

Chapter 4

Department of Family and Community Services

Special Care Homes and Community Residences

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Department of Family and Community Services Special Care Homes and Community Residences

Background

4.1 When an individual lives in a special care home or a community residence, the resident, their family, their friends and society trust the facility to provide safe and proper care. New Brunswick has legislation requiring special care homes and community residences to have a license and follow the operating standards. The purpose of our work was to see if government is complying with and enforcing this legislation.

4.2 Adults who have functional limitations may receive a range of services under the Long Term Care Services program. An assessment is used to determine the care needs of the individual. Clients who require more services than can be provided in their homes could be eligible to reside in a special care home or a community residence where room and board is provided, as well as the required supervision and assistance with daily living activities.

4.3 Special care homes and community residences are privately owned and operated by individuals, corporations or not-for-profit organizations. They range in size; the smaller facilities have only one or two beds and the larger ones have more than fifty beds. They may be either someone's personal residence or a facility with an institutional setting. Special care homes provide care to individuals with relatively moderate care needs, while residents of community residences require more care, but not regular nursing care.

4.4 There are approximately 465 special care homes in the Province providing approximately 3,700 beds. There are approximately 60 community residences in the Province providing

approximately 375 beds. About 51% of residents are adults under age 65, while 49% are seniors. Approximately 80% of residents require government subsidy, which amounted to approximately \$66 million in 2004.

4.5 The government recognizes the significance of special care homes and community residences and retains control over them in the following ways.

- Government licenses special care homes and community residences and inspects them to measure compliance with standards established to secure a safe environment and proper care.
- Government controls the number of beds through licensing.
- Government controls admissions to special care homes and community residences. An individual is assessed and approved before admittance. The eligibility assessment for admission looks at the individual's long-term health care and social needs.
- Government provides financial assistance to eligible residents. An individual receives a financial assessment to determine their ability to pay for care requirements.

4.6 The authority for the government's involvement in special care homes and community residences is the *Family Services Act (Act)* and the *Community Placement Residential Facilities Regulation - Family Services Act (Regulation)*

4.7 The purpose of the Adult Residential Services Program (program) is to license and monitor facilities to ensure that residents are safe and receive quality care. The staff members directly involved with the program include Adult Residential Facility Coordinators (coordinators) who work in the Department's regional offices and two program consultants who work in the central office.

Scope

4.8 The objective for this audit was:

To determine if the Department of Family and Community Services has appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

4.9 To focus our efforts, we developed five criteria to use as the basis for our audit. We discussed them with the Department and it was agreed that they were reasonable. The criteria addressed the following:

- licensing special care homes and community residences;
- conducting inspections to measure compliance with the operators' standards;
- enforcement actions when operators of the facilities do not comply with the legislation and standards;
- policies and procedures for the program; and
- being accountable by reporting on the effectiveness of the program.

4.10 The audit was not directed towards evaluating the quality of the operators' standards.

4.11 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Conclusion and results in brief

4.12 The Department of Family and Community Services recognizes the importance of special care homes and community residences providing quality care. We observed many good elements within this program, such as: documented standards that the operators of facilities must follow; documented procedures for the Department's staff to follow in delivering the program; the practices of inspecting and licensing facilities and closing facilities when appropriate services were not provided. While we recognize these strengths, we concluded that the Department of Family and Community Services does not have appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

4.13 The program has an established licensing process that is clearly documented and communicated to both departmental staff and the operators of the facilities. The licensing process requires that facilities be inspected by Public Health, the Office of the Fire Marshal and the Department. Licenses expire each year and are not renewed until the inspections are done. While the Department licenses special care homes and community residences, the established process is not always followed and the Department does not always ensure that all licensing requirements have been met before issuing the license. Licensing practices are not consistent throughout all of the regions and licenses are not always renewed on time.

4.14 The Department inspects facilities prior to licensing; however, it does not have mandatory processes in place for prioritizing, performing and documenting inspections. Therefore comprehensive inspections are not always conducted. This means that some licensed facilities may not be meeting the standards and their residents may not be receiving the required quality of care.

4.15 The Department has documented procedures that provide good guidance for enforcing the legislation and standards, and the Department has closed facilities for non-compliance. However, cases where enforcement is appropriate are not always recognized. For example, our testing revealed that in some facilities the standard regarding criminal record checks was not met because the record check had not been renewed after five years or had not been done prior to hiring a new staff member. Issuing a license without ensuring that all staff in facilities have had the required record checks is not properly enforcing the standard.

4.16 Quality control practices are lacking to ensure the documented procedures are followed. We observed inconsistencies among regions and inconsistencies between the Department's practices and the legislation. The Department is not monitoring incidents or complaints, which allows for the identification of trends in the number and nature of incidents and complaints so proper corrective action can be taken.

4.17 We observed inconsistencies between legislation for this program and the legislation for similar programs administered by the Department (nursing homes and day care facilities). We recommended the Department review the legislation for special care homes and community residences and initiate amendments as appropriate, in particular, the inclusion of requirements for an emergency plan and public posting of the license to operate.

