce the risk of resident injury or death by improving its oversight. Specifically, the State agency could increase nursing homes' awareness of CMS requirements for life safety and emergency preparedness by providing standardized life safety training²² and by performing thorough emergency preparedness surveys as described in Appendix Z.

RECOMMENDATIONS

We recommend that the Illinois Department of Public Health:

- follow up with the 15 nursing homes to verify that corrective actions have been taken regarding the life safety and emergency preparedness deficiencies identified in this report,
- conduct more thorough emergency preparedness reviews in accordance with Appendix Z for the safety and protection of nursing home residents and staff,
- work with CMS to develop emergency preparedness training and expand life safety training sessions to accommodate all nursing home management,
- consider increasing staffing levels to address caseload thresholds for State surveyors, and
- consider modifying its survey procedures to check for carbon monoxide alarms required by Illinois law.

²² Although CMS does not specifically require this type of comprehensive training, under the State agency's section 1864 agreement with CMS (described on page 2), the State agency agreed to perform certain functions, including explaining Federal requirements to providers to enable them to maintain standards of health care consistent with Medicare and Medicaid participation requirements (CMS *State Operations Manual* § 1010). Also, as mandated by sections 1819(g)(1)(B) and 1919(g)(1)(B) of the Act, States must conduct periodic educational programs for the staff and residents of nursing homes to present current regulations, procedures, and policies.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency generally agreed with our findings and recommendations. However, the State agency did note some challenges to implementing the recommendations and provided some general comments about the audit. Specifically, revising staffing standards and caseload thresholds would be financially challenging and may require senior management and legislative actions. Similarly, funds are not currently available to expand life safety training sessions to accommodate all nursing home administrators. Regarding deficiencies noted in the report, the State agency stated that a number of the citations were not deficient at the time of the State's prior onsite surveys. The State agency acknowledged our effort to improve the oversight of nursing homes and stated that positive actions would be taken on the recommendations.

The State agency's comments are included in their entirety as Appendix E.

CMS provided technical comments on April 10, 2020. We addressed the comments as appropriate and added Appendix C to enumerate the specific K-Tags and E-Tags reviewed.

We applaud the State agency's efforts to work with CMS and incorporate our recommendations to improve the oversight of nursing homes.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

As of June 2018, a total of 733 nursing homes in Illinois participated in the Medicare or Medicaid programs. We selected a nonstatistical sample of 15 nursing homes based on a number of factors, including number of high-risk deficiencies (4 were identified as having 1 or more high-risk deficiencies), capacity (number of beds), type of facility (participation in Medicare or Medicaid and whether the home was a distinct part of another facility), and geographic location.

We did not assess the State agency's or nursing homes' overall internal control structures. Rather, we limited our audit of internal controls to those applicable to our audit objective.

We conducted unannounced site visits at the 15 nursing homes throughout Illinois from October through December 2018.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- held discussions with CMS and State agency officials to gain an understanding of the process for conducting nursing home life safety and emergency preparedness surveys;
- obtained from CMS a list of all 733 active nursing homes in Illinois that participated in the Medicare or Medicaid programs as of June 2018;
- compared the list provided by CMS with the State agency's list of active certified nursing homes to verify completeness and accuracy;
- obtained from CMS's ASPEN system a list of nursing homes that had 1 or more deficiencies in the previous 3 years that were considered high risk because they (1) were widespread and had the potential for more than minimal harm, (2) had the potential for actual harm, or (3) placed resident life and safety in immediate jeopardy;
- selected a nonstatistical sample of 15 nursing homes for onsite inspections and:
 - reviewed the deficiency reports prepared by the State agency for the nursing home's three most recent surveys and

- conducted unannounced site visits to check for life safety violations and review emergency preparedness plans; and
- discussed the results of our site visits with nursing home, State agency, and CMS officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<u>Missouri Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</u>	A-07-18-03230	3/13/2020
<u>Florida Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</u>	A-04-18-08065	3/6/2020
<u>Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes</u>	A-06-19-08001	2/5/2020
<u>California Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</u>	A-09-18-02009	11/13/2019
<u>New York Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</u>	A-02-17-01027	8/20/2019

APPENDIX C: K-TAGS AND E-TAGS REVIEWED

Table 1: Life Safety K-Tags

Fire Detection & Suppression Systems	Building Exits	Elevator & Electrical Equipment	Smoking Policies & Fire Drills	Hazardous Storage Areas
K324	K211	K531	K712	K321
K342	K221	K781	K741	K322
K344	K222	K920	K925	K325
K345	K223	K921		K525
K346	K224			K541
K347	K241			K754
K351	K252			K905
K352	K254			K908
K353	K271			K923
K354	K281			
K355	K291			
K421	K292			
	K293			
	K361			
	K372			
	K381			

