

**Follow-up report
February 2020**

Residential Care

**Office of Performance Evaluations
Idaho Legislature**





**Rakesh Mohan
Director**

Office of Performance Evaluations

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Joint Legislative Oversight Committee 2020

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Senators



Mark Harris

Dan Johnson

Michelle Stennett

Cherie Buckner-Webb

Representatives



Ilana Rubel

Caroline Nilsson Troy

Paul Amador

Elaine Smith

Senator Mark Harris (R) and Representative Ilana Rubel (D) cochair the committee.

Follow-up report



In January 2018 we released a report that evaluated teams who inspect or survey nursing homes, assisted living facilities, and children’s residential care facilities. These teams are within the Division of Licensing and Certification in the Department of Health and Welfare. We made 11 recommendations to improve provider confidence in the division and to ensure the survey process was fair, effective, and efficient.

954 W Jefferson Street
Suite 202
Boise, Idaho 83702
Ph: 208.332.1470
legislature.idaho.gov/ope

This report is the first full follow-up of those recommendations. Given urgent workplace issues with the nursing home team, the Joint Legislative Oversight Committee had asked us to conduct a limited follow-up of the workplace environment. The follow-up was aimed to ensure that the department corrected workplace issues quickly and with no retaliation. In October 2018 we released a limited follow-up report. We found vast improvements in the work environment, though nursing home surveyors reported concerns with their employee evaluations. The nursing home team was optimistic about the two new supervisors and reported being much happier at their job.

Methods

For our full follow-up review, we requested an update from the Department of Health and Welfare on its progress in implementing the 11 recommendations. The department gave us the requested update in February 2019. We reinterviewed members of the nursing home and assisted living teams, spoke with representatives from those industries, and conducted a questionnaire of every administrator of a nursing home or assisted living facility. We reviewed documentation from each of those teams and from the children’s residential care team. We did not send another questionnaire to administrators of children’s residential care because they had reported a high level of confidence in their survey team during the initial evaluation.

We appreciate the assistance we received from the Department of Health and Welfare.

Ryan Langrill conducted this evaluation.

Lance McCleve and Bryon Welch did the quality control review.

Margaret Campbell copyedited and desktop published the report.

In March 2018 the department signed an agreement with the Idaho Health Care Association, an organization that represents most nursing homes and many assisted living facilities. The agreement identified several topics for providers and the department to address together, including topics related to our recommendations. These topics would be addressed by workgroups composed of department employees, providers, and members of relevant advocacy groups.

Most of the workgroups had concluded and issued recommendations for the department and the association to consider by the time we finished fieldwork. We reviewed the recommendations and meeting minutes from each of these workgroups. These workgroups represented a significant investment of time and effort, particularly for the administrator of the Division of Licensing and Certification.

This follow-up report assesses the implementation status of the recommendations made in our initial report and summarizes actions taken by stakeholders as of March 2019. Of the 11 recommendations, six had been completed, three were in process, and two were not completed.

Assessment of status

We assessed the status of recommendations within three categories:



Complete: Measurable steps have been taken to meet the intent, or an approach that diverged from the recommendation has been taken to meet the intent.



In process: Measurable steps have been taken that begin to meet the intent.



No change: No measurable steps have been taken to meet the intent.

Surveys of nursing homes

In our initial evaluation, we found that the nursing home team worked in an unacceptable environment and the provider community had very little confidence in the team. A questionnaire that we conducted showed that almost two out of every three nursing home administrators had a low level of confidence in the team. Administrators also reported in the questionnaire and in our interviews that the survey process was combative and punitive. In our interviews with surveyors, they said they were pressured to take such an approach.

Recommendation 1

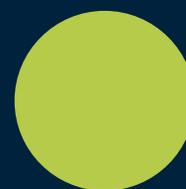
The department should address workplace issues of the nursing home team and ensure no retaliation takes place.

Status: Completed

The work environment for nursing home surveyors has vastly improved. Surveyors remain enthusiastic about the new supervisors and now feel that they can openly express concerns with their superiors and with each other. Communication within the team has been improved by team meetings every two weeks. A collaborative working relationship exists between the two supervisors and between the supervisors and the bureau chief. Even employees outside the nursing home team have noticed the improvement. They have observed that team members have an upbeat attitude and speak openly with one another. In addition, they observed the new supervisors treating the team with respect.

