

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDITS OF NURSING HOME LIFE
SAFETY AND EMERGENCY
PREPAREDNESS IN EIGHT STATES
IDENTIFIED NONCOMPLIANCE WITH
FEDERAL REQUIREMENTS AND
OPPORTUNITIES FOR THE CENTERS FOR
MEDICARE & MEDICAID SERVICES TO
IMPROVE RESIDENT, VISITOR, AND
STAFF SAFETY**

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Office of Inspector General

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Report in Brief

Date: July 2022

Report No. A-02-21-01010

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 nursing homes. These updates expanded requirements related to sprinkler systems and smoke detector coverage. Emergency preparedness planning requirements were also expanded.

As part of our oversight activities, OIG is reviewing this area because many residents of nursing homes have limited or no mobility and are particularly vulnerable in the event of a fire or other emergency. Beginning in 2018, we conducted a series of audits in eight States to assess compliance with CMS's new life safety and emergency preparedness requirements.

Our objective was to summarize the results of our previous audits of eight States' compliance with CMS's life safety and emergency preparedness requirements for nursing homes and to identify opportunities for CMS to improve resident, visitor, and staff safety.

How OIG Did This Audit

We summarized the findings from the previous audits and identified opportunities and developed recommendations to help CMS address deficiencies identified during the audits and improve resident, visitor, and staff safety.

Audits of Nursing Home Life Safety and Emergency Preparedness in Eight States Identified Noncompliance With Federal Requirements and Opportunities for the Centers for Medicare & Medicaid Services to Improve Resident, Visitor, and Staff Safety

What OIG Found

We identified a total of 2,233 areas of noncompliance with life safety and emergency preparedness requirements at 150 of the 154 nursing homes we visited. Specifically, we identified 1,094 areas of noncompliance with life safety requirements and 1,139 areas of noncompliance with emergency preparedness requirements. These deficiencies occurred because of several factors, including inadequate oversight by management, staff turnover, inadequate oversight by State survey agencies, and a lack of any requirement for mandatory participation in standardized life safety training programs. As a result, residents, visitors, and staff at the nursing homes were at increased risk of injury or death during a fire or other emergency. CMS subsequently followed up with State survey agencies to determine if they had addressed the recommendations included in our prior audits and, according to CMS, the States had already taken acceptable actions to address our recommendations.

We identified several opportunities for CMS to expand on its life safety requirements for nursing homes to improve the safety of residents, visitors, and staff. Among other findings, CMS could propose regulations requiring nursing homes to install carbon monoxide detectors according to national standards. We also noted areas in which CMS could improve its support for State survey operations and nursing home training. CMS could work with State survey agencies to address issues preventing more frequent surveys of high-risk facilities and require mandatory participation in standardized nursing home staff training.

What OIG Recommends and CMS Comments

We made a series of recommendations to CMS to address our findings, including that it propose regulations requiring nursing homes to install carbon monoxide detectors and work with States to encourage mandatory participation in standardized training for nursing home staff. CMS generally agreed with our recommendations and described steps it has taken or plans to take to address them, including working with a limited number of nursing homes with serious repeat deficiencies that pose the highest risk to residents' health and safety.

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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 related to health care facilities to improve protections for all Medicare and Medicaid beneficiaries, including those residing in long-term care facilities (commonly referred to as nursing homes). These updates expanded requirements related to sprinkler systems and smoke detector coverage to better protect residents from fire hazards. Additionally, existing emergency preparedness plan requirements were expanded to include sheltering in place and evacuation provisions. Facilities were also required to update and test their emergency preparedness plans annually and train staff on their plans. Facilities were required to implement the new regulations by November 15, 2017.

As part of our oversight activities, the Office of Inspector General (OIG) is reviewing this area because many residents of nursing homes have limited or no mobility and are particularly vulnerable in the event of a fire or other emergency. Beginning in 2018, we conducted audits in eight States to assess compliance with CMS's new life safety and emergency preparedness requirements.^{1,2} This report summarizes the results of those audits.

OBJECTIVE

Our objective was to summarize the results of our previous audits of eight States' compliance with CMS's life safety and emergency preparedness requirements for nursing homes and to identify opportunities for CMS to improve resident, visitor, and staff safety.

BACKGROUND

Medicare and Medicaid Nursing Home Survey Requirements

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 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.

¹ We conducted audits in New York, California, Texas, Florida, Missouri, Illinois, North Carolina, and Iowa. Appendix B contains a list of those audits.

² Except for our Iowa audit, the audits were conducted prior to the COVID-19 pandemic and CMS's 2019 updated infection control requirements. Accordingly, these audits did not focus on infectious disease preparedness. We are planning to conduct audits for fiscal year 2022 that will include a focus on infectious disease preparedness.