Table 2: Emergency Preparedness E-Tags

Written Emergency Plans	Emergency Power	Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff During and After an Emergency	Emergency Communications Plans	Emergency Plan Training and Testing
E-001	E-0015	E-0018	E-0029	E-0036
E-004	E-0041	E-0020	E-0030	E-0037
E-006		E-0022	E-0031	E-0039
E-007		E-0023	E-0032	
E-009		E-0024	E-0034	
E-0013		E-0025	E-0035	
		E-0026		
		E-0033		

APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH NURSING HOME

Table 3: Life Safety Deficiencies

Nursing Home	Fire Detection and Suppression Systems	Building Exits	Elevator and Electrical Equipment	Smoking Policies and Fire Drills	Hazardous Storage Areas	Resident Call Systems	Carbon Monoxide Alarms	Total
1	-	1	-	-	-	-	-	1
2	1	-	1	1	-	-	-	3
3	-	1	-	-	-	-	1	2
4	-	1	-	1	-	-	-	2
5	-	-	-	-	-	1	-	1
6	1	2	1	2	1	1	-	8
7	1	-	-	-	1	-	-	2
8	-	1	1	-	-	-	-	2
9	-	-	-	-	1	-	-	1
10	1	-	2	1	-	-	-	4
11	1	-	1	-	1	-	-	3
12	3	3	1	1	1	-	-	9
13	-	-	-	-	-	1	-	1
14	3	1	1	1	1	-	-	7
15	2	2	1	1	-	1	-	7
Total	13	12	9	8	6	4	1	53

Table 4: Emergency Preparedness Deficiencies

Nursing Home	Written Emergency Plans	Emergency Power	Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff During and After an Emergency	Emergency Communications Plans	Emergency Plan Training and Testing	Total
1	-	-	1	6	-	7
2	5	-	4	8	2	19
3	-	-	-	-	-	0
4	-	-	1	-	-	1
5	1	-	2	-	-	3
6	7	1	8	14	6	36
7	8	1	8	14	6	37
8	-	-	-	2	-	2
9	-	-	2	1	-	3
10	5	1	7	4	2	19
11	2	-	3	1	1	7
12	4	1	4	4	6	19
13	-	-	1	3	-	4
14	5	-	4	7	3	19
15	-	1	2	2	3	8
Total	37	5	47	66	29	184

Notice: Under separate cover, we provided to the State agency and CMS the detailed inspection worksheets for each of the nursing homes audited.

APPENDIX E: STATE AGENCY COMMENTS



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July 31, 2020

Ms. Sheri Fulcher
Regional Inspector General Audit Services
HHS/OIG Audit Services
277 West Nationwide Blvd.
Suite 225
Columbus, Ohio 43215

Re: OIG Report A-05-18-00037

Dear Ms. Fulcher:

The Illinois Department of Public Health (IDPH) would like to thank the Office of Inspector General (OIG) for this opportunity to respond to the audit report titled *Illinois Should Improve Its Oversight of Selected Nursing Homes' Compliance with Federal Requirements for Life Safety and Emergency Preparedness*.

The OIG findings in Illinois includes:

- 53 instances of life/fire safety code violations which can include fire compartmentation, fire barriers, fire alarm system, sprinkler systems, hazardous areas, smoking policies and emergency electrical system
- 184 instances of emergency preparedness rules violations which include plans not updated annually, missing policies and procedures, no volunteer plan, no medical record plan, no communication plan, just to name a few.

Illinois Response to OIG Recommendations

- 1. Follow up with the 15 nursing homes to ensure corrective actions have been taken regarding the life safety and emergency preparedness deficiencies identified in this report.**

IDPH Response: The IDPH takes seriously its responsibility to assure the health and safety of Illinois vulnerable elderly population. The IDPH has followed up with the facilities to assure corrective measures have been taken to resolve the deficiencies cited by the OIG.

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2. Conduct a more thorough emergency preparedness reviews in accordance with Appendix Z for the safety and protection of nursing home residents and staff.

IDPH Response: As of October, 2019, the IDPH has revamped the emergency preparedness procedures and developed a more thorough guide for surveyors to follow when reviewing the providers emergency preparedness procedure documents. The guide is updated on a regular basis as needed. Many of the facilities have yet to receive an annual survey under the new emergency preparedness survey process.

3. Work with CMS to develop emergency preparedness training and expand life safety training sessions to accommodate all nursing home administrators.

IDPH Response: The IDPH, under contract with CMS, enforces the CMS developed emergency preparedness rules and the life safety code. CMS has training resources that are available online to assist with emergency preparedness. In addition, the National Fire Protection Association (NFPA), authors of the Life Safety Code, offer numerous publications as well as onsite training seminars that are available to all providers for a nominal cost. CMS relies on each provider to reach out to these available resources to assure a clear understanding of the rules and regulations. If in the future, CMS decides to develop training session for providers, the IDPH would gladly partner with them to achieve that goal.