4.18 The Department does not report on the effectiveness of the program for special care homes and community residences.

Licensing special care homes and community residences

4.19 The legislation requires that all special care homes and community residences (facilities) obtain the Minister's approval to operate (license). The process involves the facility applying for a license, paying the fee and meeting the legislative requirements. It also involves the Department ensuring that the requirements are satisfied and then issuing the license. The coordinators working in the regional offices are to ensure the requirements are met and forward the license

to the central office, where it is signed and issued to the operator of the facility.

4.20 Licenses are valid for only one year. Each year the facility must apply for a renewal license. The renewal process is the same as the process for obtaining a first-time license and the requirements are the same. Our first audit criterion addresses the licensing of special care homes and community residences:

The license to operate a special care home or a community residence should be issued in compliance with legislation and standards.

4.21 Our findings included the following strengths in the licensing process.

- ***The licensing requirements are clearly stated in the legislation and have been communicated to the individuals involved.*** The requirements are documented in the coordinators' manual for the staff members working in the regional offices. The requirements are documented in the standards manual for the operators of special care homes and community residences.
- ***Licenses are not automatically renewed.*** The expiry date is clearly indicated on the license. A renewal license is not issued until the coordinator inspects the facility and requests that the central office issue a new license.
- ***The licensing process requires that the facility be inspected by Public Health, the Office of the Fire Marshal and the Department.*** While three government departments have responsibility for inspecting special care homes and community residences, the Department has sole responsibility for licensing the facilities.

4.22 We identified the following weaknesses in the licensing process. A brief description of each finding follows.

- The requirements are not always met prior to the Department issuing a license to a special care home or a community residence. This means that the Department is not fulfilling its licensing responsibilities. When the Department does not ensure that the licensing requirements are met before issuing the license, it is not complying with the Regulation.

- Licenses are not always renewed on a timely basis. This means that special care homes and community residences are sometimes operating without a license and this is illegal according to the legislation.
- The Department's licensing process is not always followed. Non-compliance with the documented procedures results in inconsistencies with licensing practices between regions.
- Complaints and incidents reported are not considered when licensing a special care home or a community residence.
- We observed inconsistencies between the legislative requirements for special care homes and community residences and the legislation for similar programs: nursing homes and day care facilities. Inconsistencies indicate the need for reviewing and possibly changing the legislation regarding special care homes and community residences.

The requirements are not always met prior to the Department issuing a license to a special care home or a community residence

4.23 The Regulation states the licensing requirements for special care homes and community residences. The process and the requirements are the same for both special care homes and community residences, with the exception that facilities having fewer than three beds do not require annual inspections by Public Health and the Office of the Fire Marshal.

4.24 The Department is to ensure the following seven requirements are met prior to issuing a license:

- the application form has been received from the operator;
- the operator has paid the appropriate fee;
- the operator has provided a medical form showing he/she is in good health;
- Public Health has given a written statement of compliance stating that the sanitation, lighting, ventilation and other general health standards in the facility meet their standards;
- the Office of the Fire Marshal has given a written statement of compliance stating that the facility meets fire prevention standards and building standards;
- the facility complies with the requirements in the Regulation and the standards prescribed by the Department; and
- the operator of the facility meets six qualitative conditions such as awareness of local community services, willingness to provide a homelike atmosphere and willingness to participate in training programs.

4.25 We selected a sample of forty licenses for testing. The sample included facilities from each of the eight regions so we could comment on consistency throughout the Province. While most of the licenses were for special care homes, some community residences were included. The sample included eight first-time licenses (issued in 2003 and 2004) and thirty-two renewals. We tested for each of the seven legislative requirements. However, the last requirement listed above regarding the operator's qualitative conditions related to only the eight first-time licenses.

4.26 Our testing involved reviewing the Department's file, on each of the facilities selected in the sample, looking for the presence of documentation indicating that each of the licensing requirements was met. We observed that a facility does not always meet all of the requirements prior to the Department issuing their license. Only eleven of the forty files had documentation indicating that all six legislative requirements for licensing were met (72% did not).

4.27 Our specific findings include the following.

- The application form was not always present. Two of the eight regions do not require the operator to submit an application.
- The appropriate fee was not always paid. License fees range from twenty-five to sixty-five dollars, depending on the number of beds in the facility. It appears that in most regions, facilities operated by a not-for-profit organization are not paying the required license fee. (The legislation provides no exceptions for the licensing fee.)
- Although evidence that the operator was in good health was present in most files, there was no evidence in five of the files from two regions. Either a medical form signed by a doctor or a notation that a medical form had been examined by the coordinator was considered appropriate evidence.
- An inspection from Public Health recommending the facility for licensing was present in all but one of the renewal licenses. However, only three of the eight first-time licenses were supported with a Public Health inspection. In the remaining five files, the Public Health inspection was either missing or was present indicating that the operator was not complying. There was no further documentation that the infractions had been corrected. This does not satisfy the licensing requirement.
- A written statement of compliance from the Office of the Fire Marshal was present in most of the files. In other files, however,

the fire prevention inspection form was present indicating areas of non-compliance and written orders for correction. There was no further documentation that the infractions had been corrected. This does not satisfy the licensing requirement.

