

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**State Oversight of  
Residential Facilities For Children**



**JUNE GIBBS BROWN**  
**Inspector General**

**MAY 2000**  
**OEI-02-98-00570**

## **OFFICE OF INSPECTOR GENERAL**

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, is to protect the integrity of the Department of Health and Human Services programs as well as the health and welfare of beneficiaries served by them. This statutory mission is carried out through a nationwide program of audits, investigations, inspections, sanctions, and fraud alerts. The Inspector General informs the Secretary of program and management problems and recommends legislative, regulatory, and operational approaches to correct them.

### **Office of Evaluation and Inspections**

The Office of Evaluation and Inspections (OEI) is one of several components of the Office of Inspector General. It conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The inspection reports provide findings and recommendations on the efficiency, vulnerability, and effectiveness of departmental programs.

OEI's New York Region prepared this report under the direction of John I. Molnar, Regional Inspector General and Renee C. Dunn, Regional Inspector General. Principal OEI staff included:

#### **REGION**

Nancy Harrison, *Project Leader*  
Miriam Gareau, *Lead Analyst*  
Lucille Cop  
Judy Lin  
Jodi Nudelman

#### **HEADQUARTERS**

Alan Levine, *Program Specialist*  
Linda Hall, *Program Specialist*

To obtain copies of this report, please call the New York Regional Office at (212) 264-2000. Reports are also available on the World Wide Web at our home page address:

<http://www.dhhs.gov/progorg/oei>

# EXECUTIVE SUMMARY

---

## PURPOSE

To describe States' licensing process for children's residential facilities.

---

## BACKGROUND

Staff at the Administration for Children and Families (ACF) asked the Office of Inspector General (OIG) to review State oversight of children's residential facilities. The ACF's immediate concern is how States license and monitor residential care facilities.

For the purpose of this study, we define residential care as 24-hour group care of children provided by paid staff unrelated to the children. Children who are placed in residential care often need services that other settings do not provide, such as specialized counseling.

To be eligible to receive Federal reimbursement for foster care, a State must place the child in a facility that is *licensed or approved by the State* in which it is situated. States are also required to establish and maintain standards for Federally funded residential facilities. These standards should include admissions policies, safety, sanitation, and protection of civil rights. In the early 1980s, under contract with ACF, the Child Welfare League of America (CWLA) wrote a Model State Licensing Law that presents generic guidance for the licensing process.

This inspection is based on information gathered from discussions with ACF's Children's Bureau staff, a national child welfare expert, and several sources in each of our sample State. These sources included State policies, procedures and laws, interviews with State licensing specialists and licensing staff, interviews with facility staff, and, in several States, observation of a monitoring visit. We selected a purposive sample of nine States (California, Florida, Mississippi, New York, Pennsylvania, South Dakota, Tennessee, Texas, and Utah).

---

## FINDINGS

### States Have Licensing Standards that Focus on Ensuring a Safe Environment

**Licensing standards address the health, protection, and safety of children in residential facilities.** The standards set a minimum level of care and outline the facility's responsibility regarding the physical plant, staffing, record keeping, care of children, restraints, and isolation.

**However, there is no universally accepted set of licensing standards.** The 15 year old Model Licensing Law does not set out specific licensing standards and is not widely known. Further, although most States address most standards, there is some variability. Of the 34 key standards that we identified, only 8 are addressed by all 9 sample States.

**Furthermore, State standards generally do not address the appropriateness of placement or quality of services.** State standards generally do not deal with evaluating a child's placement or set criteria for judging the quality of services in a facility. Some licensing specialists feel that the licensing process does not ensure quality of care, nor is it intended to.

### **States Follow a Multi-Step Licensing Process that Includes On-site Visits**

The initial licensing process generally consists of a review of written policies followed by an on-site inspection of the facility. It is also common for States to conduct subsequent on-site visits during a facility's first year and to offer technical assistance.

### **States Rarely Revoke Licenses But Use Several Methods to Monitor Facilities**

Almost all sample States report monitoring all facilities on-site annually. Licensing staff often discover violations. States impose corrective action plans that outline what a facility needs to do to correct the violation. States rarely revoke licenses or deny a renewal. Instead, States use other techniques to deal with facility weaknesses, such as stopping a facility from accepting new children.

In addition to monitoring, sample States identify problems through complaints and critical incident reports. Usually, specialized staff or licensing staff investigate complaints. All nine States require facilities to report critical incidents such as suspected cases of abuse or neglect.

### **Facilities Are Also Monitored By Other Agencies**

In addition to the licensing agency, facilities are commonly monitored by multiple agencies that include local fire and health departments and the contracting agency that places children.

---

## **CONCLUSION**

It appears that the nine States in our sample are meeting Federal requirements to establish standards and license facilities. It is important to note, however, that we sought to describe licensing processes and did not attempt to identify specific violations of State standards or procedures that put children at risk.

