



Department of Health

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Governor

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Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

April 8, 2024

Nadine Morrell
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Nadine Morrell:

Enclosed are the Governor's Office and Department of Health's comments on the Office of the State Comptroller's Follow-Up Audit Report, 2023-F-13 entitled, "Use, Collection, and Reporting of Infection Control Data (Report 2020-S-55)."

Thank you for the opportunity to comment.

Sincerely,

Johanne E. Morne, M.S.
Executive Deputy Commissioner

Enclosure

cc: Michael Atwood
Melissa Fiore
DOH Audit

**Department of Health
Comments on the
Office of the State Comptroller's
Follow-Up Audit Report 2023-F-13 entitled,
“Use, Collection, and Reporting of Infection Controls Data (Report 2020-S-55)”**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-Up Audit Report 2023-F-13 entitled, “Use, Collection, and Reporting of Infection Controls Data (Report 2020-S-55).”

To the Department:

Recommendation #1

Develop and implement policies, procedures, or processes to:

- *Expand use of infection control data, including but not limited to NORA, HERDS, and nursing home survey data, to identify patterns, trends, areas of concerns, or non-compliance, and use this information as the basis for policy recommendations for infection control practices and for executing nursing home surveys, as necessary;*
- *Improve quality of publicly reported data;*
- *Strengthen communication and coordination with localities on collection, reporting, and use of infection control-related data; and*
- *Collect supplemental data through additional sources, such as the CDC's Infection Control Assessment and Response tool and incorporate its use with current data sets.*

Status – Partially Implemented

Agency Action – Since our initial audit, the Department has improved the quality of its publicly reported data related to COVID-19 deaths. We compared the Department's publicly reported nursing home resident deaths from COVID-19 as of May 16, 2023, to the Department's internal documentation and determined the data sets matched, which was not the case for nearly the entire scope of the initial audit.

However, additional work is needed to address the other aspects of this recommendation. Department officials have stated that they are working toward expanding the use of infection control data and are in the process of developing a healthcare facility outbreak management system to integrate lab results; however, these steps have yet to be implemented. Furthermore, Department officials could not provide any supporting documentation, including meeting minutes, status updates, or any additional details beyond meeting agendas, to support the Department's efforts. To strengthen communication and coordination with localities, Department officials within the Bureau of Healthcare Associated Infections stated that they hold weekly meetings with the Department's Bureau of Communicable Disease Control - which handles outbreaks within the community - as well as weekly conference calls with local epidemiologists to provide support. According to the Department, there are numerous standing meetings with the counties as well as the counties having access to the Health Commerce System, which includes data the Department receives. However, again, the Department was not able to provide meeting minutes to document what was actually discussed. Lastly, Department officials informed auditors that they met to discuss using the CDC's Infection Control Assessment and Response (ICAR) tool, which was updated in March 2023. However, similar to the actions taken

by the Department on many of the other aspects of this recommendation, officials could not provide documentation on what was discussed. Department officials could only state that they meet monthly with epidemiologists across the state, and it is up to the epidemiologists' discretion on how to use the ICAR tool. The Department stated that the ICAR tool is for facilities to assess themselves and that the Department does not automatically request these reports. In addition, the Department did not have any policies or procedures regarding any of these activities.

As stated in the initial audit, the Department collects a substantial amount of data from various sources that which when analyzed collectively can provide valuable information to detect interfacility outbreaks, geographic trends, and/or emerging infectious diseases to shape the Department's infection control policies and practices, as well as its oversight of facilities. However, such analysis is only useful with complete and accurate data. While Department officials claim to be working toward strengthening the collection, use, and analysis of the data at its disposal, these policies, practices, and systems needs to be fully implemented to be effective and allow Department officials to make informed decisions centered on infection control. We urge the Department to fully implement the remaining aspects of this recommendation as soon as practical in preparation for any future public health emergencies. Without any documentation for support for all these actions, we cannot assess whether the recommendation is truly being satisfied.

Response #1

Throughout the COVID-19 public health emergency and continuing today, the Department has improved efficiencies in the collection and reporting of data gathered directly from hospitals, nursing homes, and adult care facilities. Each of the data collection systems used has distinct advantages and limitations, as well as fundamental differences in data timing, collection, formatting, purpose and more that make it difficult to aggregate or sync data across datasets for statistical purposes. The efficiencies realized to date have given the State the ability to produce data that is aggregated and transparent for stakeholders, and provides support for public health decisions made to protect vulnerable New Yorkers. The Department believes in quality assurance and constant improvement, and, as such, continues to explore additional methods to improve data collection and reporting through inter- and intra-agency collaboration. These efforts, as well as other initiatives undertaken by the Department throughout, prior to, during, and since the expiration of the COVID-19 public health emergency, directly coincide with and support the recommendation by the Office of the State Comptroller. A single, unified State or federal data hub that generates all necessary data would be ideal, but this will require significant resource investments both for its creation and maintenance. Until then, the Department will continue to marry multiple systems and improve upon this process.

