Report 2014-111 Recommendations and Responses in 2015-041

Report 2014-111: California Department of Public Health: It Has Not Effectively Managed Investigations of Complaints Related to Long-Term Health Care Facilities

Department	Number of Years Reported As Not Fully Implemented	Total Recommendations to Department	Not Implemented After One Year	Not Implemented as of 2014-041 Response	Not Implemented as of Most Recent Response
Department of Public Health	1	18	16	N/A	16

Recommendation To: Public Health, Department of

To protect the health, safety, and well-being of residents in long-term health care facilities, Public Health should improve its oversight of complaint processing. Specifically, by January 1, 2015, Public Health should establish and implement a formal process for monitoring the status and progress in resolving open facility-related complaints and ERIs at all district offices. This process should include periodically reviewing a report of open complaints and ERIs to ensure that all complaints and ERIs are addressed promptly.

Response

In July 2015, CDPH provided to all district offices an Open Complaints Data (OCD) Query Tool.

The OCD Query Tool has:

- current data - refreshed weekly

- a summary table showing Open Complaints by District Office and SFY Received

- a summary table highlighting data clean-up issues

- an exportable detail file for taking action on the open complaints and clean-up issues

OCD resources include:

- User Instructions

- Data Dictionary

- Feedback Survey

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: July 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the health, safety, and well-being of residents in long-term health care facilities, Public Health should improve its oversight of complaint processing. Specifically, by May 1, 2015, Public Health should establish a specific time frame for completing facility-related complaint investigations and ERI investigations and inform staff of the expectation that they will meet the time frame. Public Health should also require district offices to provide adequate, documented justification whenever they fail to meet this time frame.

Response

On June 24, 2015, SB 75 chaptered, which created complaint investigation completion timeframes that will be implemented on a phased in basis over the next few years. Specifically SB 75 requires:

- L&C to complete long-term care (LTC) IJ level complaint investigations that are received on or after July 1, 2016 within 90 days of receipt.

- All other LTC complaints received between July 1, 2017 and July 1, 2018, must be completed within 90 days of receipt.

- After July 1, 2018 complaint investigations must be completed within 60 days of receipt.

- These time periods may be extended up to an additional 60 days if the investigation cannot be completed due to extenuating circumstances.

- Any citation issued must be completed within 30 days of the investigation.

- CDPH to annually report data on department's compliance with the complaint investigation completion timelines beginning in 2018-2019.

- If CDPH does not meet the timeframes we must document the extenuating circumstances explaining why and provide written notice to the facility and the complainant, if any, of the basis for the extenuating circumstances and the anticipated completion date.

CDPH is revising its complaint investigation policies and procedures to reflect the revised timeframes. The revision will be published by the end of 2015.

- **California State Auditor's Assessment of Status**: Partially Implemented
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the health, safety, and well-being of residents in long-term health care facilities, Public Health should improve its oversight of complaint processing. Specifically, by May 1, 2015, Public Health should develop formal written policies and procedures for PCB to process complaints about certified individuals in a timely manner. These policies and procedures should include specific time frames for prioritizing and assigning complaints to investigators, for initiating investigations, and for completing the investigations. Public Health should also inform staff of the expectation that they will meet these time frames. It should require PCB to provide adequate, documented justification whenever PCB fails to meet the time frames.

Response

PCB's documented policies and procedures are completed and PCB will update them any time procedures are revised. The attached "PCB Intake Staff Services Analyst Procedure" and "PCB Program Technician Procedures" are samples of PCB procedures. Additional PCB policies and procedures total hundreds of pages; we can provide additional documents at your request.

CDPH undertook a quality improvement project to address the timeliness of complaint investigations; the same process is applicable to ERIs. Using a "plan, do, check, act" continuous quality improvement cycle, in September 2015 we implemented the revised process in selected district offices ("do" phase). We will review the effectiveness of the revised process and revise if needed and roll out to all the district offices ("check" and "act").

CDPH disagrees with establishing specific timeframes for investigations, but continues with our commitment to improve upon the timeliness of investigations.

As seen in our performance metrics posted on our website, trends continue to show a reduction in the amount of open investigations as well as improved timeliness of investigations.

- **California State Auditor's Assessment of Status**: Partially Implemented
- **Estimated Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To ensure that district offices address ERIs consistently and to ensure that they investigate ERIs in the most efficient manner, Public Health should assess whether each district office is appropriately prioritizing ERIs. Specifically, it should determine, on a district-by-district basis, whether district offices' assigning ERIs a priority level that requires an on-site visit is justified. This assessment should also determine whether each district office is prioritizing ERIs appropriately when determining that on-site investigations are not necessary.

Response

CDPH continues to review complaints and ERIs for appropriate prioritization level and timely onsite visits through by a quarterly lookback review of a sample of complaints and ERIs. We began this review with Los Angeles County and expanded it to all district offices beginning with the first quarter of FY 2015/16.

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To ensure that district offices address ERIs consistently and to ensure that they investigate ERIs in the most efficient manner, Public Health should use the information from its assessment to provide guidance to district offices by October 1, 2015, on best practices for consistent and efficient processing of ERIs.