State licensing standards address the health, protection, and safety of children. They are not intended to ensure the suitability of placement and quality of care. Therefore, placing agents should not use licensure as a substitute for a pre-placement visit when placing children in residential facilities.

While we found that most States address most standards, we note some differences in standards and licensing procedures. Given this variability, we see an opportunity to strengthen State licensing and encourage ACF to take a leadership role. By working with States and others ACF can provide training and technical assistance where needed or serve as a focal point for information sharing.

## **COMMENTS**

We received comments on the draft report from the Administration for Children and Families (ACF). (See appendix for the full text of the comments.) The ACF agrees that the variability in licensing standards is of concern. They are taking an outcome-based approach to monitoring States. We think this outcome-based approach is appropriate, at this time. However, we will remain vigilant to potential vulnerabilities in residential care for children.

# TABLE OF CONTENTS

	<b>PAGE</b>
<b>EXECUTIVE SUMMARY</b> .....	1
<b>INTRODUCTION</b> .....	5
<b>FINDINGS</b>	
Licensing Standards Focus on a Safe Environmental .....	9
States Follow a Multi-Step Licensing Process. ....	13
States Rarely Revoke Licenses But Monitor Facilities .....	15
Facilities are Monitored by Other Agencies .....	19
<b>CONCLUSION</b> .....	21
<b>APPENDIX</b> .....	22

# INTRODUCTION

---

## PURPOSE

To describe States' licensing process for children's residential facilities.

---

## BACKGROUND

Staff at the Administration for Children and Families (ACF) asked the Office of Inspector General (OIG) to review State oversight of children's residential facilities. The ACF's most immediate concern is how States license and monitor residential care facilities, and in particular what a license signifies. The OIG found in the recent inspection, "Interstate Compact on the Placement of Children: Implementation"(OEI-02-95-00043) that States rely on licensing, not separate on-site reviews of facility services, to determine the suitability of residential facilities when they place a child across State lines.

The OIG's Office of Audit Services (OAS) is also working in the area of group homes. The OAS work will focus on California and will determine whether the required protections are being provided to children placed into foster care by the Probation Department.

## Residential Care

For the purposes of this study, we define residential care as 24-hour group care of children provided by paid staff unrelated to the children. It does not include boarding schools, hospitals, or recreational camps. Residential care differs from foster family care, which relies on the volunteer services of licensed foster parents for child care in their homes. According the Child Welfare League of America (CWLA), an association of public and private organizations devoted to child welfare, approximately 17 percent of all out-of-home care was provided in residential care facilities in 1995.

Two types of residential care are group homes and residential treatment centers. Group homes generally serve 12 children or less and often include children that are the same gender and/or age group. Residential treatment centers usually offer more services to children than group homes and have a more troubled population of children. Residential treatment centers are generally larger than group homes and may house both boys and girls of different ages.

In the child welfare system, children are placed in residential care for various reasons. For example, a child who has suffered from abuse may require intensive treatment and supervision that a foster family cannot provide. Some children may be placed into

residential care as a last resort because they cannot be controlled in a family environment. Children are also placed into these facilities from the mental health and juvenile justices systems, and occasionally by parents.

## **Federal Role in Children's Residential Care**

**Title IV-E.** Title IV-E of the Social Security Act establishes an open-ended entitlement program that reimburses a portion of States' foster care maintenance costs for children who meet Federal eligibility requirements. Title 42 of the Code of Federal Regulations establishes limits for these payments. It specifies that Federal foster care maintenance payments for child care institutions (residential facilities) are restricted to the "cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, child's personal incidentals, liability insurance of child, reasonable travel to the child's home for visitation," and administration/operation costs associated with above [42 CFR 675(4)].

The Act defines child-care institutions as either a public child-care institution that accommodates no more than 25 children or a private child-care institution that is not limited in the number of children it can accommodate. In addition, an institution must "be *licensed by the State* in which it is situated or has been approved, by the agency of such *State responsible for licensing or approval of institutions* of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent."

Title IV- E assigns States the responsibility to establish and maintain standards for foster family homes and child care institutions that receive funding under it. These standards should include admissions policies, safety, sanitation, and protection of civil rights. States must arrange for a periodic and independent audit of the programs that receive Title IV-E. These audits must be conducted at least every three years. In the early 1980s, under contract with ACF, the CWLA wrote a Model State Licensing Law for the placement of children which addresses, among other things, residential facilities. The Model Law presents generic guidance for the licensing process but does not provide specific standards.

**Adoption Assistance and Child Welfare Act of 1980.** The passage of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, and subsequent regulations promulgated, requires the assessment of the appropriateness of placement and the appropriateness of services provided for children under the responsibility of the child welfare agency. To comply with these requirements State child welfare agencies can develop policies and/or contracting guidelines that address quality services and the appropriateness of the child's placement.