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 for 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).³ CMS lists applicable requirements on Form CMS-2786R, *Fire Safety Survey Report*.⁴ Federal regulations for 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)⁵ as part of these requirements. CMS lists applicable requirements on its *Emergency Preparedness Surveyor Checklist*.⁶

The *Fire Safety Survey Report* and *Emergency Preparedness Surveyor Checklist* are used when CMS or a designated agency performs a nursing home survey. The results of each survey are reported and added to CMS's Automated Survey Processing Environment (ASPEN) system.⁷

Although there are no comprehensive Federal requirements related to carbon monoxide detectors, many States have their own laws or regulations mandating that these detectors be installed in buildings that use fuel-burning appliances or have an attached garage. The requirements vary widely and, in some instances, exempt nursing homes.⁸ Three of the eight States we audited generally require carbon monoxide detectors in nursing homes.⁹

³ CMS adopted the 2012 edition of both publications in a final rule published in 81 Fed. Reg. 26872 (May 4, 2016).

⁴ Form CMS-2786R is available online at <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-Items/CMS009335.html>. Accessed on Jan. 28, 2022.

⁵ CMS adopted the 2010 edition of NFPA 110 in a final rule published in 81 Fed. Reg. 63860, 63929 (Sept. 16, 2016).

⁶ CMS provides online guidance for emergency preparedness at <https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertemergprep/emergency-prep-rule.html> and <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Surveyor-Tool-EP-Tags.xlsx>. Accessed on Jan. 28, 2022.

⁷ ASPEN is a suite of software applications designed to help State survey agencies collect and manage health care provider data.

⁸ According to the National Conference of State Legislatures, 27 States and the District of Columbia require carbon monoxide detectors in private dwellings via statute and another 11 require carbon monoxide detectors by regulation or amendment to a building code. Certain States limit installations to buildings with fossil-fuel burning devices. Others only require a device be installed upon the sale of a property or unit.

⁹ Specifically, New York requires carbon monoxide detectors in all new and existing buildings, Illinois requires carbon monoxide detectors with some limited exceptions for buildings with boiler rooms that have outside ventilation, and Florida requires detectors in buildings constructed on or after July 1, 2008.

Responsibilities for Life Safety and Emergency Preparedness

Federal law requires nursing homes to protect the health, safety, welfare, and rights of nursing home residents and to comply with requirements for participating in Medicare and Medicaid.¹⁰ CMS is the Federal agency responsible for certifying and overseeing all of the Nation's 15,600 Medicare and Medicaid certified nursing homes.¹¹ To monitor nursing home compliance with Medicare and Medicaid participation requirements, CMS enters into agreements with States under Section 1864 of the Act (Section 1864 Agreements).^{12, 13} Pursuant to these Section 1864 Agreements, State survey agencies are responsible for completing life safety and emergency preparedness surveys at least once every 15 months at nursing homes that participate in the Medicare or Medicaid program.¹⁴ Nursing homes with repeat deficiencies can be surveyed more frequently.

CMS conducts validation surveys at nursing homes to evaluate facility compliance and assess State survey agencies' performance in interpreting, applying, and enforcing CMS requirements. CMS conducts these surveys at a minimum of 5 percent of nursing homes surveyed by State survey agencies annually, starting 10 to 30 working days following the completion of State survey agency surveys.

CMS is divided into 10 regions throughout the country, with each region responsible for conducting validation surveys for the States they oversee. As part of a 2020 reorganization, CMS appointed a single life safety and emergency preparedness manager to ensure that a consistent message is given to State survey agencies and nursing homes in each region. In April 2021, CMS revised Appendix Z of its *State Operations Manual*, which expanded policies and procedures on emerging infectious diseases such as COVID-19. CMS also recently revised its data monitoring efforts to focus on the results of State survey agency surveys.

Management and staff at nursing homes are ultimately responsible for ensuring the safety and well-being of the residents and for complying with Federal, State, and local regulations. They are responsible for ensuring that facility systems such as furnaces, water heaters, kitchen equipment, generators, sprinkler and alarm systems, and elevators are properly installed, tested, and maintained. They are also responsible for ensuring that each nursing home is free from hazards and that emergency plans, including fire evacuation and disaster preparedness plans, are updated and tested regularly.

¹⁰ The Act §§ 1819(f)(1) and 1919(f)(1); 42 CFR Part 483 Subpart B, including 42 CFR § 483.70.

¹¹ The Act §§ 1819(f)(1) and 1919(f)(1).

¹² The Act §§ 1864(a) and 1902(a)(33); 42 CFR § 488.330; CMS's *State Operations Manual*, Pub. No. 100-07, Ch. 1 – Program Background and Responsibilities, Sections 1002 and 1004 (Rev. 123, Oct. 3, 2014).

¹³ The Act §§ 1819(g) and 1919(g).

¹⁴ State survey agencies oversee nursing homes in their respective States and are responsible for ensuring that nursing homes comply with Federal, State, and local regulations.

HOW WE CONDUCTED THIS AUDIT

The 8 audits summarized in this report covered 154 nursing homes in 8 States. As shown in the table below, our unannounced site visits were conducted between January 2018 and November 2019.