We found in our limited-scope follow up last year and continued to find in the full follow-up that building trust with the nursing home team is a work in progress. The team had believed division management was aware, or should have been aware, of the workplace issues. Despite progress, more time is needed to strengthen the relationship.

The nursing home team remains understaffed. As a result, it uses contract surveyors to accompany the team on-site. In-office work rests solely on state surveyors, meaning that each surveyor has more work than they would if the team were fully staffed, which contributes to a high level of stress on the team.



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Concerns about employee evaluations

During interviews for our limited-scope follow up, surveyors shared concerns about retaliation through the employee evaluation process. They cited that five of the six surveyors received an “achieves” rating. The rating qualified them for the lowest available merit raise. According to the state Division of Human Resources, an achieves rating indicates the employee consistently meets performance expectations while a solid-sustained rating indicates an employee often exceeds expectations. We investigated the surveyors claim but did not find evidence to substantiate retaliation.

Some of our committee members expressed concern about the high number of achieves ratings. They directed us to put into context these surveyors’ performance appraisals by conducting a department-wide analysis of the number of employees who received each evaluation rating (achieves, solid sustained, exemplary).

In response to the committee’s request, the administrator of Licensing and Certification provided us her division’s evaluation rating data. We then calculated department-wide evaluation ratings using data from merit raises. Calculating pay differences before and after raises, we derived ratings for 77 percent of employees. Of this 77 percent, the merit raises implied that 13 percent had achieves ratings, 53 percent solid sustained, and 34 percent exemplary. Although we were unable to look at 100 percent of the evaluation ratings, we did not find evidence to substantiate retaliation.

Recommendation 2

Licensing and Certification should take steps to improve retention for the nursing home team beyond addressing workplace issues, such as developing a career ladder.

Status: Completed

Turnover among surveyors who were with the nursing home team at the end of 2017 has been low: all six surveyors we interviewed in 2017 remained with the team as of March 2019. The team hired four surveyors in 2018; two remain. One left shortly after being hired. A second left after about 10 months.

The team remains supportive of a career ladder that allows surveyors to be rewarded for taking additional responsibility and mastering skills. Licensing and Certification reports that it identified, as a possible model, the career ladder used for child welfare social workers in the department. However, Licensing and Certification has not identified clear milestones for the health facility surveyor position across survey teams.

Recommendation 3

Licensing and Certification should take steps to assure nursing home providers that feedback collected by the director's office cannot be traced back to individual providers.

Status: Completed

Licensing and Certification had asked the director's office to call nursing home administrators after completion of a survey. Having the director's office solicit feedback from administrators reduces the chance that the survey team would find out who responded.

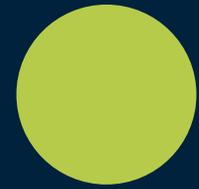
While this process effectively preserved anonymity, we found in our initial evaluation that three-quarters of administrators did not believe they could be candid with the director's office. Most feared that candid feedback could lead to retaliation.

The director's office continues to make calls for anonymous feedback after each survey and assures anonymity to the administrators. The department also plans to distribute an annual questionnaire to each nursing home administrator through a third-party contractor such as Boise State University. The department held off distributing a questionnaire at the end of last year so as not to interfere with our questionnaire for this follow-up.

The results of our questionnaire and of our discussions with providers showed significant improvement in administrators' confidence in the team. Of 33 questions to assess confidence in various aspects of the survey process, our questionnaire found improvements to 29 questions between late 2017 to early 2019. Improvements included the following:

- Less disruptive surveys
- Better communication during a survey
- Better communication with Licensing and Certification
- Less punitive survey process
- Less concern about the survey process
- Discouraging nursing homes from admitting individuals with complex behavioral or medical issues.

We analyzed separately administrators who had received a nursing home survey since the release of our evaluation report. Of that subset, 44 percent reported increased confidence in the



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The team had fallen behind in nursing home surveys almost immediately after the release of our report in January 2018 and the departure of both supervisors.

nursing home team over the past year. In our first questionnaire, only 25 percent had reported increased confidence.