**Adoption and Safe Families Act.** The Adoption and Safe Families Act (ASFA) amended Section 471(a) of the Social Security Act by requiring that States develop and implement, no later than January 1, 1999, “standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.” The ACF staff believes that although the standards required by ASFA do not specifically address licensing of residential facilities, the requirement provides a means of addressing the quality of services provided to children in foster care and an opportunity for the Federal government to examine State practice in this area.

---

## METHODOLOGY

This inspection is based on information gathered from discussions with ACF Children’s Bureau staff, a national child welfare expert, and four separate sources in each of our nine sample States. First, we analyzed the State policies, procedures, and laws regarding the licensing and monitoring of residential facilities for children. Second, we conducted interviews with a State licensing specialist. Third, we interviewed a member of the licensing staff. Fourth, we interviewed the directors of two randomly selected facilities. Finally, we accompanied a member of the licensing staff on a monitoring visit in three States.

We selected these sources for their different perspectives on the licensing process. In our analysis, we paid special attention to consensus within and among the groups. We used consensus as a cross check to confirm our findings. For example, we analyzed State licensing specialist viewpoints and we compared their comments with those we received from licensing and facility staff within the same State.

We selected a purposive sample of nine States (California, Florida, Mississippi, New York, Pennsylvania, South Dakota, Tennessee, Texas, Utah.) These States include a geographic mix of large and small States. These nine States represent 40 percent of the national population under age 18 in 1997. The CWLA estimates these nine States also represent over 45 percent of the national capacity of residential facilities.

**State Standards Review.** We first collected policies, procedures and laws pertaining to the licensing and monitoring of residential facilities from four States. These four States were identified by a child welfare expert as having model standards. The four were not in our sample. We then developed a review instrument based on the common licensing practices found in the standards from the four States. Using the instrument, we compared the policies, procedures, and laws collected from our nine sample States to the practices of the model States. This comparison can be found in Table A in the report.

**Interviews.** In each of the nine sample States we interviewed a *licensing specialist* who was either the supervisor of the licensing staff or a licensing policy specialist. We discussed statewide licensing practices. We also interviewed a *licensing staff member* selected by each State. We discussed licensing practice and, in particular, his or her own experiences. In addition, we interviewed the *directors* of two randomly selected residential facilities in each of the nine States. We discussed their experiences with the licensing process, with emphasis on their last monitoring visit.

**Site Visits.** In three States (California, Pennsylvania and New York) we accompanied a member of the licensing staff on a monitoring visit of a residential facility.

**Limitations.** The sample used in this study is purposive. Therefore, the findings of this study cannot be generalized to the universe of States and facilities.

We are able to assess whether or not the States in our sample are following their policies and procedures. However, due to the constraints of our methodology, we cannot identify specific occurrences of procedures violation or low quality of care.

*This inspection was conducted in accordance with the **Quality Standards for Inspections** issued by the President's Council on Integrity and Efficiency.*

# FINDINGS

## States Have Licensing Standards that Focus on Ensuring a Safe Environment

### Licensing Standards Address the Health, Protection, and Safety of Children in Residential Facilities

The standards are rules that set the minimum level of care and outline facilities' responsibilities regarding the physical plant, staffing, record keeping, care of children, and restraints and isolation. Table A shows key standards of the nine sample States.

**Physical Plant.** Our analysis of the standards from each of the nine sample States shows that rules regarding the physical plant (the building and grounds of the facility) focus primarily on preventing safety hazards and on providing a comfortable and appropriate living environment. For example, all sample States require facilities to meet applicable building and fire safety standards. All States also have additional building requirements such as minimum square footage of bedrooms, and the provision for recreational space. Many States also mandate safety procedures such as requiring that all toxic chemicals and medications be stored in a locked cabinet.

**Staffing.** All States' standards have rules about staffing. Generally, these rules focus on staff qualifications, training, background checks, and staff-to-child ratios. For example, all States mandate that facilities maintain certain staff-to-child ratios for the safety of the children. The most common ratio for school age children is one staff member to eight children during waking hours. Five States also specify different ratios for sleeping hours. The most common ratio is 1 staff to 12 children.

Background checks are common. Six States require both a criminal and child abuse background check for the program director and the direct child care staff. Two other States require one of these checks. Only one of our States did not require either background check.

States often require facility staff to have specific education and training. For example, eight of the States require the facility director to have at least a bachelor's degree and related work experience. Four States require that direct care staff have at least a high school diploma. In addition, most States require that employees attend an orientation and have a minimum amount of training each year. Three States require health related training, such as first aid and cardio pulmonary resuscitation.