- Finding evidence that the facility complies with the criteria prescribed by the Regulation and standards prescribed by the Minister was a problem in all files. While all but two files had documentation of a site visit at the facility, there is a lot of inconsistency in the documentation of inspections, and the documentation required by the Department was rarely present.
- The last requirement listed above, regarding the operator's qualitative conditions, was tested in only the eight files for first-time licenses. All eight files had evidence that the operator was qualified.

4.28 Licenses are signed by the Minister, or the delegate, and issued to the facility by the central office. While the coordinator in the regional office is responsible for ensuring all the requirements are met prior to submitting the license for signature, there is no documentation signed by the coordinator indicating everything has been done. Only the license and a cover letter are remitted to the central office.

Recommendation

4.29 The Department should comply with the Regulation and ensure all regulatory requirements are met prior to issuing a license to a special care home or a community residence.

Departmental response

4.30 *The Department is currently working on the development of a new Inspection Form and Process, which will include a checklist to ensure all requirements are met prior to issuing Certificates of Approval to special care homes and community residences. Monitoring activities will be conducted periodically.*

Licenses are not always renewed on time

4.31 Licenses are issued for a one-year period. Facilities can have differing expiry dates, but the expiry date remains the same each year for a facility. We examined the issuance date and the expiry date on the 32 renewal licenses for the facilities that we tested. We also noted the expiry date on the previously issued license.

4.32 We found that renewal licenses are often issued after the previous license has expired. The license was issued on time in only two of 32 files examined. Of the thirty licenses that were issued late, the facilities were operating from six days to 29 months without a license. Ten of the thirty late licenses were more than three months

late. Reviewing information provided by the Department, we determined that at 31 December 2004, there were more than 75 of the approximately 525 facilities operating without a valid license. (As of 30 April 2005, the Department reported that most of these expired licenses had been renewed.)

4.33 The legislation states that it is an offense to operate without a license. When facilities operate without a valid license, the operator is not complying with the legislation and the Department is not enforcing the legislation.

Recommendation

4.34 The Department should determine why licenses are not being renewed prior to their expiry dates and implement corrective actions to ensure their timely renewal.

Departmental response

4.35 *The Department has requested regional staff to initiate the renewal process and conduct inspections at least 60 days prior to the expiry of the Certificate of Approval in order to allow time for the operator to complete any requirements necessary for the renewal of the certificate. Monitoring activities will be conducted to ensure certificates are renewed on time.*

The Department's licensing process is not always followed

4.36 The Department's licensing process is documented in the coordinators' manual. There are documented procedures and departmental forms. During our testing on the sample of forty licenses, we found that the forms are not always used and the required procedures are not always followed. We observed the following departmental requirements not being consistently met.

- A renewal letter is not always issued. The documented procedures state that a renewal letter and an application form are to be forwarded to the operator sixty days prior to the expiry date of the license. The practice of issuing renewal letters may help the operator ensure that they obtain their renewal license prior to the expiry of their current license.
- The operator's insurance coverage is not always verified as required by the documented procedures. Having adequate liability insurance protects the facility should an incident occur where the operator was liable.
- In the files from some regions, a computer listing of residents was present with manual notes indicating that residents had been verified. In the files from other regions, there was no evidence that this had been done. Verifying the residents of a facility is required

to ensure that residents subsidized by the Province are receiving the intended services and to ensure the Department has correct information on the number and location of vacant spaces that are available to other eligible individuals.

- The manual provides instructions for documenting site visits and inspections. Most regions are not using the required form.

4.37 Non-compliance with the documented procedures results in inconsistencies with licensing practices between regions.

Recommendation

4.38 **The Department should ensure licensing procedures are followed. If procedures are no longer appropriate, they should be changed.**

Departmental response

4.39 *The Department has initiated work to modify the Inspection process and to update procedures related to the licensing of Adult Residential Facilities*

Complaints and incidents reported are not considered when licensing a special care home or a community residence

4.40 Neither the documented licensing procedures nor the actual practice of issuing licenses considers complaints from the public and incidents reported by the facility.

4.41 We believe the Department's licensing process could be improved by incorporating this type of information obtained during the year. Complaints and incidents could indicate non-compliance with the standards. Integrating information from different sources reduces the risk of inappropriately licensing a facility. Incidents reported by the facility and complaints from the public should be reviewed before issuing the license for the next year.

Recommendation

4.42 **The Department should consider both the number and nature of the incidents reported by the facility and complaints from the public before issuing the renewal license.**

Departmental response

4.43 *The Department will add to the standards and licensing procedures a requirement indicating that the number and nature of incidents reported by the facility, and complaints from the public, have to be considered before issuing the renewal license.*

We observed inconsistencies between this legislation and the legislation for similar programs

4.44 In addition to the responsibility for licensing and monitoring special care homes and community residences, the Department is also responsible for licensing and monitoring nursing homes and day care facilities. While it is expected that the legislation for different programs would be different, it should also be expected that similar programs have similar laws. We believe the legislation for special care homes and community residences is deficient in the following two areas: an emergency plan requirement and public posting of the license.

4.45 An emergency plan typically is a written plan that shows the evacuation routes and outlines staff responsibilities. It is usually posted in a common area where even a visitor to a facility could easily see the plan and follow the instructions. Nursing homes and day care facilities are required by legislation to have an emergency plan; special care homes and community residences are not. In Nova Scotia, Regulations require that special care homes have an emergency plan and that it be updated every three years and resubmitted to the Minister.

