



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF GOVERNMENT AFFAIRS

JOSH STEIN
GOVERNOR

DEVDUTTA SANGVAI
SECRETARY

JANSSEN WHITE
ASSISTANT SECRETARY FOR GOVERNMENT AFFAIRS

August 19, 2025

SENT VIA ELECTRONIC MAIL

The Honorable Phil Berger, Co-Chair
Joint Legislative Commission on
Governmental Operations
North Carolina General Assembly
Room 2007, Legislative Building
Raleigh, NC 27601

The Honorable Destin Hall, Co-Chair
Joint Legislative Commission on
Governmental Operations
North Carolina General Assembly
Room 2304, Legislative Building
Raleigh, NC 27601

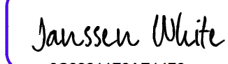
Dear Chairmen:

North Carolina General Statute §143B-216.51(g) requires the Department of Health and Human Services' (Department) Office of Internal Auditor to monitor the implementation of the Department's response to any audit of the Department conducted by the State Auditor and to issue a report to the Secretary on the status of corrective actions implemented no later than six months after the State Auditor publishes any audit report pursuant to law. The law also requires that a copy of this report be filed with the Joint Legislative Commission on Governmental Operations. Pursuant to the provisions of law, the Department is pleased to submit the attached report.

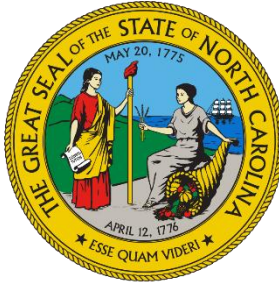
Should you have any questions regarding the report, please contact me at
Janssen.White@dhhs.nc.gov.

Sincerely,

Signed by:


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Janssen White
Assistant Secretary for Government Affairs

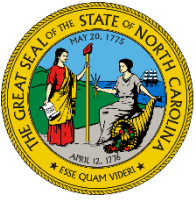


NC DEPARTMENT OF
HEALTH AND HUMAN SERVICES

Office of the Internal Auditor

Follow-up Assessment of the Department's Response to Findings and
Recommendations from the Oversight of Nursing Homes
Performance Audit Report, PER-2023-4470
Issued by the Office of the State Auditor
December 18, 2024

June 17, 2025



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Office of the Internal Auditor

JOSH STEIN • Governor

DEVPUTTA SANGVAI • Secretary

JEFF GRIMES • Director, Office of the Internal Auditor

June 17, 2025

Secretary Devdutta Sangvai
NC Department of Health and Human Services
Adams Building, 101 Blair Drive
Raleigh, NC 27603

The Office of the Internal Auditor (OIA) has conducted a follow-up assessment of the NC Department of Health and Human Services' (Department) response to the findings and recommendations in the Oversight of Nursing Homes Performance Audit Report, PER-2023-4470. The report was issued by the Office of the State Auditor (OSA) on December 18, 2024.

Results

The Department's response to finding 2 is sufficient, and the finding is considered resolved. The Department took sufficient corrective action to reduce identified risk to an acceptable level. A summary of OSA's finding 2 and OIA's follow-up results are included in the Results section.

The Department disagreed with findings 1 and 3 and the associated recommendations. The Department disagreed with the risk identified by OSA and did not provide a corrective action in response to the findings. As a result, OIA only reviewed corrective action related to finding 2.

Objective

The objective of our follow-up assessment was to evaluate whether the Department took appropriate corrective action in response to the Office of the State Auditor's findings and recommendations. Our follow-up assessment was conducted pursuant to G.S. 143B-216.51(g). The General Statute requires OIA to issue a report to the Secretary on the status of corrective action taken by the Department no later than six months after the State Auditor publishes any audit report pursuant to law. A copy of this report will be filed with the Joint Legislative Commission on Governmental Operations pursuant to the General Statute.

Scope

The scope of our follow-up assessment included a review of activities directed toward the resolution of OSA's findings and recommendations as well as the corrective action taken by the Department.

Methodology

We conducted this engagement in conformance with the *Global Internal Audit Standards* issued by The Institute of Internal Auditors. In order to form an opinion on the current status, we performed the following procedures:

- We reviewed OSA's audit report to gain a better understanding of the finding.
- We discussed the basis for the finding and the associated corrective action with Department management.
- We conducted tests to evaluate whether corrective action taken by the Department reduced risk to an acceptable level.

Status Definitions

The status of each finding is categorized as follows:

- Resolved: We observed evidence that actionable items were completed and implemented to reduce risk to an acceptable level.
- Partially Resolved: We observed evidence of progress toward the implementation of the actionable items in the Department's response and Department activity is ongoing to reduce risk to an acceptable level.
- Unresolved: We did not observe evidence to demonstrate Department progress toward the implementation of the actionable items in the Department's response, to reduce risk to an acceptable level.