**Table A: Common Licensing Standards in Sample States**

x = Standard addressed by State

Licensing Standards	States									Total
	1	2	3	4	5	6	7	8	9	
<b>Physical Plant</b>										
Applicable building inspection	x	x	x	x	x	x	x	x	x	9
Applicable fire standards	x	x	x	x	x	x	x	x	x	9
Specific building requirements:	x	x	x	x	x	x	x	x	x	9
sq. footage of bedrooms			x	x	x	x	x	x	x	7
location of staff rooms	x	x	x					x	x	5
recreational space	x	x	x	x	x	x				7
Specific safety procedures:	x	x	x	x	x	x	x	x	x	9
all toxic chemicals secured	x	x			x		x		x	5
all medications locked	x	x	x	x	x	x	x	x	x	9
<b>Staffing</b>										
Staff-to-child ratio	x	x	x	x	x	x	x	x	x	9
Staff-to-child ratio sleeping hours		x	x		x	x		x		5
Criminal background checks:	x	x	x		x	x	<sup>1</sup>	x	x	7
Facility director	x	x	x		x	x		x	x	7
Direct child care staff	x	x	x		x	x		x		6
Volunteers	x	x				x		x		4
Child abuse background checks:	x		x	x	x	x		x	x	7
Facility director	x		x	x	x	x		x	x	7
Direct child care staff	x		x	x	x	x		x		6
Volunteers				x		x		x		3
Director needs Bachelor's and experience	x	x	x	x	x	x	x	x		8
Child care staff must have HS diploma			x	x	<sup>2</sup>		x	x		4
New staff orientation	x	x	x	x	x		x	x	x	8
Training hours required	x	x			x	x	x	x		6
First aid training required						x		x	x	3

<sup>1</sup> Although State 7 standards require child abuse checks on staff through a central child abuse registry, the State does not have a child abuse registry, so these checks are not done.

<sup>2</sup> State 5 requires that 50 percent of the direct child care staff have 2 years of college or work experience, the other 50 percent do not have these requirements.

Licensing Standards	States									Total
	1	2	3	4	5	6	7	8	9	
<b>Record Keeping</b>										
Treatment plan	x	x	x	x	x	x	x	x	x	9
Progress reports	x	x	x	x	x	x			x	7
Medication logs		x	x		x	x	x	x	x	7
<b>Care of Children</b>										
Nutritional requirements	x	x	x	x	x	x	x	x	x	9
Recreational program	x	x	x	x	x		x		x	7
Medical care	x	x	x	x	x	x	x	x	x	9
Dental care		x	x	x	x		x	x		6
Educational requirements	x	x	x	x	x		x	x	x	8
Child's rights	x	x	x	x	x		x	x	x	8
<b>Restraints and Isolation</b>										
State sets standards	x	x			x		n/a	x	x	5
Facilities to develop standards				x		x	n/a			2
Require monitoring of restraints	x	x			x		n/a	x		4
Limit time of restraint	x				x		n/a	x		3
Used only under specific circumstances	x	x		x	x		n/a	x	x	6
Prohibits restraints							x			1
Prohibits isolation			x						x	2
Set standards on use of isolation	x	x	n/a		x	x	x	x	n/a	6
Prohibit use of locked room		x	n/a		x		x		n/a	3
Limit length of isolation	x	x	n/a		x	x	x		n/a	5
Require isolation is monitored	x	<sup>3</sup>	n/a		x	x	x		n/a	4
Document each isolation	x		n/a		x	x	x	x	n/a	5

Source: OEI State standards review, 1999

<sup>3</sup> State 2 requires that isolated children be within hearing distance of staff.

**Record Keeping.** State standards also require facilities to maintain specific records. In fact, all sample States require that facilities have a treatment plan for each child. Seven States also require that progress reports be written for each child on a periodic basis. In the majority of the States, facilities must keep a log of the administration of all medications. Other types of required record keeping includes children's medical exam reports and incident reports.

**Care of Children.** All States set rules about the care of children. Generally, these rules are specific and address nutrition, recreation, medical and dental care, and education. Eight of the nine States' standards protect children's rights, in varying ways, such as their right to have money, belongings, phone calls, and mail. The remaining State's standards do not address these issues.

**Restraints and Isolation.** According to State and licensing staff, one State prohibits the use of restraints and one State does not have policies on their use. The other seven States either address the use of restraints in their standards or require facilities to develop their own policies. Several States require that restrained children be monitored every 10 to 15 minutes. Some States limit the time of restraints. Typically, the restraint must only be used to protect a child from injury to herself or others.

Six States regulate the use of isolation. Two States prohibit its use and another does not address isolation in its policies. Of the six States that regulate, three prohibit the use of a locked room for isolation. Two of the States that allow locked rooms require the isolation be documented and approved or discussed with the child's placing agency (or parent). Most States limit the time a child can be isolated. The limits range from 1 to 12 hours.

## **However, There is No Universally Accepted Set of Licensing Standards**

As mentioned in the background of this report, the Model Licensing Law was written by CWLA, under contract with ACF, over 15 years ago. Although it provides guidance to States about licensing procedures, it does not set out specific licensing standards. Furthermore, this model law is not widely known.