Table: Site Visit Dates

State	Site Visits Began	Site Visits Ended
New York	January 2018	April 2018
Florida	July 2018	November 2018
Missouri	July 2018	November 2018
California	September 2018	December 2018
Illinois	October 2018	December 2018
North Carolina	December 2018	May 2019
Texas	February 2019	May 2019
Iowa	July 2019	November 2019

For this audit, we summarized the findings from the previous audits and identified opportunities and developed recommendations to help CMS address deficiencies identified during the audits and improve the safety of residents, visitors, and staff.

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

During unannounced site visits at 154 nursing homes in 8 States, we identified a total of 2,233 areas of noncompliance with life safety and emergency preparedness requirements at 150 nursing homes. Specifically, we identified 1,094 areas of noncompliance with life safety requirements and 1,139 areas of noncompliance with emergency preparedness requirements.¹⁵ These deficiencies occurred because of several factors, including inadequate oversight by management, staff turnover, inadequate oversight by State survey agencies, and a lack of any requirement for mandatory participation in standardized life safety training programs. As a result, residents, visitors, and staff at the nursing homes were at increased risk of injury or death during a fire or other emergency. CMS followed up with State survey agencies between November 2019 and April 2021 to determine whether they had taken steps

¹⁵ See Appendix C for more information about the results of the eight State audits.

to address the recommendations included in our prior audits and, according to CMS, the States had already taken acceptable actions to address our recommendations.

We identified several opportunities for CMS to expand on its life safety requirements for nursing homes to improve the safety of residents, visitors, and staff. Specifically, CMS could propose regulations requiring nursing homes to: (1) notify State survey agencies when a fire alarm or sprinkler system is in danger of failing and (2) install carbon monoxide detectors according to national standards. We also noted areas in which CMS could improve its support for State survey operations and nursing home training. Specifically, CMS could: (1) develop a plan in conjunction with State survey agencies to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple, high-risk deficiencies; and (2) work with State survey agencies to require mandatory participation in standardized life safety training for nursing home staff.

NURSING HOMES DID NOT COMPLY WITH LIFE SAFETY REQUIREMENTS

CMS's Fire Safety Survey Report, described above, lists the Federal regulations on life safety that nursing homes must comply with and references each with an identification number referred to as a "K-Tag." (K-Tags are K-100 through K-933.)

We found 1,094 areas of noncompliance with life safety requirements throughout the 8 States, including noncompliance with requirements for building exits, fire barriers, and smoke partitions (416 deficiencies); fire detection and suppression systems (268 deficiencies); resident call systems (4 deficiencies); carbon monoxide detectors (12 deficiencies); hazardous storage areas (124 deficiencies); smoking policies and fire drills (107 deficiencies); and elevator and electrical equipment testing and maintenance (163 deficiencies).

Building Exits, Fire Barriers, and Smoke Partitions

In case of fire or emergency, nursing homes are required to have unobstructed exits, self-closing doors in exit passageways that do not require tools or keys to open and are not manually propped open, discharges from exits that are free from hazards, illuminated exit signs, and fire-stopped smoke and fire barriers (K-Tags 211, 222, 223, 271, 293, 372).

We found 416 areas of noncompliance throughout the 8 States, including blocked exits, fire exit doors that would not open, improperly marked exit doors, damaged smoke and fire barriers, self-closing fire doors that were propped open or removed, exit signs and exit areas that were not illuminated, and doors in patients' rooms that would not latch and fully seal to protect occupants in the event of a fire.

Fire Detection and Suppression Systems

Each nursing home is required to have a fire alarm system that has a backup power supply and is tested and maintained according to NFPA requirements. Sprinkler systems must be installed,

inspected, and maintained according to NFPA requirements, and high-rise buildings must have sprinklers throughout. 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 have fire watch procedures for when fire alarms or sprinkler systems are out of service, and portable fire extinguishers must be inspected monthly. Smoke detectors are required in patient rooms, spaces open to corridors, and other areas (K-Tags 324, 342, 344, 345, 346, 347, 351, 352, 353, 354, 355, 421).

We found 268 areas of noncompliance throughout the 8 States, including inadequate backup power for fire alarm systems, blocked sprinkler heads, inadequate sprinkler coverage, inadequate testing of fire alarm and sprinkler systems, missing and improperly stored or pressurized fire extinguishers, and battery-operated smoke detectors that were missing batteries. For example, at an Iowa nursing home, the sprinkler system was not routinely tested and maintained because a leak in the system made it impossible to test. After consulting with a CMS surveyor, the CMS surveyor declared the situation serious and a fire watch was initiated.^{16, 17}

Resident Call Systems

Each nursing home 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 centralized staff work area from each resident's bedside and toilet and bathing facilities. If a restroom is accessible to residents, the restroom must have a means for residents to communicate with a staff member in case of emergency (42 CFR § 483.90(g)).¹⁸

In one State (Illinois), we found four areas of noncompliance, including unlocked restrooms that lacked a resident call system and one resident sleeping room with a call system that needed repair.