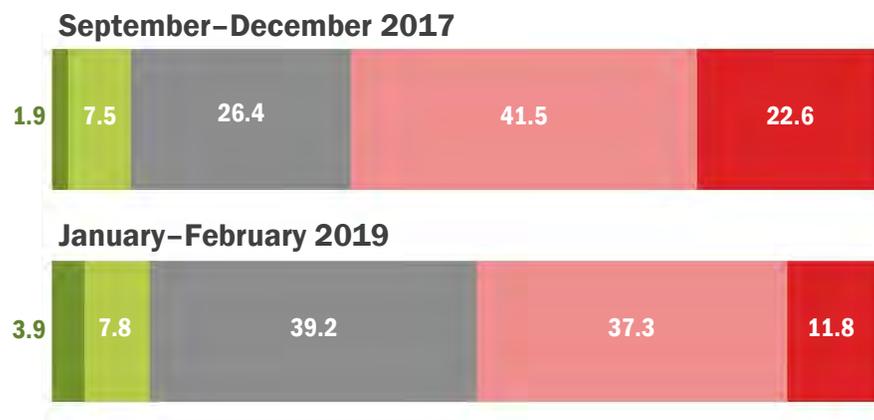
Administrators were less likely to indicate a low or very low level of confidence in the nursing home team, dropping from 64 percent to 49 percent. Most of that drop came from a decrease in very low levels of confidence. Exhibit 1 shows this improvement.

The full results of our questionnaire are available online.

Exhibit 1

Confidence in the nursing home survey team has improved but remains low.

Percentage of facility administrators who indicated they had a **very high**, **high**, moderate, **low**, or **very low** level of confidence in the survey team.



Survey timeliness and continued vacancies

Our 2018 report *Residential Care* was requested, in part, because of the large number of overdue nursing home surveys. At the time of our report, the team was able to temporarily increase capacity and had caught up on overdue surveys with the help of contract surveyors. However, the team had fallen behind almost immediately after the release of our report in January 2018 and the departure of both supervisors. As shown in exhibit 2, by October 2018, 16 of Idaho’s 81 nursing homes had not been surveyed within federally mandated timelines. That number had decreased to 7 nursing homes by February 2019.

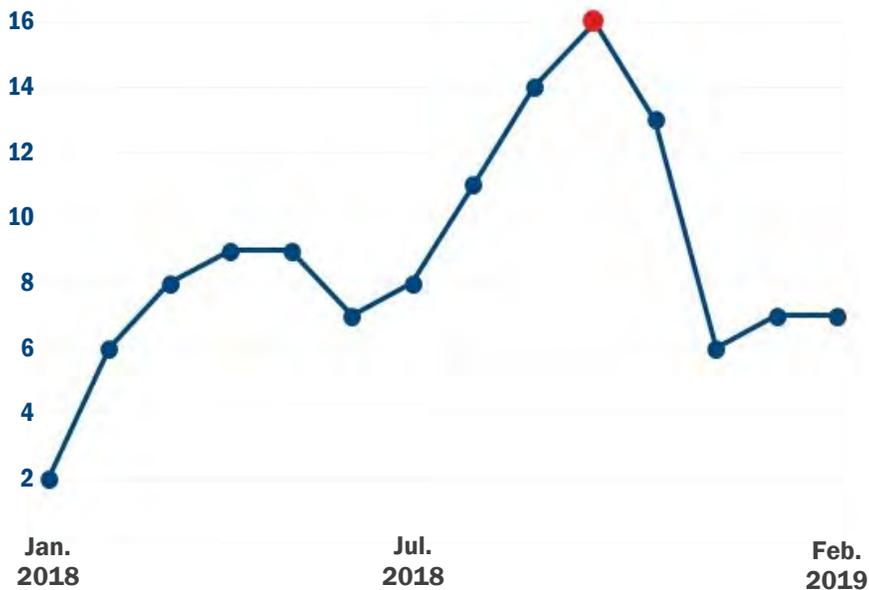
Because nursing homes must pass an initial survey before they can accept payment from Medicare or Medicaid, overdue initial surveys had led to significant and costly delays for new nursing homes. Despite the backlog of recertification surveys, the department committed in one of its workgroups to survey new facilities within 90 days of opening their doors.