Beginning January 1, 2024, the Department implemented an annual Infection Control Audit process for nursing homes to describe their preparedness for communicable disease outbreaks. The Department believes this action satisfies the Comptroller's intent to ensure that nursing homes demonstrate their sufficient preparedness for communicable disease outbreaks. However, there continues to be a need for inter- and intra-agency collaboration to protect vulnerable New Yorkers.

The Comptroller's report makes reference to the work the Department performed, however fails to provide the Department with credit due to a lack of meeting minutes. We acknowledge this point, and the Department is working on improving documentation and processes. The Department maintains that it continues to make improvements toward marrying multiple systems to produce reliable stakeholder data.

Lastly, the Department must address the inaccurate information asserted in the Comptroller's report related to meetings with epidemiologists. For more than 16 years, the Bureau of Communicable Disease Control has hosted a weekly call with all local health departments, typically resulting in attendance by almost 400 local and state health professionals each week. This call covers all infectious disease trends, emerging threats, current outbreaks involving nursing homes and all public health settings, interventions, best practices, and up-to-date scientific literature.

State Comptroller's Comment – We revised page 5 of our follow-up report to reflect that Department officials stated they meet weekly, rather than monthly, with epidemiologists across the State.

Recommendation #2

Provide guidance to facilities on how to submit information into NORA and maintain support for data submitted on HERDS surveys to improve data quality, consistency, and accountability.

Status – Not Implemented

Agency Action – The Department has not provided any new guidance to facilities on submitting information into NORA or internally for maintaining support for data submitted on HERDS surveys since our initial audit. Department officials stated that the same NORA manual and PowerPoint presentations provided to us during the initial audit are still available to facilities and that providing additional guidance was not necessary. Officials said that the issues identified in the initial audit were caused by human error. In addition, officials stated that, for HERDS submissions, there is a data team that algorithmically identifies data fluctuations to be confirmed or corrected, the same as during the initial audit. However, the initial audit found that there was likely a significant underreporting of infections and outbreaks within NORA, as well as inaccuracies in non-death COVID-19 data (e.g., PPE inventory) within HERDS, which is indicative of something more than human error. This also points to flaws in the method used by the data team to identify data fluctuations to be confirmed or corrected. Providing additional guidance to facilities on submitting data to NORA would help increase the accuracy and reduce the underreporting of infections by facilities to the Department. By not taking action to implement this recommendation there is a good chance that the Department is collecting, reporting on, and/or analyzing data that is, at times, inaccurate, inconsistent, or incomplete.

Response #2

To clarify, the algorithmically determined HERDS data fluctuations and associated follow-up activities do not have any relation to data reported via the Nosocomial Outbreak Reporting Application (NORA). HERDS and NORA are two distinct data collection platforms used during the COVID-19 public health emergency. These platforms are not cross-reconciled due to different reporting timeframes and uses. As such, the Comptroller's statement that suggests flaws within the HERDS data team's algorithm is fundamentally flawed. A single, unified State or federal data hub that generates all necessary data would be ideal, but this will require significant resource investments both for its creation and maintenance. In the absence of its existence, the Department will continue to marry multiple systems and improve upon this process.

State Comptroller's Comment – While we recognize that HERDS and NORA are two distinct platforms, the fact remains that the initial audit identified potentially significant underreporting of infections by facilities to the Department, and the method used by the Department to identify inaccurate reporting by facilities has not changed since the initial audit. Providing additional guidance to facilities on submitting information to NORA and maintaining support for data submitted on HERDS surveys would help increase the accuracy and reduce the underreporting of infections by facilities.

Nosocomial infections are those that occur because of care in a health care setting. The Department is developing an updated outbreak management system to replace the NORA. To ensure the development of an effective outbreak management system, we are utilizing a phased implementation with the first practical use of the application to begin late Spring 2024. The following progress has been made on the Department's Bureau of Healthcare Associated Infections (HAI) Surveillance and Outbreak Management System (BHAISOMS):

1. Created a SharePoint site to streamline and improve tracking of activities related to healthcare-associated outbreaks. This also facilitates reporting of those activities and outbreaks. This is a temporary solution while the modules are developed.
2. Created an Outbreak module to more comprehensively track activities related to health care outbreaks. This also automates necessary reports of those activities and outbreaks (application was built in the development environment as of June 2023 and then built in the pre-production test environment in September 2023).
3. Completed a draft design of the Surveillance module in September 2023. This module receives input from electronic laboratory reporting and other internal data sources and improves the Department's ability to track incidence and prevalence of important organisms and conditions before, during, and after an outbreak.
4. In 2024, work will continue to incorporate additional surveillance data sources for clusters/outbreaks and emerging diseases. Each phase requires user activity testing before the application can be put into production.
5. Developing future plans to replace NORA to allow greater capacity to track facility-level data over time for all types of healthcare-associated infections. This will provide increased situational awareness and enable response activities for emerging diseases to be more quickly and efficiently implemented.

