



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Offices of Audit Services

May 28, 2004

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

Report Number A-07-03-04028

Mr. Brandon M. Bryson  
Administrator  
Infinia at Granite Hills  
950 East 3300 South  
Salt Lake City, UT 84105

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Service's (OAS) final report entitled "*Audit of Nursing Facility Staffing Requirements at Infinia at Granite Hills, Inc.*"

The audit objective was to determine whether Infinia at Granite Hills, Inc. (Infinia) was in compliance with federal and state staffing laws and regulations for nursing facilities.

Infinia did not comply with Federal and State staffing laws and regulations. Specifically, Federal and State regulations require that the facility employ a Registered Nurse (RN) for at least 8 consecutive hours a day, 7 days a week. The facility did not routinely meet this requirement. Utah regulations require that direct care nursing staff such as certified nurse assistants be currently certified in the state of Utah. One Certified Nurse Assistant had an expired certificate. Another was certified in California, not in Utah. Utah regulations require that nursing facilities maintain direct care staff licenses or certifications for review. Infinia did not have the certifications on file for four of the facility's Certified Nursing Assistants as required. Utah regulations require facilities such as nursing facilities perform a Bureau of Criminal Identification screening. The facility did not have documentation to show that the screening had been performed on two of its direct care employees.

We recommend that Infinia take action to ensure:

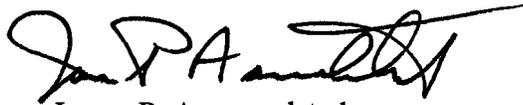
- The facility is staffed with an RN for 8 consecutive hours a day, 7 days a week;
- All direct care nursing staff hold current Utah licenses, certifications, or registrations;
- Copies of licenses and certifications for all direct care nursing staff are maintained at the facility; and
- Evidence of Bureau of Criminal Identification screenings is maintained.

Infinia agreed with our recommendations and has agreed to take corrective action.

The HHS action official named below will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.) As such, within 10 business days after the final report is issued, it will be posted on the worldwide web at <http://oig.hhs.gov>. To facilitate identification, please refer to Report Number A-07-03-04028 in all correspondence relating to this report.

Sincerely,



James P. Aasmundstad  
Regional Inspector General  
for Audit Services

**Direct Reply to HHS Action Official:**

Mr. Alex Trujillo  
Centers for Medicare and Medicaid Services  
Regional Administrator, Region VII  
1600 Broadway, Suite 700  
Denver, CO 80202

Enclosures---As stated

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF NURSING FACILITY  
STAFFING REQUIREMENTS AT  
INFINIA AT GRANITE HILLS, INC.**



**MAY 2004  
A-07-03-04028**

# *Office of Inspector General*

<http://oig.hhs.gov>

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## *Office of Audit Services*

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the department.

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The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# Notices

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**THIS REPORT IS AVAILABLE TO THE PUBLIC  
at <http://oig.hhs.gov/>**

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.



## EXECUTIVE SUMMARY

Our objective was to determine if Infinia at Granite Hills (Infinia) complied with Federal and State staffing laws and regulations for nursing facilities. Infinia is a 65 bed Nursing Facility located in Salt Lake City, Utah.

Infinia did not comply with certain Federal and State nursing facility staffing regulations. Specifically:

- Federal and State regulations require nursing facilities to employ a Registered Nurse (RN) for at least 8 consecutive hours a day, 7 days a week. The facility did not routinely meet this requirement.
- Utah regulations require that nursing facility direct care staff be currently licensed, certified, or registered by Utah. One certified nurse assistant had an expired certificate and another had a California certification.
- Utah requires that nursing facilities maintain direct care staff licenses or certifications at the nursing facility. Infinia did not have the certifications for four certified nursing assistants on file.
- Utah requires that nursing facilities perform a Bureau of Criminal identification screening for direct care employees. The facility did not have documentation to show that the screening had been performed on two of its direct care employees.

These deficiencies occurred because the facility did not have adequate policies and procedures to ensure that Federal and State staffing regulations were met. These staffing deficiencies could affect the quality of care received by the residents.

We recommend that Infinia take action to ensure:

- The facility is staffed with an RN for 8 consecutive hours a day, 7 days a week;
- All direct care nursing staff hold current Utah licenses, certifications, or registrations;
- Copies of licenses and certifications for all direct care nursing staff are maintained at the facility; and
- Evidence of Bureau of Criminal Identification screenings is maintained.

## INTRODUCTION

### BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) established legislative reforms to promote quality of care in nursing facilities (NFs). OBRA 87 requires NFs to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. Specifically, Title 42, Code of Federal Regulations, Section 483.30 requires NFs to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must include: 1) a licensed nurse as a charge nurse for each tour of duty, 2) a registered nurse for at least 8 consecutive hours a day, 7 days a week, and 3) a registered nurse as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse when the facility has an average daily occupancy of 60 or fewer residents).