4.46 While we acknowledge that the operator standards do require an emergency plan for facilities with ten or more beds, we believe this is inadequate. Most community residences have less than ten beds and their residents have greater care needs and are likely less ambulatory. We believe that all licensed care facilities should be required to have an emergency plan.

4.47 When the public sees a license issued by the government, there is an assumption the government's standards have been met. Seeing a posted license provides assurance that a facility is legal and provides comfort that the facility is a safe place. The *Nursing Homes Act* states, "A licensee shall at all times display his license in a conspicuous place within the nursing home." Day care standards require the public posting of their license. There is no requirement for special care homes and community residences to post their license.

Recommendation

4.48 **The Department should review the legislation for special care homes and community residences and initiate amendments as appropriate. In particular, the inclusion of requirements for an emergency plan and public posting of the license should be considered.**

Departmental response

4.49 *As indicated above, the Department will review the legislation for special care homes and community residences and will undertake discussion with the Department of Justice for this task. The*

Department agrees with the inclusion of requirements for emergency plans and the public posting of certificates.

Conclusion

4.50 This criterion is partially met. The program has an established licensing process with standard forms that is clearly documented and communicated to the individuals involved. The licensing process requires that the facility be inspected by Public Health, the Office of the Fire Marshal and the Department. Licenses expire each year and are not renewed until the inspections are done. However, the established process is not always followed and the Department does not always ensure that all licensing requirements have been met before issuing the license. Licensing practices are not consistent throughout all of the regions and licenses are not always renewed on time.

Inspections by the Department

4.51 Inspecting facilities to ensure that they are operating in accordance with the requirements is an important function that is critical to the licensing process. Legislation integrates the inspection function with licensing by requiring a facility's compliance with the Regulation and standards prior to the Minister licensing the facility. The legislation gives the Minister authority to appoint inspectors. And, the legislation gives the inspectors authority to enter and inspect the facilities to confirm compliance.

4.52 There are operating requirements in the Regulation and in the Department's Standards and Procedures for Adult Residential Facilities (operators' standards manual). We refer to them collectively as "standards". The standards relate to:

- administration (ownership, goals and objectives, policies and procedures, licensing, financial management, insurance, reporting requirements);
- personnel (employment requirements: medical, training, criminal record check; orientation; employee records);
- environment and security (requirements for each of the specific rooms: bedrooms, bathroom, kitchen, stairways, exits; fire prevention, general health standards, first aid);
- resident care (admission, a care plan, programming, staff ratios, food, personal hygiene, medication, money management, clothing, resident records); and
- social environment (residents' rights, visiting, mail, telephone).

4.53 The standards are primarily the same for both special care homes and community residences. There are differences in only a few standards. For example, the staff-to-resident ratio is higher for community residences because their residents require more care.

4.54 Our second audit criterion involved the inspection process:

Inspections of special care homes and community residences should be performed to measure compliance with legislation and standards.

4.55 To determine whether this criterion was met, we examined the Department's standards manual for operators and the operators' requirements within legislation; we accompanied a coordinator during an inspection at both a special care home and a community residence; we tested a sample of facility files; we analyzed information provided by the Department, talked with many of the coordinators and reviewed the Department's documented procedures.

4.56 Our findings include the following strengths in the inspection process.

- ***Resources are assigned to inspect special care homes and community residences.*** There are twelve adult residential facility coordinator positions (coordinators) with one or more assigned to each region. At the time of our review, all positions were occupied. Their role is documented and responsibilities are assigned to the coordinators. Inspecting facilities is the first listed responsibility.
- ***All facilities are assigned to coordinators.*** Each facility is specifically assigned to a coordinator in the region, who is responsible for inspecting the facility.
- ***The coordinator visits the facility and inspects before issuing a license.*** In our sample of forty files for licensed facilities, we looked for the presence of documentation indicating that the coordinator had visited the facility and had inspected for compliance with the operators' requirements. Documentation was present in all but two of the forty files. (95% had been inspected prior to licensing.)

4.57 We identified the following weaknesses in the inspection process. A brief description of each finding follows.

- Inspections are not comprehensive and do not measure compliance with all of the standards.
- Inspection documentation is inadequate.
- Inspection work is not prioritized using risk management.

- Advance notice to operators may impair the effectiveness of the inspection.
- The inspection workload does not appear evenly distributed among the coordinators.
- Documented policies and procedures for inspecting are limited. There are inconsistencies in the inspections performed in different areas of the Province.

Inspections are not comprehensive and do not measure compliance with all of the standards

4.58 In addition to the licensing requirements, the Regulation sets out other requirements for special care homes and community residences. The Department is to ensure the facility complies with the requirements in the Regulation and the standards prescribed by the Department prior to issuing a license. The operators' standards manual for special care homes and community residences contains well over one hundred requirements. Some standards are very detailed; for example, a standard relating to beds states, "have pillow with pillow case, two sheets and two coverings at minimum".

4.59 We selected some of the standards that are stated in the Regulation for testing. We tested a sample of forty licensed facilities. We reviewed the Department's file on each of the selected facilities looking for the presence of documentation indicating that each of following standards was met:

- criminal record checks for operator and staff;
- employment requirements for staff at facilities: medical and training;
- the ratio of residents to staff; and
- first aid supplies.

