

The California State Auditor released the following report today:

## California Department of Public Health

### *It Has Not Effectively Managed Investigations of Complaints Related to Long-Term Health Care Facilities*

#### BACKGROUND

Responsible for licensing and monitoring certain health care facilities, including more than 2,500 long-term health care facilities in the State, the California Department of Public Health's (Public Health) licensing division performs this work in accordance with a cooperative agreement with a federal agency—Centers for Medicare and Medicaid Services—to ensure that the facilities accepting Medicare and Medicaid payments meet federal requirements through periodic inspections of facilities called surveys. Moreover, Public Health's licensing division—along with its 15 district offices geographically located throughout the State—investigates complaints about long-term health care facilities or self-reported (entity-reported) incidents, and complaints about certain certified and licensed individuals who provide care.

#### KEY FINDINGS

During our review of Public Health's regulation of long-term health care facilities, we noted the following:

- As of April 2014 Public Health had more than 11,000 open complaints and entity-reported incidents (ERIs)—many of which had relatively high priorities and had remained open for an average of nearly a year.
  - ✓ Over 40 percent of those open complaints and ERIs, Public Health prioritized the complaint or incident as either having *immediate jeopardy* or *high non-immediate jeopardy*—indicating that a facility's noncompliance has caused or is likely to cause harm to a resident—and the average number of days they were open ranged from as low as 14 days to as high as 1,042 days.
  - ✓ Although assigned a *low non-immediate jeopardy* priority, three complaints in one district office had remained open for an average of 3,500 days, or nearly 10 years.
  - ✓ As of March 31, 2014, nearly 1,000 open complaints against certified nurse assistants and home health aides had remained open for an average of eight months and 22 percent had received the two most serious priority ratings.
- Public Health's oversight of complaint processing has been inadequate—until recently it had not established a tracking log to standardize its monitoring of open complaints and has not established policies or goals regarding time frames for completing complaint investigations.
- Although all four district offices we visited stated that they received more facility-related complaints than their existing resources allowed them to complete without working overtime, and three offices claimed they do not have adequate staffing, Public Health has not completed a staffing analysis for any of its district offices.
- Three districts we reviewed did not consistently meet Public Health's policies or certain legal time frames when initiating or closing complaint investigations, and in four of the 10 investigations we reviewed at one district, the complaints were closed without appropriate supervisory review.
- Public Health failed to comply with statutory time frames governing appeals of determinations against individuals certified by Public Health. In all 10 of the appeals we reviewed, hearings were not held within the required 60 days.

#### KEY RECOMMENDATIONS

We made numerous recommendations to Public Health, including that it:

- Take several actions to protect the health, safety, and well-being of residents in long-term health care facilities such as implementing a formal monitoring process of open complaints and improving the accuracy of tracking their status.
- Establish time frames for completing facility-related complaint investigations and develop formal policies for timely processing of complaints against individuals.
- Provide district offices with guidance for the consistent and efficient processing of ERIs and ensure that district offices have the necessary resources to process complaints promptly.
- Ensure that district offices investigate complaints properly and comply with requirements for corrective action plans.
- Increase monitoring of the district offices' compliance with laws and policies, and ensure that they initiate investigations and address appeals within the required time frames.

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