¹⁶ Specifically, the CMS surveyor declared an Immediate Jeopardy situation, meaning noncompliance placed the health and safety of recipients at risk for serious injury, serious harm, serious impairment, or death. Immediate Jeopardy situations are clearly identifiable due to the severity of harm or likelihood for serious harm and the immediate need for correction.

¹⁷ A fire watch requires a continuous patrol by nursing home staff of all areas of a building affected by an impairment to look for evidence of smoke, fire, or any abnormal conditions.

¹⁸ This regulation is part of CMS's physical environment requirements (42 CFR § 483.90) that call for facilities to be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public. While not specifically part of the CMS's requirements for life safety (42 CFR § 483.90(a)) or included in *CMS's Fire Safety Survey Report*, we included this requirement in our audit because it is an integral part of resident safety.

Carbon Monoxide Detectors

CMS requires carbon monoxide detectors to be installed in nursing homes with solid fuel-burning fireplaces (K-Tag 525). CMS also requires nursing homes to follow applicable Federal, State, and local laws, regulations, and codes (42 CFR § 483.70).¹⁹ New York requires carbon monoxide detectors in any building that utilizes fuel-burning appliances or has an attached garage where motor vehicles may be present (N.Y. Exec. Law § 378). Illinois requires at least one carbon monoxide detector to be placed within 15 feet of every room used for sleeping.²⁰

In two States where nursing homes are required to install carbon monoxide detectors (New York and Illinois), we found 12 areas of noncompliance, including facilities without any carbon monoxide detectors as well as facilities with inadequate detector coverage or improperly installed detectors. We also found that State survey agencies in these States did not always check for compliance with State regulations on carbon monoxide detectors.²¹

Hazardous Storage Areas

In hazardous storage areas, nursing homes must install a fire barrier or an automatic fire extinguishing system with smoke-resistant partitions and self-closing doors. Hazardous chemicals must be stored in a safe manner, and general upkeep should be maintained to limit unnecessarily large amounts of combustible materials that present a fire hazard (known as fire load). In addition, garbage and laundry containers must not occupy more than one-half gallon per square foot of floor space. Oxygen systems must be maintained and inspected, and rooms with oxygen cylinders must have proper signage. Oxygen cylinders must be stored in a safe manner (K-Tags 321, 322, 500, 541, 754, 905, 908, 923).

We found 124 areas of noncompliance throughout the 8 States, including improperly stored gasoline; storage areas with unnecessarily high fire loads (including excessive garbage and dirty laundry stored near patient sleeping rooms); storage areas that did not have self-closing doors or had doors that were propped open, damaged, or would not close; gas and vacuum pipe systems that were not labeled or had not been inspected; and improperly labeled and stored oxygen cylinders.

¹⁹ Section 1864 Agreements do not require State survey agencies to survey for State and local requirements during a Federal survey; however, surveyors may cite such noncompliance if identified.

²⁰ 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 (Illinois P.L. No. 094-0741 §§ 10(b) and (c)).

²¹ Although carbon monoxide detectors were not required in the nursing homes in the other States we audited, we noted that 30 nursing homes in 4 of these States used fuel-burning appliances that emitted carbon monoxide (17 nursing homes in California, 2 nursing homes in Texas, 6 nursing homes in Missouri, and 5 nursing homes in Iowa).

Smoking Policies and Fire Drills

Nursing homes are required to establish smoking policies for residents and staff. Smoking may be permitted only in authorized areas where ash receptacles are provided. Smoking is not allowed in hazardous storage areas. 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 by a qualified individual designated by the nursing home. The drills are held at expected and unexpected times and include the transmission of a fire alarm signal and simulation of emergency fire conditions (K-Tags 712, 741, 925).

We found 107 areas of noncompliance throughout the 8 States, including smoking policies that were not enforced and fire drills that were not adequately conducted or were never conducted.

Elevator and Electrical Equipment Testing and Maintenance

Nursing home elevators must be tested and maintained on a regular basis. Nursing homes must also keep a record of tests and repairs of other electrical equipment, such as patient beds and lifts. Power strips, extension cords, and portable space heaters must meet Underwriters Laboratories (UL) requirements and be used in a safe manner (K-Tags 531, 781, 920, 921).

We found 163 areas of noncompliance throughout the 8 States, including inadequate testing and maintenance of elevators and other equipment (e.g., patient beds) and unsafe use of extension cords, power strips, and portable space heaters.

NURSING HOMES DID NOT COMPLY WITH EMERGENCY PREPAREDNESS REQUIREMENTS

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

We found 1,139 areas of noncompliance with emergency preparedness requirements throughout the 8 States, including noncompliance with requirements for emergency plans (229 deficiencies); emergency supplies and power (140 deficiencies); plans for evacuations, sheltering in place, and tracking residents and staff (194 deficiencies); emergency communications plans (331 deficiencies), and emergency plan training and testing (245 deficiencies).