4.60 Criminal record checks are required for all operators and staff of special care homes and community residences and the checks must be redone every five years. Evidence that this standard had been verified was not present in five of the forty files. In nine of the files where there was evidence that record checks were being monitored, the standard was not met because the record check had not been obtained for new staff or had not been renewed after five years.

4.61 There are other specific requirements for staff working at special care homes and community residences. They must provide a medical form indicating that they are in good health and certificates demonstrating that they have received training in first aid, CPR and other personal care programs. Evidence that the medical requirement

had been verified was not present in six of the forty files. Evidence that first aid and CPR requirements had been verified was not present in eight of the forty files. Evidence that other qualifications regarding personal care programs had been verified was not present in fourteen of the forty files.

4.62 The standard regarding the ratio of residents to staff differs depending on specific circumstances, such as the level of care required by the residents and the presence of a fire sprinkler system. While the ratio differs from facility to facility, all are required to meet the ratio standard. Evidence that the residents-to-staff ratio requirement had been verified was not present in four files.

4.63 Evidence that the first aid supplies requirement had been verified was not present in twenty-nine of the forty files.

4.64 It is possible that a coordinator may inspect for some standards, but not document their verification. While we believe that there should be documented verification of all operator standards, we believe that it is particularly important that the verification of the legislative requirements be appropriately documented. Each of the four standards that we tested, and commented on above, were requirements stated in the legislation.

Recommendation

4.65 The Department should verify operators' compliance with all of the standards by performing complete inspections at special care homes and community residences.

Departmental response

4.66 *The new inspection form and process will require that the operator's compliance with all of the standards be verified. A complete inspection for each facility has to be conducted each year prior to renewing the certificates of approvals.*

Inspection documentation is inadequate

4.67 Although the Department has a standard inspection form, it is outdated and inadequate. The inspection form is not effective because it does not measure compliance with all of the standards. As a result, it is not being consistently used for inspections in most areas. Most coordinators have developed their own means of doing and documenting inspections. A consistent method of recording inspections is necessary in order for the Department to monitor compliance with the standards and identify trends.

4.68 The inspection reports that we reviewed in our sample of forty files were effectively a record of observations and comments, rather

than a report indicating areas of compliance and non-compliance. They did not provide assurance that a comprehensive inspection was done.

4.69 While the purpose of inspecting is to measure compliance with the standards, value is also obtained for the licensing process and enforcement actions. If an inspection reveals compliance with the standards, then the results are useful because they support licensing. If the inspection reveals areas of non-compliance, then the results are useful because they contribute to the enforcement process and either corrections are made or the facility is closed. In order for inspection results to be useful, inspections must be documented consistently and properly. The current way of documenting inspections is not effective because it does not provide useful information for either the licensing or the enforcement process.

4.70 The Department has recognized weaknesses in inspection documentation and is developing a new inspection form.

Recommendation

4.71 The Department should use an effective inspection form to measure compliance with all of the standards. The form should be easy to use and understand, and should allow results to be easily incorporated into the licensing and enforcement processes.

Departmental response

4.72 *As mentioned above, the Department is currently working on the development of a new Inspection Form and Process. This new approach will be more comprehensive and will ensure that all licensing requirements are met.*

Inspection work is not prioritized using risk management

4.73 A risk-management approach would result in more frequent and/or in-depth inspections in facilities assessed as having a higher risk. The Department does not use a risk-management approach or have a standard method of prioritizing inspection work for the program. The inspection requirements are the same for all facilities, including the inspection frequency requirement. The Department recognizes the benefits of risk management for inspections and has started project work in this area. We understand that the project will address risk management, inspection frequency and inspection scheduling.

Recommendation

4.74 The Department should implement a formalized risk management approach for prioritizing inspections of special care homes and community residences.

Departmental response

4.75 *The Department is currently developing a Quality Improvement Assessment Tool and process for the inspection and monitoring of*

Adult Residential Facilities. This new Tool will ensure that Adult Residential Facility Coordinators have an inspection schedule to guide their activities.

Advance notice to operators may impair the effectiveness of the inspection

4.76 In some regions, operators are informed in advance of their inspection. Normally inspections are more effective when there is no notification. The element of surprise is important in obtaining a true representation of operations. Providing advance notice by either issuing a letter, phoning the operator to arrange a convenient time, or consistently inspecting each year during the month that the license expires may impair the effectiveness of the inspection. While we understand that advance notice results in the inspection being more convenient for both the operator and the coordinator, it provides the opportunity for the operator to “prepare” for the inspection thus inhibiting an inspection of the true operations.

Recommendation

4.77 The Department should conduct unannounced inspections to obtain true representations of operations at special care homes and community residences.

Departmental response

4.78 *The Department periodically conducts unannounced visits or spot checks, particularly in facilities where the operator has been directed to implement corrective measures. A directive will be sent to the Adult Residential Facility Coordinators to conduct unannounced annual inspections.*

The inspection workload does not appear evenly distributed among the coordinators

4.79 We did a caseload analysis comparing the number of facilities assigned to the coordinators in each of the eight regions. While all coordinators are assigned the same responsibilities, there are substantial differences in the number of facilities assigned to the coordinators.