Although most States address most standards, as Table A shows, there is some variability. Of the 34 key standards that we identified, only 8 are addressed by all 9 sample States. For instance, two States do not require child abuse background checks of facility staff. Only three States require facility staff to have first aid training. Also, not all States mandate progress reports and medication logs. The most variability among States is in the area of restraints and isolation, where no standard has more than six States addressing it.

## Furthermore, State Standards Generally Do Not Address the Appropriateness of Placement or the Quality of Services

State standards generally do not require licensing staff to evaluate the appropriateness of a child's placement into a facility. Licensing staff members note that this responsibility rests with the child's placing agency. This distinction is especially important in interstate cases when a child from one State is being placed in a residential facility in another States. A previous Office of Inspector General inspection (OEI-02-95-00043) found that States generally rely on licensing, not separate on-site reviews of facility services, to determine the suitability of residential facilities when they place a child across State lines.

Typically State licensing standards do not set criteria for judging the quality of services in a facility. For example, State standards require that facilities develop a treatment plan for each child but the standards do not offer details on what the plans should include. Most of the State licensing specialists we interviewed feel that the licensing process does not ensure quality of care, nor is it intended to. As one specialist explains, "the legislation defined our role as health and safety, when it comes to program quality it is a buyer beware situation."

---

## States Follow a Multi-Step Licensing Process that Includes On-site Visits

The licensing staff are typically employed by the State department responsible for child welfare or social services. Five of the sample States have a separate licensing division within that department. The other States have licensing staff in the department but not in a separate office. The licensing staff in all of the States are required to have at least a bachelor's degree and some work experience, but only two States offer comprehensive training for new staff. The other States rely on on-the-job or in-house training.

The initial licensing process generally consists of a paper review followed by an on-site inspection. Further, it is not uncommon for States to conduct subsequent on-site visits during a facility's first year or to offer technical assistance. Table B presents the common licensing practices of the nine sample States.

**Review of Policies and Procedures.** The first step in the licensing process is a paper review. New facilities in all States submit copies of their policies and procedures. In most sample States, these documents include personnel policies, such as job descriptions and training plans, and financial information, such as a budget and proof of sufficient funds to operate for several months. Some States require a statement of need or a letter of intent to place children from a local county or placing entity.

**Review of Program Description.** During the application process, eight States require facilities to submit a written program description. Typically, it describes the services the facility will offer and how they plan to provide these services. These program descriptions are generally reviewed by the licensing staff. The ninth State reports that although this information is not required, facilities usually provide it.

**On-Site Inspection.** All sample States conduct an on-site inspection of the facility before an initial license is issued. During this visit, licensing staff verify that the physical plant of the facility is in compliance with standards and has no apparent safety hazards. A more comprehensive inspection cannot be done at this point because the facility is not yet caring for any children.

**Technical Assistance.** Eight States report offering some type of technical assistance to facilities during the application process. The technical assistance usually is a meeting between the licensing staff and the facility director or board of directors to discuss the facility's strengths and weaknesses, how the facility can improve its policies, and what the facility should do in order to be in compliance with standards. The ninth State offers no technical assistance.

**Additional On-Site Inspections During the First Year of Operation.** On-site inspections for new facilities are common. In six of the sample States new facilities are subject to a comprehensive on-site inspection during the first year. These visits generally include reviewing records, inspecting the physical plant and, in two States, conducting interviews with staff or children. In one other State's new facilities are visited during the first year, but a comprehensive inspection is not conducted. The remaining two States do not conduct additional monitoring during a facility's first year.

Most of the sample States (7) issue a provisional license when a facility first opens and one more State has the option to issue provisional licenses. The provisional license is temporary and gives new facilities the right to care for children. States use these licenses because a facility cannot prove compliance with all licensing standards before it cares for any children. Provisional licenses are generally valid for three to six months and involve a higher degree of monitoring.

Six of our sample States renew licenses annually. The other three States have perpetual licenses that do not need renewal.



**Table B: Common Licensing Practices of Nine Sample States**

Licensing Practice	States								
	1	2	3	4	5	6	7	8	9
Review of policies and procedures	x	x	x	x	x	x	x	x	x
Review of program description	x		x	x	x	x	x	x	x
On-site inspection	x	x	x	x	x	x	x	x	x
Technical Assistance	x	x	x	x	x	x		x	x
Provisional licenses	x	x	x		x	x	x	x	x
Additional inspection	x	x			x		x	x	x

Source: OEI survey, 1999

## States Rarely Revoke Licenses But Use Several Methods to Monitor Facilities

### Most States Monitor Facilities Yearly

All but one sample State report monitoring all facilities, on-site, at least once a year. The remaining State reports monitoring facilities on-site, but could not report how often it occurs. All facilities agree that they are monitored by licensing staff on-site at least once a year. A monitoring visit can be either announced or unannounced. Only two States conduct unannounced visits.

Most States use the same general methods to monitor: an inspection of the physical plant, a review of records, and interviews with children or staff. These methods do not include a review of the appropriateness or suitability of the placement of the children in the facility. Licensing staff members note that it is the responsibility of the agency that places the child.