Emergency Plans

Nursing homes are required to have an emergency plan in place, and the plan must be easily located and updated at least annually. The plan must: (1) include a facility and community all-hazards risk assessment; (2) address emergency events and resident population needs; (3) include a continuity of operations plan; (4) address coordination with Federal, State, and

local emergency management officials; and (5) have policies and procedures for emergency events based on the risk assessment (E-Tags 0001, 0004, 0006, 0007, 0009, and 0013).

We found 229 areas of noncompliance throughout the 8 States, including instances of facilities without emergency plans and plans that were not updated annually or did not include all required elements (e.g., an all-hazards risk assessment). At many nursing homes, we noted that staff used generic templates to incorporate CMS requirements into their emergency plans and did not edit the templates for facility-specific information. For example, several facilities had the same sentence in their emergency plans about “a rigorously maintained generator,” including one nursing home that did not have a generator.

Emergency Supplies and Power

Nursing homes’ emergency plans must address emergency supplies and power, and nursing homes are required to have adequate, readily available supplies of emergency food, water, and pharmaceuticals. As a best practice, the Federal Emergency Management Agency considers 3 days of emergency supplies to be sufficient.²² Nursing homes are also required to provide an alternate source of energy (usually a generator) to maintain temperatures to protect residents’ health and safety, as well as for food storage, emergency lighting, fire protection, and sewage disposal (if applicable). Further, facilities must establish policies and procedures on heating and cooling their facility if they lose power during an emergency. Nursing homes with generators must have them installed in a safe location and are required to perform weekly maintenance checks, monthly load tests, and annual fuel quality tests if fueled with diesel.²³ Nursing homes should also have a plan to keep generators fueled “as necessary” and an evacuation plan if emergency power is lost (E-Tags 0015 and 0041).

We found 140 areas of noncompliance throughout the 8 States, including insufficient emergency water supplies, a lack of generators, generators that could not power heat or air conditioning systems,²⁴ generator systems located in areas susceptible to flooding, generators that were not properly tested and maintained, and generators that did not have enough emergency fuel on hand.²⁵

²² The 3-day standard is a best practice recommendation, as CMS does not require a specific standard. (We did not audit for compliance with this standard.) Nursing homes located in certain seismic zones must maintain a 4-day supply of fuel (E-Tag 0015). Our findings regarding a sufficient amount of generator fuel or other emergencies supplies were based on a totality of the applicable criteria.

²³ Generators that operate on diesel fuel or propane gas are generally designed with a minimum fuel tank capacity to last for 3 days at half load, which factors in an emergency fuel stock and lead time for refueling.

²⁴ The facilities did not have an alternate means of powering their heat and air conditioning systems or a plan that specified when they should be evacuated if they become too hot or cold.

²⁵ Some facilities did not have sufficient plans to obtain emergency fuel or evacuate when fuel levels reached a specified low level.

Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff

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 medical records, utilizing volunteers and transferring residents, and procedures for their roles under a waiver to provide care at alternate sites during emergencies (E-Tags 0018, 0020, 0022, 0023, 0024, 0025, 0026, 0033).

We found 194 areas of noncompliance throughout 7 of the 8 States,²⁶ including instances of nursing homes whose emergency plans did not address evacuations, sheltering in place, tracking residents and staff, transferring medical records, utilizing volunteers, transferring residents during disasters, or obtaining waivers when providing care at alternate sites during emergencies.

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 survey agency, among others. The plan must be updated at least annually. Nursing homes are also required to have primary and alternate means of communication (e.g., landline and backup cell phones), a means to communicate residents' condition information and location in the event of an evacuation, and methods to share emergency plan information with residents and their families (E-Tags 0029, 0030, 0031, 0032, 0034, 0035).

We found 331 areas of noncompliance throughout the 8 States, including instances of nursing homes without an emergency communications plan and names and contact information for required parties. Also, nursing homes did not update their plans annually, did not have sufficient alternate means of communication, did not have procedures for recording resident condition and location information, and 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 training and testing programs related to their emergency plans and to provide updated training 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, is required for all staff, must be designed to demonstrate knowledge of emergency procedures, and must be documented. Nursing homes

²⁶ We found no areas of noncompliance in Texas.

must also conduct an annual community-based, full-scale testing exercise.²⁷ In addition, a second training exercise (full-scale testing exercise, facility-based exercise, or “tabletop” 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, 0039).

We found 245 areas of noncompliance throughout the 8 States, including instances of nursing homes that did not: (1) conduct training on their emergency plans, (2) update their training plans annually, (3) provide adequate initial or annual refresher training, (4) conduct annual full-scale or annual second training exercises, and (5) conduct analyses of their training exercises.