4.80 The number of facilities per coordinator position ranged from 28 to 59. We also observed that while two regions have approximately the same number of licensed facilities, 50 and 49 respectively, one has 1.5 coordinator positions, while the other region has only one.

Recommendation

4.81 The Department should re-examine the basis for the allocation of adult residential facility coordinator positions to the eight regional offices.

Departmental response

4.82 *The Department is always reviewing staffing complements and needs, and will continue to do so for this group of staff as well.*

Documented policies and procedures for inspecting are limited and there are inconsistencies in the inspections performed in different areas of the Province

4.83 The documented policies and procedures for inspecting are very limited and do not provide adequate guidance for planning, conducting and documenting inspections. This lack of guidance and the non-compliance with the documented procedures has resulted in inconsistencies with inspection practices. We observed the following inconsistencies between different areas of the Province.

- The Department's policy is to inspect annually, at a minimum. We found this to be done in most of the forty files tested. However, other information revealed facilities that had not been inspected annually, with at least one facility not being inspected or visited for over four years. We also observed inconsistencies with the practice of doing spot checks. Several coordinators reported that they do spot checks; documentation indicated that one region does regular spot checks at facilities; one coordinator reported that spot checks are only done as a follow-up to a complaint.
- Inspection documentation varied. One coordinator makes only a few comments on the Report of Visit form, while another completes part of the Department's standard inspection form. Another coordinator has developed an extensive checklist encompassing most of the standards. One region has developed a series of charts for monitoring the contents of the residents' files and the qualifications of the facility's staff.
- There are inconsistencies with maintaining copies of the operator's documents in the facility's file in the regional office. While some regions keep a copy of the facility's insurance policy, most do not. Some regions keep copies of the facilities' staff medicals and training certificates; others do not. (There are no documented policies to provide the coordinators with guidance on this.)
- Some coordinators advise the operator of their upcoming inspection; others do not inform the operator in advance. (There is no documented policy regarding inspection notification.)

4.84 These inconsistencies indicate the need for better documented guidance and the need for quality control procedures for the inspection function.

Recommendations

4.85 The Department should develop documented policies and procedures for planning, conducting and reporting inspections at special care homes and community residences.

4.86 The Department should develop quality control practices to ensure the policies and procedures are followed.

Departmental response

4.87 *As mentioned above, the Department is currently developing a Quality Improvement Assessment Tool and process. This will assist Adult Residential Facility Coordinators in assessing the quality of care provided in Adult Residential Facilities and provide them with an inspection schedule to guide their activities.*

Conclusion

4.88 This criterion is partially met. While there are coordinators responsible for inspecting all special care homes and community residences within the Province prior to issuing and renewing licenses, the site visit is not a complete inspection of all the operating standards. The Department does not have established processes for prioritizing, performing and documenting inspections. As a result, there are many inconsistencies in inspection practices.

Enforcement

4.89 While inspections measure compliance, it is the enforcement actions that ensure compliance with the legislation and standards. Legislation gives the Department authority to enforce the legislation and standards by refusing a license, by issuing a temporary license, by issuing orders for change and by revoking a license. We wanted to know if the legislated enforcement authority is exercised. What happens when a facility operates without a license? What are the ramifications for not meeting the standards? Our third criterion looks at the enforcement process:

Enforcement actions should be taken when special care homes and community residences do not comply with legislation and standards.

4.90 Our findings include the following strengths in the enforcement process.

- ***The Department has documented enforcement procedures.*** The coordinators' manual provides good guidance for enforcing the standards and performing investigations. In addition to providing specific procedures and assigning responsibilities to staff at both the regional office and the central office, it provides templates for various enforcement letters. Some of the specific enforcement topics addressed include: facilities operating without a license; refusing to issue or renew a license; investigating complaints; abuse or neglect; misuse of resident's funds; conducting formal investigations; and, closing a facility.

- ***The Department uses its legislated authority to enforce the legislation and standards.*** In reviewing our sample of facility files, we observed cases where enforcement letters had been issued to a facility because a standard was not being met; we observed cases where a complaint against a facility had been made and it had been properly addressed by the Department; and we observed cases where a formal investigation had been conducted. In addition to our own observations, information provided by the Department indicated the Department has closed one to three facilities in each of the past three years.

4.91 We identified the following weaknesses in the enforcement practices. A brief description of each finding follows.

- Enforcement actions are inadequate at times.
- The Department does not have adequate procedures for identifying enforcement cases.
- Temporary licenses are not being used as an enforcement tool.

Enforcement actions are inadequate at times

4.92 We observed the following situations where enforcement actions should have been used and they were not.

- Our testing revealed that the standard regarding criminal record checks was not met because the record check had not been renewed after five years or had not been done prior to hiring a new staff member. Meeting this standard is critical to reducing the risk of abuse to vulnerable individuals.
- According to the standards, operators are to immediately report major incidents and must complete and forward an Incident Report within forty-eight hours. "Incidents to be reported immediately include serious injury to or serious illness of the resident, attempted suicide, suspected abuse of the residents, an offence against persons, resident behaviour necessitating the use of physical force, fire or other disasters in the facility and any other incidents that will affect the client's emotional or physical well being."