4. Consider revising staffing standards and caseload thresholds for State surveyors.

IDPH Response: Revising staffing standards and caseload thresholds may affect the overall IDPH budget allocations. Senior management and legislation may be needed to address this issue during these financially challenging times.

5. Instruct all nursing homes to install, as appropriate, carbon monoxide alarms as required by Illinois law, and consider modifying its survey procedure to check for carbon monoxide alarms.

IDPH Response: Illinois law requires long term care facilities with gas fire heating systems to install carbon monoxide detectors. The IDPH will instructs all facilities to install the alarms as necessary.

General Comments:

The IDPH acknowledges the OIG's effort to improve Illinois oversight of the long term care facilities in Illinois; and will take positive action on OIG's recommendation. However, the IDPH would also take this opportunity to offer some constructive guidance for OIG's future audits.

The audit objective should remain consistent throughout the audit process. At the start of the audit process, an entrance conference was conducted on June 8, 2018. The audit objective was stated as, *"To determine if long term care (LTC) facilities in Illinois that received Medicare and/or Medicaid funds complied with Federal requirements for life safety and emergency preparedness."* On September 19, 2019 after the OIG completed their audit surveys, an exit conference was conducted and the audit objective was stated as, *"Our objective was to determine whether the Illinois Department of Public Health (state agency) ensured that selected nursing homes in Illinois that participated in the Medicare or Medicaid programs complied with CMS requirements for life safety and emergency preparedness."* It is unclear during what point in the process the audit shifted from determining long term care facility compliance, to determining whether IDPH ensured long term care compliance. It is also unclear why the OIG audit objective changed.

The OIG auditors, conducting the onsite surveys, were lacking in their knowledge and expertise regarding the life safety code, physical environment requirements and did not adhere to the prescribed CMS survey process. This fact is acknowledged in the OIG email, dated June 28, 2019, *"We would like to reiterate that the OIG is not required to construct our instances of noncompliance in the same manner IDPH writes its survey deficiencies, citations or violations."* Self-acknowledging that fact, the OIG on numerous occasions, reviewed cited deficiencies with the IDPH only to have them removed due to their lack of fully understanding the code requirements or their inability to adhere to the CMS prescribed deficiency documenting procedure.

The IDPH takes exception to a number of OIG deficiencies that were cited during their onsite visit. Those same citations were not deficient during the IDPH annual onsite CMS surveys which occurred prior to the OIG's onsite audit. Even though the OIG cited deficiencies are accurate, it is an unrealistic expectation to believe the IDPH has oversight of the day-to-day operation of a long term care facility. An OIG email, dated June 28, 2019, states, *"We also want to assure IDPH that we understand what was observed during our site visit may not have been observed at IDPH's last survey, nor did we ever expect that it would be."* A number of the deficiency cited by the OIG, did not exist at the time of IDPH onsite survey.

The IDPH conducts onsite annual life safety code surveys in accordance with frequency prescribed in CMS State Operations Manual (SOM); or as directed by CMS. In most instances, a revisit to a facility to verify correction of cited deficiencies is not conducted.

The IDPH verifies correction of cited deficiencies via documentation and evidence submitted by the provider. The evidence presented must be undisputable in nature, so that correction is reasonably assured. The IDPH does not feel that additional onsite inspections would translate to full compliance. The IDPH offers its life safety code guidance and expertise to facility managers and administrators. It is ultimately their responsibility to assure the safety and welfare of the residents in their charge.

The IDPH life safety code training program falls short of its goal to provide training to all long term care facilities in Illinois. The IDPH generates funds to provide this training from a Fee for Plan Review program that was instituted many years past. The IDPH tries to offer the training at least once or twice annually. However, participation is limited by the venue and the location within the state. The IDPH concurs with the OIG's recommendation that more training is necessary, but additional funding must be generated to cover the cost of any additional training seminars. In this unsteady economic climate, raising provider fees for the Plan Review Fund to provide additional training would pose an additional financial burden to the provider; as well as require a legislative rule change.

Closing:

The IDPH appreciates the OIG's input and commentary regarding Illinois oversight of long term care facilities. We consistently strive to improve the survey process to ensure the safety and well-being of Illinois's long term care residents. The IDPH, along with guidance from CMS, will incorporate the OIG's recommendations to the survey process. The IDPH, OIG and CMS are all committed to improve the quality of life and safety of Illinois vulnerable resident population. Going forward as a team effort, we are achieving that goal.

Sincerely,



Mr. Daniel Levad
Acting Deputy Director
Office of Health Care Regulation
Illinois Department of Public Health