Response

CDPH undertook a quality improvement project to address the timeliness of complaint investigations; the same process is applicable to ERIs. Using a "plan, do, check, act" continuous quality improvement cycle, in September 2015 we implemented the revised process in selected district offices ("do" phase). In December 2015, we will review the effectiveness of the revised process and revise if needed and roll out to all the district offices ("check" and "act").

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: September 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To ensure that district offices address ERIs consistently and to ensure that they investigate ERIs in the most efficient manner, Public Health should review periodically a sample of the priorities that district offices assign to ERIs to ensure compliance with best practices.

Response

CDPH continues to review complaints and ERIs for appropriate prioritization level and timely onsite visits through by a quarterly lookback review of a sample of complaints and ERIs. We began this review with Los Angeles County and expanded it to all district offices beginning with the first quarter of FY 2015/16.

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the residents in long-term health care facilities from potential harm, Public Health should ensure that its district offices have adequate staffing levels for its licensing and certification responsibilities, including staffing levels that allow prompt investigations of complaints. Specifically, Public Health should continue working with CalHR to complete the reclassification of district offices' investigator supervisor and manager positions and then quickly fill the vacant positions at district offices.

Response

The 2015-16 Budget Act increased CDPH's positions by 240 to complete licensing and certification workload. Of these 240, on July 1, 2015, 77 health facilities evaluator nurse (HFEN) position were authorized. As of November 6, 2015, CDPH has 21 completed and 17 pending hires of HFENs

The Center will address ongoing recruiting, onboarding and retention issues through two consultant contracts. The Center expects to execute a recruitment contract, and an onboarding and retention contract by December 2015.

CDPH continues to work with CALHR to complete the reclassification of district office investigator, supervisor, and manager positions.

- **California State Auditor's Assessment of Status**: Partially Implemented
- **Estimated Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

Public Health should take steps to ensure that PCB has the resources necessary on an ongoing basis to complete investigations of complaints against individuals. Specifically, Public Health should assess whether the temporary resources it has received are adequate to reduce the number of open complaints to a manageable level. This assessment should also determine whether permanent resources assigned to PCB are adequate to address future complaints. Public Health should use this assessment to request additional resources, if necessary.

Response

The performance metrics posted on our website indicates that PCB continues to reduce the number of open, aged complaints despite the increase of received complaints. As of September 30, 2015, all complaints received in fiscal year 2013/2014 were complete with the exception of three investigations with law enforcement barriers. There are 408 open complaints remaining from fiscal year 2014/2015 and 348 open complaints from fiscal year 2015/2016. This number of open, pending complaints is manageable with the temporary resources.

http://www.cdph.ca.gov/programs/Pages/CHCQPerformanceMetrics.aspx

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To ensure that its district offices properly investigate complaints and ERIs, Public Health should make certain that all district offices follow procedures requiring supervisory review and approval of complaint and ERI investigations. If the district offices do not have a sufficient number of supervisors to review investigations they did not conduct, Public Health should arrange to assist the districts until such time that they do have a sufficient number of supervisors.

Response

CDPH continues to remind supervisors of their review obligations, most recently in the District Administrator/District Manager Academy in August 2015. We are developing a sign-off sheet to document supervisory review as part of the complaint investigation documentation. By January 31, 2016, we will prepare a District Office Memo communicating this new procedure.

The 2015-16 Budget Act increased CDPH's funding for 240 positions and $14.85 million for LA County to conduct L&C work. The new positions included 24 new supervisors. CDPH has scheduled new supervisor academies for January, March, and June 2016 for the newly hired supervisors to assist with their orientation and staff development.

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: January 31, 2016
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To make certain that its district offices comply with federal requirements regarding corrective action plans, Public Health should establish a process for its headquarters or regional management to inspect district office records periodically to confirm that they are obtaining corrective action plans according to the required time frame and verifying that facilities have performed the corrective actions described in the plans when required.

Response

CDPH developed criteria for reviewing plans of correction and verification of implementation. The criteria can be found on page 43-44 of the "LTC Abbreviated Survey P&P." This review was added to the Abbreviated Survey Review for LA County in April 2015 (fourth quarter 2014/15). Starting in October 2015, this review expanded to statewide.

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To ensure that it has closed complaints and ERIs appropriately, Public Health should take steps by April 2015 to verify that complaints that its field operations branch closed administratively were closed appropriately. For example, it could request the district offices to verify that the closures were appropriate.

Response

CDPH will develop criteria to evaluate the appropriate use of administrative closure by end of November 2015. Starting third quarter FY 2015-2105 (January-March 2016) CDPH will review a sample of closed complaints and ERIs to evaluate the appropriate use of administrative closures and present findings for any additional training necessary. Based on our first review, we will determine the need for, and frequency of, any ongoing sampling and review.

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: March 2016

- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To better protect the safety of residents in long-term health care facilities, Public Health should direct its district offices to comply with required time frames for initiating and closing completed investigations. If a district office lacks sufficient resources to initiate or close investigations within those time frames, Public Health should arrange to assist that district until such time that the district complies with the statute.