Several incident reports were present in many of the files we reviewed. In some files, we saw enforcement letters relating to non-compliance with this standard because the operator had not remitted any reports for several months. However, we also reviewed some files where there were neither incident reports nor enforcement letters over a period of several years. These observations suggest that there is inconsistency in the reporting of

incidents and inconsistency in the enforcement of the standard. Recently, one region has recognized that a number of their special care homes were not reporting incidents. This region has issued a letter to all their facilities reminding operators of the standard and the implications of breaching the standards.

- We observed cases where multiple license renewal letters were issued, when enforcement letters would have been more appropriate. In each case, the letters requested the operator remit required documentation, such as criminal record checks and employment qualifications for staff. While we understand that license renewal letters serve as a reminder for operators, we believe that one is adequate. Correspondence with the operator after their license has expired should be of an enforcement nature with ramifications for the operator's illegal action of operating without a license. Enforcement actions could include withholding subsidy payments or not approving any new residents until compliance is achieved.

Recommendation

4.93 The Department should take appropriate enforcement actions whenever the legislative requirements and standards are not met by operators of special care homes and community residences.

Departmental response

4.94 During the past year, the Department has developed new guidelines to assist regional staff to take appropriate enforcement actions where necessary. Relevant sections of the Adult Residential Facility Coordinators Standards will also be reviewed and updated in relation to the enforcement process.

The Department does not have adequate procedures for identifying enforcement cases

4.95 It is illegal to operate a special care home or a community residence without a license. While the Department does have enforcement procedures for service providers who are known to operate without a license, the Department does not have procedures for identifying service providers who operate without a license. The Department relies on the public to report illegal operators. Recently, the Department became aware of facilities with unlicensed beds and facilities where private-paying residents had been admitted without the Department's approval. (The operators' standards require that all residents apply to the Department and be determined eligible prior to admission.) The Department has investigated these situations and is taking appropriate action.

4.96 The Department should be more proactive and have procedures for identifying illegal operators. Procedures could include asking

licensed operators if they are aware of any illegal business competitors, reading the “classifieds” in the newspaper and scanning public bulletin boards in stores where service providers may advertise in search of residents.

Recommendation

4.97 The Department should establish documented procedures for identifying illegal operators of special care homes and community residences.

Departmental response

4.98 *The Department will add a section to existing guidelines and directives suggesting activities to identify illegal operations in the province.*

Temporary licenses are not being used as an enforcement tool

4.99 The Regulation provides for the issuance of a temporary license to a facility when the Department is satisfied that the licensing requirements will be met within a designated period of time, not to exceed six months. Given this provision, we believe that temporary licenses are available as an enforcement tool. It serves as a “conditional license” allowing the operator time to correct performance and comply with the standards.

4.100 The Department is aware of this provision and has provided documented guidance on the use of temporary licenses in the coordinators’ manual. However, we found that the coordinators are not issuing temporary licenses.

Recommendation

4.101 The Department should use temporary licenses as a means of enforcing compliance with the legislation and standards.

Departmental response

4.102 *The Department has recently prepared new guidelines and directives for the issuance of temporary Certificates of Approval. The current standards in relation to the issuance of temporary Certificates of Approval will also be reviewed.*

Conclusion

4.103 This criterion is partially met. The Department has documented procedures that provide good guidance for enforcing the legislation and standards. The Department uses its legislated enforcement authority and closes facilities for non-compliance. While we found many cases where the Department had taken appropriate enforcement actions, we also identified several cases where the Department did not. In addition, the Department does not have adequate procedures for identifying enforcement cases.

Policies and procedures

4.104 Policies and procedures document the rules of a program and describe the proper steps in performing tasks. Not only do policies and procedures inform staff members how to fulfill their day-to-day responsibilities successfully, but they also provide a basis for monitoring activities to ensure consistency in operations. Our fourth criterion involves policies and procedures:

Policies and procedures for licensing and inspecting special care homes and community residences and enforcing the legislation should be documented and followed.

4.105 We found that the Department has a coordinators' manual that is well organized and appears very useful. In addition to providing specific procedures, it also contains standard forms and templates for correspondence. A staff member at central office is assigned the responsibility for keeping the manual relevant by updating it when necessary. The manual was recently reviewed and amended in October 2004. We found the manual to provide good guidance for licensing facilities and enforcing the legislation.

4.106 We identified the following weaknesses with the documented policies and procedures. A brief description of each finding follows.

- The manual does not provide adequate guidance for inspecting facilities.
- There are inconsistencies between the Department's practices and the legislation.
- Quality control practices are lacking. There is no monitoring to ensure the documented procedures are followed consistently in all regions.

The manual does not provide adequate guidance for inspecting facilities

4.107 Earlier in this chapter we reported that documented policies and procedures for inspecting are limited. We reported several examples of inconsistencies in the inspections performed in different areas of the Province. And, we recommended that the Department develop better guidance for planning, conducting and documenting inspections.

There are inconsistencies between the Department's practices and the legislation

4.108 The Regulation clearly states that a statement of compliance from the Office of the Fire Marshal is required for facilities with three or more residents. The coordinators' manual states a fire prevention inspection is required for facilities with four or more residents. In practice, most coordinators are requiring the fire prevention inspection for facilities with four or more residents.