We express our appreciation to Department management and staff for their cooperation and assistance during this follow-up assessment.

Jeff Grimes
Director, Office of the Internal Auditor

CC: Janssen White, Assistant Secretary for Governmental Affairs, NCDHHS

RESULTS

SUMMARY OF FINDING #2 AND ITS RECOMMENDATION FROM OSA REPORT (*ITALICIZED*) AND OIA'S FOLLOW-UP RESULTS (BOLDED**)**

2. OSA FINDING AND RECOMMENDATION – *DIVISION DID NOT INVESTIGATE NURSING HOME COMPLAINTS TIMELY*

The Department of Health and Human Services' Division of Health Service Regulation (Division) did not complete timely investigations of nursing home complaints.

As a result, nursing home residents were at risk of suffering from delayed corrective action to conditions that could be life-threatening, abusive, and neglectful.

According to Division management, the Division has never been able to implement the timelines required by state law due to the large number of complaints that require investigation and a lack of resources.

State law required the Division to complete complaint investigations no later than 60 days after receipt of the complaint.

Complaint Investigations Were Not Completed Timely

The Division did not complete investigations of nursing home complaints within the timeframe prescribed by state law.

During the period January 1, 2019, through December 31, 2023, the Division received 35,564 nursing home complaints, of which 17,152 required investigations. State law required the Division to complete an investigation of each complaint no later than 60 days from receipt of the complaint.

Auditors tested all 17,152 complaints for timeliness and determined that the Division did not complete an investigation within 60 days for 6,756 of 17,152 (39%) complaints.

In addition to not completing 6,756 (39%) of its investigations within 60 days, the Division did not initiate an investigation within 60 days for 6,543 (38%) of the complaints.

Resulted in Increased Risk to Resident Safety

Because the Division's complaint investigations were not completed timely, nursing home residents were at an increased risk of suffering from delayed corrective action to conditions that could be life-threatening, abusive, and neglectful. For example:

- *On March 11, 2022, the Division received a complaint that a nursing home injured a resident by allowing them to slip and fall from a lift when moving them from their bed to a wheelchair. The complaint stated that the resident had to be taken to the hospital and consequently required surgery.*

The Division did not complete an investigation until August 3, 2022, 145 days after the complaint was made, 85 days late. When the Division completed the investigation, the complaint was substantiated, and the nursing home was required to take corrective action.

- On March 10, 2022, the Division received a complaint that a nursing home failed to administer a resident's prescribed seizure medications, which resulted in the resident experiencing a seizure and being sent to the Emergency Room.

The Division did not complete an investigation until July 20, 2022, 132 days after the complaint was made, 72 days late. When the Division completed the investigation, the complaint was substantiated, and the nursing home was required to take corrective action.

- On October 21, 2021, a nursing home self-reported an incident in which a staff member, assisted by three others, inappropriately restrained a resident while attempting to inject them with medication to treat an infection. According to the nursing home's internal report, the resident had been exhibiting extreme behavioral issues, but the staff member failed to administer the resident's prescribed Ativan and instead resorted to physically restraining the resident.

The Division did not complete an investigation until March 2, 2022, 132 days after the complaint was made, 72 days late. When the Division completed the investigation, the complaint was substantiated, and the nursing home was required to take corrective action.

Division Management Stated that it Lacks the Resources Needed to Comply with State Law

According to Division management, the Division acknowledges the investigative timelines required by state law. However, the Division has never been able to implement the timelines required by state law due to the large number of complaints that require investigation and a lack of resources.

However, Division management stated it had not completed a formal needs analysis to determine the resources needed to comply with state law. Management stated that it conducted an initial needs analysis that indicated that a significant increase in the number of investigators would be required to comply with state law. Due to significance of the potential increase in required investigators, the Division never formalized its analysis for the purpose of requesting that the General Assembly appropriate additional resources.

Division Was Required to Complete Complaint Investigations Within 60 Days

State law required the Division to complete complaint investigations no later than 60 days after receipt of the complaint. Specifically,

§ 131E-124. Enforcement and investigation; confidentiality.

- a) The [Division] shall be responsible for the enforcement of the provisions of this Part. The [Division] shall investigate complaints made to it and reply within a reasonable time, not to exceed 60 days, upon receipt of a complaint.*

OSA Recommendations:

- 1. The Division should initiate and complete all complaint investigations within the timeframes prescribed by state law.*
- 2. The Division should complete a formal analysis identifying the resources necessary to comply with investigative time frames prescribed by state law. Based on the analysis, the Division should seek sufficient appropriation from the General Assembly to allow it to comply with state law. Alternatively, the Division should seek clarification from the General Assembly as to the Division's responsibilities for investigative timeliness.*

Views of Responsible Officials of the Auditee: NCDHHS agrees that investigations were not completed per state law requirements but disagrees with OSA's Recommendations.