With the retirement of a long-time surveyor, the team remains significantly understaffed. Licensing and Certification reported that the most significant barrier to fully staffing the team is the low number of registered nurses who apply for the position. Each survey must include a registered nurse.

Exhibit 2

The department has struggled to conduct nursing home surveys on time.

Number of survey homes out of 81 that had not been surveyed within the federal maximum of 16 months.



Source: Calculations based on data from the Division of Licensing and Certification.

In one of its workgroups, the department committed to survey new facilities within 90 days of opening their doors.

With the retirement of a long-time surveyor, the team remains significantly understaffed.

The assisted living team had struggled to adapt to a rapidly growing industry.

Administrators cited inconsistency among surveyors as the most common issue with the assisted living team.



Surveys of assisted living facilities

In our initial evaluation, we found that the assisted living provider community had more confidence in its survey team than had the provider community of the nursing home team. The assisted living team, however, had struggled to adapt to a rapidly growing industry. The assisted living team had not added permanent surveyors for years. To help with the increase in work, the team used a revolving door of temporary surveyors. The frequent turnover of these surveyors required heavy investment in training and undermined the consistency of surveys and the morale of the team. Adding to the difficulty was an overburdened team supervisor, who cut back on quality assurance activities to keep up with other requirements. In our initial evaluation, administrators cited inconsistency among surveyors as the most common issue with the assisted living team.

Like the nursing home team, the assisted living team had a backlog of overdue relicensing surveys and initial surveys. Unlike nursing homes, the backlog of surveys does not prevent assisted living facilities from receiving payment from Medicaid.

Recommendation 4

Licensing and Certification should address the workload issues of the assisted living survey team in a sustainable way and provide more support for the management of the assisted living team.

Status: In progress

In 2018 the Legislature approved adding two permanent positions to the assisted living team. These positions were filled by surveyors who had been previously hired as temporary surveyors.

Filling the permanent positions ended the revolving door of temporary surveyors. Surveyors reported improvements in team morale and a reduction in stress brought about by the constant training of temporary surveyors.

To address concerns of an overburdened team supervisor, we suggested in the initial evaluation a career ladder to develop advanced surveyor positions. Establishing advanced surveyor positions could allow for job descriptions that include functions

currently being performed by the supervisor. The assisted living team, like the nursing home team, remains supportive of such a career ladder.

Three surveyors have been given temporary pay increases and responsibilities as a temporary solution to support the management of the assisted living team. One surveyor serves as a training supervisor. Two surveyors serve as field supervisors and conduct periodic quality assurance surveys. The implementation of the supervisor positions is too recent to evaluate.

The positions are only temporary, but they represent a model that could assist in the supervision of the team on a permanent basis. To ensure these positions are most effective, the division must clearly define the roles of these positions and sufficiently train the individuals filling the positions. Because these positions are temporary, they can serve as a pilot project to ensure that additional responsibilities of the positions enhance rather than confuse team supervision and consistency.

Recommendation 5

Licensing and Certification should develop a method to allow assisted living facilities to challenge noncore citations, ideally in a way that allows overturned citations to be formally tracked.

Status: Partially completed

Addressing this recommendation was the task of one of the joint department-Idaho Health Care Association workgroups. Rather than establish a formal method to challenge noncore citations, the workgroup recommended that the assisted living team educate administrators about their rights. These rights give administrators up to 48 hours after survey completion to provide additional information that demonstrates compliance. If compliance is demonstrated, the department will remove the citations.

In addition, the supervisor of the assisted living team has notified each administrator of the opportunity to bring inconsistencies in rule interpretation to her attention directly through the team's online portal.

The solution suggested by the workgroup and implemented by the department addresses some concerns about the survey process but not others. By educating providers about

Three surveyors have been given temporary pay increases and responsibilities as a temporary solution to support the management of the assisted living team.



A joint department-Idaho Health Care Association workgroup decided not to change the appeal process for noncore citations.

**Administrators’
perceptions of
surveyors most
improved in two
areas:
confrontational
behavior and
consistency.**

opportunities to send additional information, facilities are less likely to be incorrectly found out of compliance. The opportunity to bring inconsistencies to the supervisor’s attention will allow the supervisor to address situations where surveyors give conflicting interpretations of rule.