**Inspection of Physical Plant.** Eight of the nine sample States report that the annual monitoring includes an inspection of the physical plant. Typically, licensing staff members walk through the facility looking for safety hazards, the overall cleanliness and maintenance, and compliance with specific standards. For example, licensing staff members may check to see if the emergency escape routes and phone numbers are posted. They often verify that the facility has enough food and stores it properly and that all toxic chemicals, including dishwashing soap, are kept in a locked cabinet. The remaining State reports only inspecting the physical plant when he has concerns, otherwise he depends on the local fire and health inspections.

**Record Reviews.** Eight sample States report conducting record reviews as a part of the annual monitoring process. In the ninth State reviews may not occur as regularly. Further, almost all of the facility directors report that licensing staff reviewed records during their last monitoring visit.

A variety of records are reviewed in each State. In a child's record, licensing staff generally look at the treatment plan, progress reports, and medical records. In a personnel record, licensing staff generally look at training and background checks. In addition, licensing staff in the majority of States review menus and medication logs.

All licensing staff members agree that while they are reviewing records, they are looking for compliance with standards. Eight also report looking, at least sometimes, at the level of detail in the record. Five even report that they assess quality of care during record reviews.

**Interviews with Staff and Children.** In all nine States, the licensing staff member or the licensing specialist report that they interview facility staff and children during monitoring visits. However, facilities in two of the sample States report that these interviews did not occur during their last monitoring visit.

The licensing staff members say that these interviews give them an opportunity to find out what is actually happening in the facilities on a day-to-day basis. Topics that they discuss with children may include the food, treatment goals, unmet needs, or the child's interactions with staff (especially disciplinary issues). Most States interview the direct care staff and several States also interview the director of the facility.

Many licensing staff members believe that interviewing is the most important part of the monitoring process. One member says that interviewing shows how the agency is actually doing, rather than just looking at compliance with health and safety standards. Another believes that interviewing allows him to find out if management's philosophy follows through to the front line staff.

## **States Rarely Revoke Licenses or Deny a Renewal**

States rarely use license revocation to deal with facility weaknesses. (See Table C.) Two States say they have never revoked a facility license. Instead, States use other techniques. The ACF staff point out that this practice is consistent with commentary in the Model Licensing Law which says that "children should not be subjected to the trauma that closing a residence would create." Some States stop new children from being placed in the facility. Other States have the legal authority to impose monetary penalties on a facility that violates licensing standards.

**Table C: Number of Facilities in Sample States: 1998**

Status	States								
	1	2	3	4	5	6	7	8	9
<b>Licensed</b>	1,611	259	51	663	682	21	212	384 <sup>4</sup>	86
<b>New license applications</b>	215	32	3	32	— <sup>5</sup>	0	11	74	7
<b>Issued new license</b>	198	32	3	27	71	0	11	—	3
<b>Issued renewal</b>	N/A	227	49	7	—	21	201	N/A	86
<b>Denied renewal</b>	N/A	0	0	0	—	0	0	1	0
<b>License revoked</b>	35	1	0	0	—	0	0	3	3

Source: OEI survey, 1999

Only one sample State reports denying a license renewal during 1998. Typically, a violation discovered during a renewal monitoring visit does not cause the license to be denied, instead a corrective action plan or other steps are taken to correct the problem.

### States Use Corrective Action Plans to Address Violations

It is common for a licensing staff member to discover violations during annual monitoring. In most of the sample States, licensing staff impose and follow-up on corrective action plans. This practice is discussed in the commentary section of the Model Licensing Law. It states, in part, that “just as the Department’s efforts to monitor and offer consultation are intended to help programs stay in operation and generate opportunities to raise standards, probation is also intended as an enabling process.”

Licensing staff members report that the most common type of violations are safety hazards and problems with the facility records. Common safety hazards range from unlocked toxic substances, inappropriate staff-to-child ratios, and fire code violations to torn carpets and exposed nails. Problems with the facility records generally involve missing documentation, such as an immunization record or a doctor’s report from a child’s medical exam. Staff training requirements not being met is also a common violation.

Of the 18 facilities interviewed, 8 (in 6 States) had minor violations during their last monitoring visit. These violations include: building maintenance, problems with

---

<sup>4</sup> State data are for fiscal year 1997 and include shelters, halfway houses and therapeutic camps (none of which are included in our definition of residential facility).

<sup>5</sup> Data not available

documentation, violations of the fire codes, missing medication, and incomplete training and immunization records.

The majority of States impose corrective action plans on facilities that are not in compliance with licensing standards. A corrective action plan is generally an agreement between the licensing office and the facility. The plan outlines what the facility needs to do and when it must be complete in order to be in compliance with licensing standards.

Two States use corrective action plans more conservatively. For example, one State uses the plan after a facility shows a pattern of violations or a systematic problem. In the other State the licensing staff must discuss the violations with the facility and send warning letters before a corrective action plan is enacted.