OSA's Finding is based on G.S. §131E-124(a), which was enacted in July of 1977. Since that time, the number of complaints has increased dramatically. Since just 2015, DHSR has had a 51% increase in annual nursing home complaints, from 2,594 in 2015 to 3,917 in 2023. Although this requirement was enacted in July 1977, the General Assembly has not appropriated the additional resources and FTEs for DHSR's Nursing Home Section needed to comply with these timelines.

CMS has established a nationally followed triage and prioritization system for complaints regarding nursing homes. DHSR prioritizes and conducts complaint investigations per the criteria and within the timeframes established by CMS. Although DHSR utilizes and complies with CMS' complaint prioritization system used nationwide, DHSR is unable to meet the timelines to complete investigations of nursing home complaints set forth within this state law and, in fact, has not been able to meet these requirements since enactment of this state law over 47 years ago.

Complaint allegations received by DHSR about care provided by a nursing home are triaged based on the severity and urgency of the allegations per criteria established by CMS and applied nationally to identify and respond to those that appear to pose the greatest potential for harming residents. Depending on the severity and urgency of the complaint allegations, DHSR investigates complaint allegations during either a complaint investigation or a standard inspection. Federal requirements provide that CMS' state survey agencies, including DHSR, initiate a complaint investigation from within three business days after receipt (if the allegation is based on a nursing home's noncompliance that has caused or is likely to cause, serious injury, harm, impairment or death to a resident), fifteen business days after receipt (if the allegation is based on a nursing home's noncompliance that may have caused physical and/or psychosocial harm to the resident), 45 days of receipt, or at the time of the next inspection.

During the COVID-19 pandemic, CMS suspended state survey agencies' investigation of certain complaints and reprioritized work to focus on infection prevention and control and investigating only the most serious complaint allegations. Also, the General Assembly suspended all "DHSR monitoring, inspection, or investigative requirements, except (i) as DHSR deems necessary to avoid serious injury, harm, impairment, or death to employees, residents, or patients of these facilities or (ii) as directed by the Centers for Medicare and Medicaid Services" from May 4 – December 31, 2020.

Although DHSR management stated it had not completed a formal needs analysis to determine the resources needed to comply with subsection (a) of G.S. §131E-124, DHSR completed an initial analysis of the resources required to have surveyors located across the State to work 24/7/365 as required by the language of this state law to initiate investigations of complaint allegations immediately (less than 24 hours), within 24 hour, within 48 hours, or within two weeks in other situations per the requirements of subsection (a1). Given the thousands of nursing home complaints received annually, many of which would be prioritized by state law as needing the investigation to begin "immediately", and that there are 434 nursing homes located across the state, it would require an enormous increase in the number of FTEs to be able to "immediately" (in less than 24 hours) commence an investigation. And then the next most serious level of complaints would be required to commence within 24 hours. Based on the significant increase in the number of surveyors required to meet the timelines in the statute, DHSR did not formalize its analysis for the purpose of requesting that the General Assembly appropriate even more resources.

Without significant additional resources, OSA's Recommendation that DHSR initiate and complete complaint investigations within 60 days per State law does not recognize the impact on meeting CMS's

performance standards that would jeopardize federal funding as well as the inability of DHSR to meet this timeline within existing resources.

Auditor Response: The Department disagreed with OSA's recommendations to complete investigations in accordance with timeliness prescribed by state law and stated that "DHSR prioritizes and conducts complaint investigations per the criteria and within the timeframes established by CMS."

This statement is misleading because federal requirements prescribed by CMS state that "If a state's time frames for the investigation of a complaint/incident are more stringent than the Federal time frames, the intake is prioritized using the State's timeframes." Therefore, the Department technically has not complied with either state law or federal requirements.

Corrective Action Plan: DHSR will work with legislative staff to determine whether it should complete a formal analysis identifying the resources necessary to comply with investigative time frames prescribed by state law or whether there are needed changes to the legislation given DHSR's requirement to comply with CMS' complaint prioritization system.

OIA Follow-up Results

OIA conducted a follow-up review and determined that the Department revised its approach on how to handle resolution of the finding. The Governor's Recommended Budget, 2025 – 2027 requested funding for an evaluation related to staffing issues. Specifically, the Governor's Recommended Budget proposes \$600,000 in funding for an independent evaluation of DHSR's capacity to address sustained inspection and investigation backlogs, staffing shortages, and compliance challenges highlighted in the 2024 State Auditor's report. The evaluation would analyze workforce needs, operational processes, and regulatory requirements to develop a data-driven strategy for meeting state and federal investigative timeframes while increasing efficiency. Based on this revised corrective action, OIA considers the Department's response sufficient because, if funded, it would address the need for a formal analysis of staffing levels.