OPPORTUNITIES FOR CMS TO IMPROVE THE SAFETY OF NURSING HOME RESIDENTS, VISITORS, AND STAFF

We see an opportunity for CMS to propose regulations related to fire alarm and sprinkler systems and carbon monoxide detectors. We found that nursing homes are not required to notify their State survey agencies if they identify significant problems with fire alarm and sprinkler systems if the systems remain operable.²⁸ Further, while CMS requires carbon monoxide detectors to be installed in nursing homes with solid fuel-burning fireplaces, we noted that many nursing homes utilize fuel-burning appliances (e.g., furnaces and boilers) that do not fall under CMS’s requirements for carbon monoxide detectors. While some States require carbon monoxide detectors to be installed in nursing homes with fuel-burning appliances, we found State survey agencies in those States did not review for compliance with these requirements because CMS’s *Fire Safety Survey Report* does not require it or because it is already the responsibility of another State or local agency to review compliance with the requirements.

We see an opportunity for CMS to work with State survey agencies to require mandatory participation by nursing home staff in life safety training programs. We found that frequent turnover of management and staff contributed to some of the life safety and emergency preparedness deficiencies we identified. While CMS does not require nursing home staff to participate in standardized life safety training programs, it has an online learning portal with appropriate content to train surveyors on these requirements that is also open to the public.

Finally, we see an opportunity for CMS to develop a plan in conjunction with State survey agencies to survey nursing homes with repeat deficiencies more frequently. We found that although nursing homes with repeat deficiencies can be—but are not required to be—surveyed

²⁷ The exercise can be facility-based if a community-based exercise is not possible. Nursing homes are exempt from this requirement if they activated their emergency plan during the year.

²⁸ Federal notification requirements only address inoperable systems.

by State survey agencies more frequently than once every 15 months, State survey agencies had limited resources to regularly conduct more frequent surveys.^{29, 30}

The health and safety of residents and staff are at an increased risk if life safety and emergency preparedness requirements such as those noted throughout this report are not followed.

RECOMMENDATIONS

We recommend that the Centers for Medicare & Medicaid Services:

- propose regulations requiring nursing homes and inspection contractors to notify State survey agencies when fire alarm and sprinkler systems are not working or may be in jeopardy of not working;
- propose regulations requiring carbon monoxide detectors to be installed in accordance with NFPA 72 and 720 for all nursing homes that utilize fuel-burning appliances or have an attached garage;
- work with State survey agencies to require mandatory participation in standardized life safety training for nursing home staff; and
- develop a plan in conjunction with State survey agencies to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple high-risk deficiencies.

²⁹ State survey agencies are responsible for completing life safety and emergency preparedness surveys at nursing homes that participate in the Medicare or Medicaid program (42 CFR § 488.308(c) and the Act §§ 1819(g) and 1919(g)).

³⁰ The COVID-19 pandemic adversely affected the ability of States to conduct surveys and, as of May 31, 2021, there exists a backlog of nursing homes that have not been inspected for more than 16 months. In July 2021, OIG issued a [report](#) indicating that, nationally, 71 percent of nursing homes had gone at least 16 months without a standard survey as of May 31, 2021.

CMS COMMENTS

CMS generally agreed with our recommendations and described steps it has taken or plans to take to address them. Specifically, CMS concurred with our first three recommendations and stated that it will consider them when proposing new regulations. Regarding our fourth recommendation, CMS stated that it has begun working with a limited number of nursing homes with repeat serious deficiencies that pose the highest risk to residents' health and safety through its Special Focus Facility (SFF) program. CMS also stated that addressing these issues will stem from appropriate budgetary funding to States and noted that the President's Fiscal Year 2023 Budget includes a proposal for additional funds to improve oversight of nursing homes, including an overhaul of the SFF program to improve care more quickly for low-performing nursing homes.

CMS also provided technical comments, which we addressed as appropriate. CMS's comments, excluding the technical comments, are included in their entirety as Appendix D.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

The OIG audits summarized in this report covered life safety and emergency preparedness requirements for 154 nursing homes in 8 States. Our unannounced site visits were conducted between January 2018 and November 2019 and our previous reports were issued between August 2019 and February 2021.

We did not assess CMS's overall internal control structure. Rather, we limited our review of internal controls to those applicable to our audit objective. Specifically, we assessed CMS's policies, procedures, and practices applicable to monitoring nursing homes' compliance with life safety and emergency preparedness requirements. Our assessment would not necessarily disclose all material weaknesses in CMS's internal controls.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements and CMS guidance;
- held discussions with CMS officials to gain an understanding of CMS's process for overseeing nursing home life safety and emergency preparedness surveys;
- summarized the findings from the eight prior OIG audits;
- developed recommendations that can help CMS address the causes of certain deficiencies identified during our prior audits; and
- discussed the results of our audit with 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
<i>Iowa Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-07-19-03238</u>	2/16/2021
<i>North Carolina Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-04-19-08070</u>	9/18/2020
<i>Illinois Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-05-18-00037</u>	9/17/2020
<i>Missouri Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-07-18-03230</u>	3/13/2020
<i>Florida Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-04-18-08065</u>	3/6/2020
<i>Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes</i>	<u>A-06-19-08001</u>	2/6/2020
<i>California Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-09-18-02009</u>	11/13/2019
<i>New York Should Improve Its Oversight of Selected Nursing Homes' Compliance With Federal Requirements for Life Safety and Emergency Preparedness</i>	<u>A-02-17-01027</u>	8/20/2019