4.109 The legislation states facilities having one or two residents require a license if either resident is receiving a subsidy. The coordinators' manual states that a license "is not required for a home of two beds or less". In practice, some coordinators follow the legislation while others follow the requirement in the manual.

4.110 The legislation sets out resident admission requirements of the operator, which the Department is not following. Since the implementation of the Long Term Care Program in 1997, it is the Department's responsibility, not the operator's, to approve residents for admission to a special care home.

Recommendation

4.111 The Department should take immediate corrective action to comply with the legislation. The corrective action may require changes to the practices, to the legislation or to both.

Departmental response

4.112 *The Department will review the legislation and Regulation in relation to Adult Residential Facilities and will undertake discussions with the Department of Justice for this task.*

Quality control practices are lacking

4.113 There are no quality control practices to ensure that the policies and procedures are followed. It is important to monitor procedures to ensure they are followed and that the program is being delivered consistently throughout the Province. We made several observations where they were not followed.

4.114 The coordinators' manual states, "All incidents, complaints, investigations, closures and reasons for closure are to be recorded in the Information System within two weeks of occurrence." We saw evidence that not all incidents and complaints are being entered into the information system.

4.115 Information must be captured and summarized in a consistent way in order for it to be useful in making decisions. Without consistent enforcement of the operator standard to remit incident reports and consistent compliance with the Department's policy to enter information into the information system, incidents and complaints cannot be monitored. Monitoring is important so that trends in the number and nature of incidents and complaints can be identified and proper corrective action can be taken.

4.116 The coordinators' manual also states that all complaints and incidents are to be investigated. Our file reviews indicated that while complaints were addressed promptly and properly by the Department,

there was no follow-up to incidents reported by the facilities in most cases.

Recommendations

4.117 The Department should develop and implement quality control practices to ensure that policies and procedures are followed consistently in the regional offices.

4.118 The Department should ensure incidents at special care homes and community residences are properly and promptly reported, recorded and investigated.

4.119 The Department should monitor complaints and incidents to identify trends in number and nature and take appropriate corrective actions as needed.

Departmental response

4.120 The Department will develop a monitoring plan to ensure that policies and procedures are followed consistently in the regional offices, and that incidents in special care homes and community residences are dealt with appropriately. The Department will also take appropriate steps to identify trends in the number and nature of complaints and incidents in Adult Residential Facilities.

Conclusion

4.121 This criterion is partially met. While the Department has documented procedures that provide good guidance for licensing facilities and enforcing the legislation and standards, adequate guidance is not provided for inspecting special care homes and community residences. Quality control practices are lacking to ensure the documented procedures are followed, and we observed inconsistencies between regions and between the Department's practices and the legislation.

Accountability

4.122 Reporting on the effectiveness of the program for licensing special care homes and community residences is a component of being accountable. Section 13(2) of the *Auditor General Act* mandates our Office to report cases in which we have observed that satisfactory procedures have not been established to measure and report on the effectiveness of programs. This serves as the basis for our final criterion:

The Department should measure and report on the effectiveness of the program for licensing and inspecting special care homes and community residences and enforcing the legislation.

4.123 Appropriate reporting procedures provide information for determining whether a program is meeting its objectives. Objectives, goals and performance indicators with monitoring procedures are important elements for a program. To determine whether this criterion is met, we gathered information to address the following questions:

- Are there performance indicators that are monitored to provide evidence that the program's goals and objectives are achieved?
- Does the Department have relevant and accurate reporting on the effectiveness of the program?

4.124 The Department informed us that they do not have indicators of performance for the program for licensing and inspecting special care homes and community residences. And as a result, the Department is unable to have relevant and accurate reporting on the effectiveness of the program.

4.125 The only external reporting on special care homes and community residences is in the Department's annual report. It provides a brief description of the facilities in the Province. The government and Legislative Assembly are not being provided with information that is useful in determining whether the standards are being met or whether the program is meeting expectations.

4.126 While the Department does not have appropriate procedures to measure and report on the effectiveness of the program, we can report that the Department recognizes the importance of the process and has begun the exercise. The responsibility was assigned to staff and a Discussion Paper was issued in March 2004. We reviewed the document and found it to be well structured. We commend the Department for their initial efforts and encourage them to continue with their work in performance measurement and reporting.

Recommendations

4.127 To measure the effectiveness of the program for licensing and inspecting special care homes and community residences, the Department should establish program goals, performance indicators and monitoring procedures for evaluating performance.

4.128 To provide better accountability to the public, the Department should report publicly, in its annual report, on the performance of the program for licensing and inspecting special care homes and community residences.

Departmental response

4.129 *The Department will take appropriate steps to develop specific indicators to measure and report on the effectiveness of the program*

for licensing and inspecting special care homes and community residences and enforcing the legislation.

4.130 *The Department agrees to report internally and publicly on the performance of the Adult Residential Services Program.*

Conclusion

4.131 This criterion is not met. The Department does not have appropriate procedures to measure and report on the effectiveness of the program for licensing and inspecting special care homes and community residences and enforcing the legislation.