What is not addressed by this solution are circumstances where the facility and the team supervisor disagree about the interpretation of a rule. In addition, the process does not have a formal way to track and publish trends for overturned citations.

Consistency among surveyors

Our questionnaire of administrators in late 2017 found that only 25 percent agreed that it was somewhat or very true that surveyors all have the same interpretation of rules. The same questionnaire conducted in early 2019 found an increase to 37 percent. Although further improvement is desirable, the questions measuring surveyor consistency showed the second greatest improvement. Questions measuring administrators’ perceptions of surveyors’ confrontational behavior showed the most improvement.

The supervisor of the assisted living team additionally noted one key area of inconsistency. She found that surveyors used different criteria to accept or reject evidence that providers had resolved a citation. In response, she directed surveyors to focus less on whether the evidence was sufficient and more on informing the facility of what is required to ensure it is in compliance for the follow-up survey.

Surveys of children’s residential care facilities

Two surveyors oversee children’s residential care facilities, as well as adoption and foster care agencies, therapeutic outdoor programs, and adolescent substance abuse treatment facilities. Our study only evaluated surveys of children’s residential care facilities.

These surveyors had recently been moved from the Division of Family and Community Services to the Division of Licensing and Certification. Administrators of children’s residential care facilities reported an extremely high level of confidence in this team.

The Division of Licensing and Certification had found that the surveyors saw their role in the facilities more as improving quality rather than consistently enforcing state rule. Before our report, Licensing and Certification had taken steps to ensure that the team was consistently enforcing state rule. Even though Licensing and Certification has been working to improve survey consistency, the team still has an exceptional reputation among most providers.

Recommendation 6

The department should develop criteria for extended licensure or an abbreviated application process for children’s residential care facilities based on compliance history.

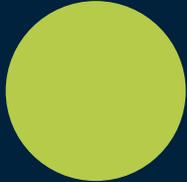
Status: In progress

We reported that the children’s residential care licensing process lacked some features available to other state-operated facilities, such as the possibility of extended licensure and the opportunity to dispute citations. Per statute, all children’s residential care facilities must be surveyed each year regardless of compliance history. In lieu of amending statute to enable extended licensure, the department is streamlining its application process for facilities.

Licensing and Certification gave us evidence of various methods it has piloted to reduce the workload for providers during the annual application process, including updating forms and requesting documents as needed on-site. Licensing and



In lieu of amending statute to enable extended licensure, the department is streamlining its application process for facilities.



Using two surveyors reduces the duration of surveys and saves time for both the team and the facility.



Certification has also drafted a streamlined application to be used for facilities in good standing. These documents are in various stages of drafting and testing.

Recommendation 7

The children’s residential care team should track the duration of surveys done with multiple surveyors to assess possible efficiencies.

Status: Completed

Though the team has two surveyors, almost every survey had been done by a single surveyor. Facilities reported that surveys required staff dedicated to assist and communicate with the surveyors. Over the past year, the team has sent both surveyors to survey larger facilities. This practice saves time for both the survey team and the facility.

The team did not collect formal data on the duration of surveys done collaboratively. However, the team supervisor observed that surveys conducted with both surveyors saved time. The team also found that surveys done with both surveyors allowed for the surveyors to learn from one another, which improved consistency. As a result, surveyors continue to conduct surveys together at large facilities.

Recommendation 8

Licensing and Certification should give administrators of children’s residential care a formal notice of dispute recourses. It should also extend the informal dispute resolution process used for other state licensed facilities to children’s residential care facilities.

Status: Completed

The children’s residential care team has updated its cover letter to inform facilities of dispute recourses. The supervisor of the team has also drafted a letter introducing himself to facilities and ensuring that they know he is available to help facilities resolve concerns about the survey process.

Licensing and Certification has extended to children’s residential care facilities the informal dispute resolution process used for developmental disability and residential habilitation agencies. This policy went into effect on March 1, 2019.

Recommendation 9

Licensing and Certification should offer children’s residential care facilities the same opportunity for anonymous feedback as offered by developmental disability and residential habilitation agencies.