APPENDIX C: SUMMARY OF RESULTS OF EIGHT STATES

	New York	California	Texas	Florida	Missouri	Illinois	North Carolina	Iowa	Total
Number of Nursing Homes Audited	20	19	20	20	20	15	20	20	154
Number of Nursing Homes with Deficiencies	20	19	18	20	20	15	18	20	150
<u>Life Safety Deficiencies</u>									
Building Exits, Fire Barriers, Smoke Partitions	45	31	159	35	67	12	25	42	416
Fire Detection and Suppression Systems	67	46	49	24	43	13	9	17	268
Resident Call Systems	0	0	0	0	0	4	0	0	4
Carbon Monoxide Detectors ³¹	11	0	0	0	0	1	0	0	12
Hazardous Storage Areas	33	12	19	13	14	6	8	19	124
Smoking Policies and Fire Drills	20	22	2	14	21	8	7	13	107
Elevator and Electrical Equipment Testing and Maintenance	29	26	6	14	33	9	15	31	163
Subtotal—Life Safety	205	137	235	100	178	53	64	122	1094
<u>Emergency Preparedness Deficiencies</u>									
Emergency Plans	40	31	13	20	38	37	17	33	229
Emergency Supplies and Power	59	11	4	9	37	5	4	11	140
Plans for Evacuations, Sheltering in Place, and Tracking Residents and Staff	40	30	0	17	7	47	29	24	194
Emergency Communications Plans	56	88	10	21	21	66	39	30	331
Emergency Plan Training and Testing	24	28	28	20	46	29	35	35	245
Subtotal—Emergency Preparedness	219	188	55	87	149	184	124	133	1139
TOTAL - LIFE SAFETY AND EMERGENCY PREPAREDNESS	424	325	290	187	327	237	188	255	2233

³¹ We could not report deficiencies related to carbon monoxide detectors for California, Texas, Florida, Missouri, North Carolina, and Iowa because there were no State or local laws requiring them in the nursing homes we visited. However, we determined that 30 nursing homes in these States used fuel-burning appliances and did not have carbon monoxide detectors (17 nursing homes in California, 2 nursing homes in Texas, 6 nursing homes in Missouri, and 5 nursing homes in Iowa).

APPENDIX D: CMS COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: June 9, 2022

TO: Gregory Demske
Acting Principal Deputy Inspector General

FROM: Chiquita Brooks-LaSure *Chiquita LaS*
Administrator

SUBJECT: Office of Inspector General Draft Report: *Audits of Nursing Home Life Safety and Emergency Preparedness in Eight States Identified Noncompliance with Federal Requirements and Opportunities for the Centers for Medicare & Medicaid Services to Improve Resident, Visitor, and Staff Safety (A-02-21-01010)*

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) draft report.

CMS takes seriously its role in improving the safety and quality of care at our nation's nursing homes, and as such, CMS is leading the Biden-Harris Administration's new efforts to increase accountability for nursing homes. The Administration has laid out 21 initiatives spread across five key strategic goals, including a goal to ensure pandemic and emergency preparedness in nursing homes and carry forward lessons learned during the COVID-19 public health emergency.¹ These initiatives include integrating new lessons on standards of care into nursing home requirements around fire safety, infection control, and other areas.

As OIG notes, CMS shares responsibility of nursing home oversight with State Survey Agencies (SAs) who conduct onsite surveys to assess compliance with Federal requirements and investigate facility complaints. SAs serve as the front-line responders to address health and safety concerns raised by residents, their families, and facility staff. Accordingly, when an SA identifies an issue of noncompliance during a survey, the nursing home is cited for the deficiency finding and is required to correct the issue(s) in order to come back into substantial compliance with the Federal requirements.

Long before the COVID-19 pandemic began, CMS had acted to strengthen emergency preparedness and fire safety requirements in nursing homes. CMS took pivotal actions in a 2016 final rule (81 FR 63859) that outlined updates to emergency preparedness requirements for all providers and CMS certified suppliers, including nursing homes. The final rule addressed three key essentials necessary for maintaining access to healthcare services during emergencies: safeguarding human resources, maintaining business continuity, and protecting physical resources. The final rule also required facilities to perform a risk assessment that uses an all-hazards approach, which focuses on capacities and capabilities that are critical to preparedness for a full spectrum of emergencies or disasters.²

¹ Fact Sheet: [Protecting Seniors by Improving Safety and Quality of Care in the Nation's Nursing Homes](#)

² 81 FR 63860 (Sept. 16, 2016) [Medicare and Medicaid Programs: Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers](#).