States report following-up on violations by visiting or calling the facility or reviewing documentation. Licensing staff in only three States report consistently going on-site to follow-up on violations. Other States report that they sometimes follow-up on violations through telephone conversations or in writing, instead of going on-site. Two States report no specific follow-up techniques.

Facilities confirm these methods of follow-up. Of the eight facilities that had corrective action plans imposed at their last monitoring visit, half had on-site follow-up. All four of these facilities had violations involving the physical plant. Violations in the other four facilities involved missing or incomplete records. In these cases the State followed up on the corrective action plans with phone calls and letters.

## **States Investigate Complaints and Critical Incidents**

In addition to monitoring, States have two main ways to identify problems in facilities: complaints and critical incident reports. Critical incidents include the abuse, neglect, death, or serious injury of a child. Facilities are required to report such incidents to the State licensing agency. States also have procedures to receive and investigate complaints. (See Table D.)

**Reporting.** All States are prepared to handle complaints. Licensing staff members say that complaints are usually made by parents, facility staff, or other concerned parties calling the licensing office. In four States, complaints can also be made by calling the State child abuse hotline. States report that the two most common complaints are suspected child abuse and violations of licensing standards, such as inadequate food or inappropriate discipline or treatment of children. Other types of complaints include poor working conditions for the staff and parents being denied access to their children.

All nine States require facilities to report suspected incidents of abuse or neglect. However, only six States require every death or serious injury to be reported to the licensing office. The other States require deaths to be reported to the proper local authorities.

**Table D: State Practices for Handling Complaints and Critical Incidents**

Practice	States								
	1	2	3	4	5	6	7	8	9
State abuse hotline		x	x	x	x				
Facilities must report child's death to lic. office	x	x	x	x				x	x
Licensing staff works with special investigators	x	x	x	x	x	x			x

Source: OEI survey, 1999

**Investigation.** Investigation of complaints varies by type of complaint. State licensing staff investigate complaints that are not abuse and neglect. Specialized staff, such as child protective services staff, investigate abuse and neglect complaints. In seven States the licensing staff members accompany the specialized staff. States report that the investigation generally involves interviewing the victim, witnesses, staff, and accused. Investigators may also review facility records and logs, and sometimes, medical documentation.

Most State licensing staff members report that they investigate the death of a child. As they do with abuse and neglect investigations, the licensing staff usually work with another specialized unit. These units include the State Department of Internal Affairs, county investigators, child protection unit and State Attorney General. Only one State reports that the licensing staff does not coordinate their investigation with any other agency.

## **Facilities are also Monitored by Other Agencies**

It is common for residential facilities to be monitored by multiple agencies. These agencies include State departments, local authorities, and contracting agencies. Of the 18 facilities we interviewed, 16 report that they have been monitored by other agencies in addition to the licensing agency.

Facilities in all of the sample States are subject to additional monitoring, such as fire and health inspections. Other State departments that monitor facilities include mental health, corrections, education, agriculture, and Medicaid.

The licensing staff in six States report that facilities are also monitored by their contracting agency. These contracting agencies are usually the county or district offices of the State responsible for placing dependent children into foster care. These agencies often have a contract for some or all of the beds in a residential facility. The contract will outline the services that the facility agrees to provide to the children. The contracting agency monitors this contract to ensure the facility is providing the services. According to ACF Children's Bureau staff, many of the State child welfare agencies that contract with licensed facilities for placement of children using Title IV-E funds have additional contracting requirements that are monitored in a variety of ways. Quality and intensity of services issues are generally addressed by these requirements.

Three facilities also have voluntary accreditation and are monitored by the Council on Accreditation (COA). The facilities report that the COA monitoring assesses the quality of the services they provide to children.

# CONCLUSION

It appears that the nine States in our sample are meeting Federal requirements to establish standards and license facilities. It is important to note, however, that we sought to describe licensing processes and did not attempt to identify specific violations of State standards or procedures that put children at risk.

State licensing standards address the health, protection, and safety of children. They are not intended to ensure the suitability of placement and quality of care. Therefore, placing agents should not use licensure as a substitute for a pre-placement visit when placing children in residential facilities.

While we found that most States address most standards, we note some differences in standards and licensing procedures. Given this variability, we see an opportunity to strengthen State licensing and encourage ACF to take a leadership role. By working with States and others ACF can provide training and technical assistance where needed or serve as a focal point for information sharing.

## COMMENTS

We received comments on the draft report from the Administration for Children and Families (ACF). (See appendix for the full text of the comments.) The ACF agrees that the variability in licensing standards is of concern. They are taking an outcome-based approach to monitoring States. We think this outcome-based approach is appropriate, at this time. However, we will remain vigilant to potential vulnerabilities in residential care for children.