Recommendation #3

Develop and implement processes to improve controls over additions and deletions from CMS' database and determine if publicly reported nursing home survey data is reliable.

Status – Not Implemented

Agency Action – The Department has not developed any new processes to improve controls over edits to the Centers for Medicaid & Medicare Services (CMS) database, nor has it taken steps to determine if publicly reported nursing home data is reliable. According to Department officials, the procedures that were in place during the initial audit are effective. However, we replicated our testing methodology from the initial audit, using smaller sample sizes, and found that some of the publicly reported nursing home data is still not reliable. While we found that all the data in our sample of 25 DOH nursing home surveys matched the information in Department's Open Data website, we identified discrepancies between the Department's and CMS' citation data for 22 of 25 (88%) nursing home providers that we selected in a separate sample. These discrepancies included different citations or surveys with the same citations occurring on different dates. Department officials stated that they accurately enter information into CMS' database but have not controls over what information is accepted or how it is subsequently edited by CMS. However, officials did not provide any evidence that the data discrepancies we identified in either in the initial audit or this follow up were caused by CMS modifications to the data after it was submitted by the Department. While a few minor

discrepancies may be understandable, the significant number of discrepancies in the citation data indicates that there is a larger problem, especially given that the information is pulled from the same system and entered by Department officials into the database maintained by CMS. By not taking action to implement this recommendation, the Department is not ensuring that all publicly reported data is reliable.

Response #3

As noted in the Department's response to the prior audit Final Report, there are State-only and federal-only citations. The Centers for Medicare and Medicaid Services only posts federal citations, not State-only citations, and remains the identified root cause of the noted discrepancies. The Department cannot be held accountable for the federal government's data publication practices. At various intervals, the Department will continue to reconcile data maintained within the federal survey database.

State Comptroller's Comment – As noted on page 6 of our follow-up report, the Department could not provide any evidence that the data discrepancies we identified either in the initial audit or this follow-up were caused by CMS modifications to the data after it was submitted by the Department.

Recommendation #4

Evaluate and request resources as necessary to establish a foundation to adequately address public health emergencies in furtherance of the Department's mission.

Status – Implemented

Agency Action – Since our initial audit, the Department has evaluated and requested additional resources to improve its response to public health emergencies. The Department conducted a needs assessment to determine what additional resources were necessary for it to adequately address public health emergencies and based on the results, requested 74 new staff positions, including data analysts and health care surveyors. Of these 74 new positions, 55 are currently filled, eight are pending, and 11 are still vacant. The Department updated its organization charts to reflect how these new positions fit into the overall mission of the Department.

Response #4

The Department agrees this Recommendation has been implemented. Since August 2022, the Nursing Home Surveillance Program has filled 99 total positions and has an additional 28 positions currently under recruitment, including 74 from a 2022 staff investment. The Department continues to evaluate its resource needs and will advocate for investments wherever possible.

To the Governor:

Recommendation #5

Assess and document the adequacy of the internal control environment at the Department and the Executive Chamber, and take necessary steps to ensure the control environment is adequate, including cooperation with authorized State oversight inquiries, communication with localities, and external reporting.

Response #5

This recommendation has been implemented. As acknowledged in the Report, the Executive Chamber has taken steps to ensure the adequacy of the Department's control environment, including cooperation, communication and external reporting. As the Report notes, the Executive Chamber has required State agencies to develop and implement Transparency Plans that has resulted in the Department making key data publicly available online via Open Data and working directly with health care providers across the State to collect operational information. The Executive Chamber has also encouraged the Department's cooperation with stakeholders, including the Legislature and local governments, and has taken action to specifically address concerns regarding the prior administration's public disclosures of COVID-19 information. The Governor has appointed new leadership under which the Department has been restructured to enable faster flow of information among relevant parties. These actions were based on an assessment of the relevant internal control environment and are sufficient to ensure its adequacy.

State Comptroller's Comment – While the response states the actions taken to address this recommendation were based on an assessment of the Department's internal control environment, no documentation was provided to support that the assessment has been completed.