Also in 2016, CMS published a final rule, “Fire Safety Requirements for Certain Health Care Facilities” (81 FR 26872). This final rule updated the fire protection requirements to adopt the 2012 edition of the Life Safety Code (LSC) and eliminate references to earlier editions of the LSC in our regulations and adopt the 2012 edition of the Health Care Facilities Code with limited exceptions. CMS requirements for fire safety stem from the National Fire Protection Association (NFPA) Life Safety Code and Health Care Facilities Code requirements.³

It is important to note that OIG’s review of the eight states was based on a nonstatistical sample of 15-20 nursing homes in each state selected based on various factors, including the number of high-risk deficiencies these homes received. While these findings do not provide insight into nursing homes’ compliance overall with CMS requirements, OIG’s work does shed light on persistent problems at select low-performing nursing homes.

There are many foundational issues that prevent more frequent surveys of nursing homes, such as SA staffing, which can frequently be tied to inadequate budgets at both the state and federal level. Many states are unable to offer salaries that are competitive with local private sector salaries, which weakens their ability to attract employment candidates. It also is important to note that survey workloads, especially complaint surveys, have increased rapidly since 2015 (complaint investigations grew by over 5,500 cases between FY 2015 and FY 2019), while the level of funding has remained flat at \$397 million since FY 2015. The ongoing growth in complaints and associated survey workload inhibit the SAs’ ability to address issues proactively through standard surveys. The President’s Fiscal Year 2023 Budget includes a proposal for additional funds to improve oversight of Medicare and Medicaid facilities, including an overhaul of the Special Focus Facility program (SFF), a program that includes surveying certain poor-performing facilities more frequently and subjecting them to progressive enforcement actions recommended by the SAs, to improve care more quickly at low-performing nursing homes.

CMS thanks OIG for its efforts on this important issue and looks forward to working with OIG on this and other issues in the future. OIG’s recommendations and CMS’ responses are below.

OIG Recommendation

Propose regulations requiring nursing homes and inspection contractors to notify State survey agencies when fire alarm and sprinkler systems are not working or may be in jeopardy of not working.

CMS Response

CMS concurs with OIG’s recommendation. CMS will consider this recommendation when proposing new requirements. However, we note that any proposed regulation requires notice and comment rulemaking. According to the Physical Environment Federal Regulation section 483.90(8)(ii), when a sprinkler system is shut down for more than 10 hours, the facility must establish a fire watch until the system is back in service. CMS will explore ways to require nursing homes and inspection contractors to notify the SA when the fire alarm or sprinkler systems are not working properly, or as appropriate.

OIG Recommendation

Propose regulations requiring carbon monoxide detectors to be installed in accordance with NFPA 72 and 720 for all nursing homes that utilize fuel-burning appliances or have an attached garage.

³ 42 CFR 483.73(g) [Emergency Preparedness](#)

CMS Response

CMS concurs with OIG’s recommendation. CMS will consider this recommendation when proposing new requirements. However, we note that any proposed regulation requires notice and comment rulemaking. In line with the current LSC, CMS currently requires carbon monoxide detectors to be installed in nursing homes with solid fuel-burning fireplaces (81 FR 26871). While states may have additional requirements for state licensing, federal surveys are not designed to encompass these. CMS will explore ways to require carbon monoxide detectors to be installed for all fuel-burning appliances.

OIG Recommendation

Work with State survey agencies to require mandatory participation in standardized life safety training for nursing home staff.

CMS Response

CMS concurs with OIG’s recommendation. CMS will consider this recommendation when proposing new requirements. However, we note that any proposed regulation requires notice and comment rulemaking. CMS currently offers a standardized 32-hour training to establish and refine skills and understanding of the LSC process, which is available to SAs and nursing homes.⁴ The training includes a mandatory pre-test, 13 learning modules, a mandatory post-test, and a CMS-approved training evaluation. Although CMS does not currently require this specific training for nursing home staff, CMS will explore ways to require nursing home staff to participate in standardized life safety training.

OIG Recommendation

Develop a plan in conjunction with State survey agencies to address the foundational issues preventing more frequent surveys at nursing homes with a history of multiple high-risk deficiencies.

CMS Response

Addressing these issues will stem from appropriate budgetary funding to the states, and funding to the survey and certification budget for more frequent and targeted surveys. The President’s Fiscal Year 2023 Budget includes a proposal for additional funds to improve oversight of nursing homes, including an overhaul of the SFF program to improve care more quickly for low-performing nursing homes.

With the resources we do have, CMS has already begun working with a limited number of facilities that repeat serious deficiencies that pose the highest risk to residents’ health and safety through CMS’s SFF program. Facilities that are a part of this program are surveyed every six months and are subject to progressive enforcement actions recommended by the SAs until the nursing home either graduates from the SFF program or is terminated from the Medicare and Medicaid programs.⁵ Additionally, CMS sends weekly survey and COVID-19 data to the SAs in an effort to inform them of which nursing homes may have potential problems, such as low staffing levels or issues preventing or controlling the spread of COVID-19 cases and may require swift onsite surveys.

⁴ [Basic Life Safety Code Training](#)

⁵ [Special Focus Facility Program](#)