# APPENDIX

## COMMENTS





DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES  
Office of the Assistant Secretary, Suite 600  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

DATE: March 16, 2000  
TO: June Gibbs Brown  
Inspector General  
FROM: *Olivia A. Golden*  
Olivia A. Golden  
Assistant Secretary  
for Children and Families

SUBJECT: Comments on the OIG Draft Report "State Oversight of Residential  
Facilities for Children" (OIE-02-98-00570)

Attached are the Administration for Children and Families' (ACF) comments on  
the OIG Draft Report "State Oversight of Residential Facilities for Children" (OIE-  
02-08-00570). If you have questions or need further information, please contact  
Joseph Semidei, Acting Associate Commissioner, Children's Bureau, at  
205-8618.

Attachment

IG	_____
EAIG	_____
PDIG	_____
DIG-AS	_____
DIG-EI	_____ / _____
DIG-OI	_____
DIG-MP	_____
OCIG	_____ / _____
ExecSec	_____
Date Sent	3-17

RECEIVED  
2000 MAR 17 AM 8:38  
OFFICE OF INSPECTOR  
GENERAL

Secondly, ACF has designed a comprehensive training and technical assistance (T/TA) strategy to support States in implementing programs and services that achieve the outcomes defined in the child and family services reviews. The strategy involves use of the Children's Bureau's (CB) network of National Resource Centers, Clearinghouses, and other technical support grants and contracts. To maximize the effectiveness of this network, the strategy was developed in partnership with the ACF Regional Offices, the National Resource Centers, and other providers of T/TA. This system will be responsive to emerging national priorities, as well as State and local requests. Beginning in FY 2000, priority for T/TA will be given to any State that has been targeted for reviews.

#### Technical Comments

Page 1, first paragraph, first sentence under "Background", replace "has" with "have." "Staff" is a plural noun and must, accordingly, be followed by a plural verb.

Page 5, 2nd paragraph, 2nd sentence under "Residential Care", delete "therefore." (It doesn't necessarily follow that because treatment centers offer more services the children are more troubled).

Page 6, 3rd line down, change "mental service" to "mental health."

Page 6, Title IV-E, first sentence, place (Act) after "Social Security Act" to clarify that when the word "Act" is used later in this section, that it is the Social Security Act which is being referenced.

Page 6, Title IV-E, first paragraph, 2nd and 3rd sentences are inaccurate as written. Change the second sentence to read, "Both the Social Security Act (section 475(4A)) and the regulations (45 CFR 1355.20) contain language limiting the items for which foster care maintenance payments can be made." The third sentence inaccurately quotes both the statute and the regulations. In particular, it should note that child care institutions are restricted to "the cost of, and the cost of providing..." and then continue on with the quote. This is an important distinction since the actual cost of food, clothing shelter, etc. is limited, as well as the cost of providing these items. It is not clear where the quote comes from. Please check this quote again, as the end of quote should probably be after "visitation."

Page 15, second paragraph, change "responsible" to "responsibility."

Page 17, second paragraph, second sentence, change "fire code violations to torn carpets and exposed nails" to "fire code violations, including torn carpets and exposed nails."

COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES ON  
THE OFFICE OF INSPECTOR GENERAL'S DRAFT REPORT ON "STATE  
OVERSIGHT OF RESIDENTIAL FACILITIES FOR CHILDREN" (OEI-02-98-  
00570)

General Comments

The Administration for Children and Families (ACF) appreciates the opportunity to comment on the Office of Inspector General's (OIG) draft report, which describes State' licensing process for children's residential facilities. The report reflects the discussions which took place between ACF Children's Bureau staff and OIG. The opportunities for discussion proved beneficial to the clarity of the report.

ACF agrees that the variability in licensing standards is of concern, but recognizes State sovereignty in activities, such as child-care licensing. The recommendation for ACF to take a leadership role in providing training and technical assistance is appropriate. Initiatives currently under way are consistent with this recommendation.

First, ACF recently published a final rule regarding State reviews that outlines a new results-oriented child and family services review process that will serve as the Federal Government's key tool for monitoring the effectiveness of State child welfare programs in ensuring children's safety, permanency and well-being. It also provides a framework for providing technical assistance to States to help them make needed program improvements, and it provides accountability. By defining outcome measures, ACF has produced an encompassing rule that provides States with information on the manner in which their programs will be reviewed and evaluated, as well as the criteria and requirements that must guide the administration of their programs. Three of the outcomes will impact States oversight of residential facilities.

- Children are, first and foremost, protected from abuse and neglect;
- Children receive appropriate services to meet their educational needs; and
- Children receive adequate services to meet their physical and mental health needs.

Holding States accountable for outcomes rather than process is a major departure from prior reviews. ACF believes that this approach to monitoring will guide States in improving the quality of services provided to children, including those services provided by residential facilities. Initial child and family service reviews will be conducted in 17 States per year, with the first group of State reviews being completed in FY 2001. Over the next four years, we will conduct the reviews in all 50 States.