Response

On May 8, 2015, CDPH posted district-specific data to our website. Subsequent reports will continue to report district office specific details of the complaints and entity reported incidents volume, timeliness, and disposition. CDPH Branch Chiefs use this district-specific data as a management tool and will continue to work with the district office managers to monitor these performance metrics, including meeting required timeframes.

As documented in our benchmark report to CMS, if a district office lacks sufficient resources to initiate or close investigations within those time frames, CDPH Branch Chiefs will collaborate to assist that district until such time that the district complies with the statute.

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: October 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To make certain that it complies with statutory time frames for adjudicating appeals related to individuals, Public Health should establish a process to monitor its contractor's performance with contract terms.

Response

CDPH has developed a tracking log to monitor the contractor's performance and updates the log monthly.

In addition, CDPH has scheduled quarterly meetings with DHCS to review the status of the hearings. Meeting dates as follows:

- October 6, 2015

- January 14, 2016

- April 6, 2016

- July 6, 2016

- October 5, 2016

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: May 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the health, safety, and well-being of residents in long-term health care facilities, Public Health should improve its oversight of complaint processing. Specifically, by January 1, 2015, Public Health should improve the accuracy of information in the spreadsheet that PCB uses to track the status of complaints against individuals and review the reports of open complaints to ensure that all complaints are addressed promptly.

Response

PCB modified data collection process to improve tracking of timeliness of open investigations and continues to use the data to monitor timeliness of open investigations. PCB modified data collection by adding columns in the spreadsheet to include: Appeal, Drop Down Menu allows a Yes or No response to indicate an appeal was received from subject of the complaint, Appeal Status, Depicts final status of appeal and whether proposed decision was altered by Dept. (Altered, Denied, Granted, Settled, or Withdrawn), Final Decision Outcome, Reflects outcome (action) listed in Final Decision issued by Dept. following the hearing, Final Decision Date, Identifies the date of the Final Decision issued by Dept. following the hearing, Type of Finding (A/N/M, 1AN, 2AM, 3NM, 4ANM). For those investigations that result in a Finding being included on the State Nurse Aide Registry, this field identifies type of finding (abuse [A], neglect [N], misappropriation [M], or a combination of findings). Columns were added to identify type of

finding included on the State Nurse Aide Registry and information related to the receipt and outcome of a request for an appeal. PCB upgraded an entry-level position to an analytical position to analyze the data entered and retrieved from the spreadsheet and to reconcile data from the spreadsheet with the database and reports. This analyst is distinct from staff that enters the data. In addition, the number of people authorized to enter data was reduced; training regarding the relationship of data to produced reports and database and need for accuracy was provided; full journey level analyst was hired to provide administrative assistance and the Intake Manager now provides oversight of data contained on spreadsheet and randomly audits entries monthly to promote accuracy. Furthermore, reports were created to better monitor aging and quarterly reports are published on internet to identify volume, timeliness, and existing workload.

- **California State Auditor's Assessment of Status**: Pending
- **Estimated Completion Date**: April 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the residents in long-term health care facilities from potential harm, Public Health should ensure that its district offices have adequate staffing levels for its licensing and certification responsibilities, including staffing levels that allow prompt investigations of complaints. Specifically, Public Health should complete by May 1, 2015, a staffing assessment to identify the resources necessary for district offices to investigate open complaints and ERIs and to promptly address new complaints on an ongoing basis. Public Health should use this assessment to request additional resources, if necessary.

Response

The 2015-16 Budget Act increased CDPH's positions by 240 to complete licensing and certification workload. Of these 240, on July 1, 2015, 77 health facilities evaluator nurse (HFEN) position were authorized.

CDPH's request for these positions was based on an analysis completed and documented in L&C's November Estimate.

http://www.cdph.ca.gov/pubsforms/fiscalrep/Documents/LC%20November%20Estimate%20for%202015-16%20final%2001-08-15.pdf.

Appendix C, beginning on page 16, describes our detailed methodology for determining total position needs.

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: May 2015
- **Response Date**: November 2015

Recommendation To: Public Health, Department of

To protect the residents in long-term health care facilities from potential harm, Public Health should ensure that its district offices have adequate staffing levels for its licensing and certification responsibilities, including staffing levels that allow prompt investigations of complaints. Specifically, by January 1, 2015, Public Health should establish a time frame for fully implementing the recommendations that its consultant identified related to the processing of complaints about long-term health care facilities.

Response

The 2015-16 Budget Act increased CDPH's funding for 240 positions and $14.85 million for LA County to conduct L&C work.

The Center for Health Care Quality has developed a staffing model to identify the needs of each district office, and has used this model to allocate the new 240 new positions.

CDPH's work plan for implementing the consultant's recommendations is available at the link below. The work plan includes a timeline for each recommendation.

http://www.cdph.ca.gov/programs/Documents/Amended%20August%202015%20Remediation%20Work%20Plan%20Update.pdf

- **California State Auditor's Assessment of Status**: Fully Implemented
- **Completion Date**: July 2015
- **Response Date**: November 2015

Current Status of Recommendations

All Recommendations in 2015-041