Status: No change

Licensing and Certification has yet to implement a method for children’s residential care facilities to send anonymous feedback. In addition, it has discontinued the method used to collect feedback from developmental disability and residential habilitation agencies. The team had given these agencies a postage-paid postcard inviting feedback but found that agencies rarely gave useful feedback.

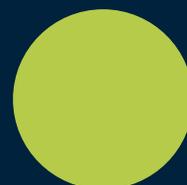
The team supervisor reported that he is working with the Certified Family Home survey team to develop a process to collect feedback digitally.

Recommendation 10

Licensing and Certification should formally evaluate options that allow for certification of Idaho’s psychiatric residential treatment facilities.

Status: This recommendation has been implemented.

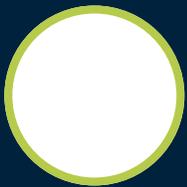
Medicaid is required to pay for any medically necessary treatment for children, whether the treatment is included in the Medicaid state plan or not. In our initial evaluation, we found that children served by Idaho Medicaid had no in-state options for residential treatment. As a result, children were sent out of state for treatment. One barrier to in-state treatment was the inability of Licensing and Certification to certify psychiatric residential treatment facilities. These facilities must be certified to accept Medicaid. To address this barrier, we recommended the Licensing and Certification explore options to certify these facilities.



Until recently, children served by Idaho Medicaid had no in-state options for residential treatment.

Teton Peaks, a psychiatric residential treatment facility, received its license on October 1, 2018.

Now, most children served at Teton Peaks are from Idaho.



Licensing and Certification trained two intermediate care facility surveyors to also survey psychiatric residential treatment facilities. The first of these facilities in the state, Teton Peaks, received its license on October 1, 2018. Its certification survey occurred in the first week of January 2019. The director of Teton Peaks spoke highly of his work with the Bureau of Facility Standards, the surveyors, and Idaho Medicaid.

Before October, most children served at Teton Peaks were from out of state. After receiving its license, Teton Peaks was eligible to collect payment from Idaho Medicaid to treat children residing and receiving treatment in Idaho. Now, most children served at Teton Peaks are from Idaho.

No other facilities have applied for certification as a psychiatric residential treatment facility, but the director of Teton Peaks indicated that he and his organization are willing to assist other facilities in opening or transitioning to a psychiatric residential treatment facility. The need for residential treatment for children vastly exceeds the capacity of a single provider.

Resources

Of Idaho, Montana, Oregon, Utah, Washington, and Wyoming, Idaho was the only state that did not charge fees to relicense assisted living facilities and nursing homes. Given the backlog that has existed and still exists for both facility types, we suggested in our initial evaluation that the Legislature consider authorizing the department to collect licensing fees that could be used to support the survey teams of these facilities.

Recommendation 11

The Legislature should consider authorizing the department to collect licensing fees.

Status: No change

One joint department-Idaho Health Care Association workgroup was tasked with developing a proposal for licensing fees. The workgroup was also charged with identifying possible accreditation options for assisted living facilities. Most of the workgroup's discussion centered on accreditation, and the subject of fees was not addressed.

Third-party accreditation has the possibility of reducing the survey team's workload. Options exist for many facility types that require federal certification, most notably hospitals. Facilities that pass accreditation standards may be exempted from periodic state surveys. Federal law does not allow nursing homes to be accredited and exempted from state surveys.

Requirements for assisted living facilities are set at the state level, so the state may choose to accept accreditation instead of conduct surveys. According to the 2016 Seniors Housing State Regulatory Handbook, published by the American Seniors Housing Association, six states—Arizona, Florida, Georgia, Iowa, Nebraska, and Texas—allow for the third-party accreditation of assisted living facilities.

The joint department-Idaho Health Care Association workgroup facilitated discussions between an accreditation organization and state ombudsmen for the elderly and surveyors of assisted living facilities.

The Legislature passed Senate Bill 1096 in 2019. This bill allows a nationally recognized accreditation organization rather than the state to survey an assisted living facility. The state may conduct complaint surveys of accredited facilities.

Third-party accreditation may ultimately decrease the state's workload.

The work group did not address our recommendation to look at licensing fees.

Third-party accreditation has the possibility of reducing the survey team's workload.