States are required to ensure that NFs at least meet Federal staffing standards. States may implement additional staffing requirements. Utah has not established staffing level requirements that exceed the Federal standards. However, Utah has established additional requirements for staff certifications and background checks.

Utah Administrative Code R432-150 Nursing Care Facility- Staff and Personnel (1) (c) requires that “all personnel must be licensed, certified or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review.”

Utah Administrative Code, R432-35-1, Background Screening, the Utah Code, Section 26-21-9.5, requires that “a Bureau of Criminal Identification screening, and a child, or disabled or elderly adult licensing information system screening be conducted on each person who provides direct care to a patient for the following covered health care facilities:... (2) Nursing Care facilities;”

### OBJECTIVE, SCOPE, AND METHODOLOGY

The scope and objective of this review encompassed only certain specific requirements of the Federal and State staffing regulations. This review did not assess the general requirement of 42 CFR 483.30 that “The facility must have sufficient nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care . . .” Rather, it assessed compliance with the staffing requirements required in 42 CFR 483.30 (b):

- (1) . . . the facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.
- (2) . . . the facility must designate a registered nurse to serve as the director of nursing on a full time basis.

- (3) The director of nursing may serve as a charge nurse only when the facility has an average occupancy of 60 or fewer residents.

Our audit objective was to determine whether Infinia was in compliance with Federal and State staffing laws and regulations for nursing facilities. Based on an analysis of data from the Centers for Medicare and Medicaid Services' (CMS) Online Survey Certification and Reporting (OSCAR) System, we selected Infinia for review.

To accomplish our objective we:

- Obtained background, staffing, and deficiency data for Infinia from the OSCAR database through CMS's Nursing Home Compare website;
- Reviewed Federal and Utah State laws and regulations for NFs;
- Obtained time card reports for each direct care staff for the pay periods of March 1-15, 2002, June 1-15, 2002, and November 16-30, 2002;
- Identified the direct care staff by position and detailed the time worked on each day;
- Obtained and analyzed background checks for all direct care employees;
- Conducted inquiries through Utah's on-line license and certification systems;
- Reviewed the survey and certification process at the Utah State Survey Agency and analyzed the results of the two most recent standard surveys conducted at Infinia; and
- Obtained an understanding of Infinia's procedures for recruiting, retaining and scheduling staff through meetings and discussions with personnel at the facility.

Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and staffing of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Infinia.

We conducted our review during August 2003 through March 2004 at Infinia in Salt Lake City, Utah and the OIG office in Denver, Colorado.

Our review was conducted in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

Infinia was not in compliance with Federal and Utah staffing regulations for nursing facilities. Specifically, Infinia did not have an RN on the premises 8 consecutive hours a day, 7 days a week; did not employ only staff currently certified in Utah; did not have certificates on file for all nursing assistants; did not always have documentation showing Bureau of Criminal Identification screenings.

### **Staffing of Registered Nurses**

Infinia did not have an RN on the premises 8 consecutive hours a day, 7 days a week as required by Title 42, Code of Federal Regulations, Section 483.30 and Utah Nursing Care Facility Rule R432-150-5(b). We reviewed time card reports for three pay periods and determined that the facility did not have an RN on the premises for at least 8 consecutive hours for 15 of 45 days.

### **Current Utah Certificates**

Two of 30 of the direct care staff did not have active Utah certificates as required by Utah Administrative Code R432-150. One employee's certified nursing assistant certification expired in October 2002. Another certified nursing assistant had a California certificate, but was not certified by the State of Utah.

### **Lack of Copies of Certificates**

Infinia had not maintained copies of certifications for 4 of 30 of direct care staff as required. Specifically, Utah Administrative Code R432-150 states that all direct care nursing personnel must be licensed, certified, or registered as required by the Utah Department of Commerce. A copy of the license, certification or registration shall be maintained for Department review. However, four Certified Nurse Assistants did not have a current certificate on file with the facility.

### **Bureau of Criminal Indemnification Background checks**

Infinia did not have documentation to show that criminal identification background screenings had been performed on 2 of its 30 direct care staff as required. Utah Administrative Code, R432-35-1, Background Screening, the Utah Code, Section 26-21-9.5, requires that a Bureau of Criminal Identification screening, and a child, or disabled or elderly adult licensing information system screening be conducted on each person who provides direct care to a patient for nursing care facilities.

We reviewed the employee personnel files of 30 direct care staff. Two of the 30 employee personnel files did not have evidence of criminal background checks.

## **Inadequate Procedures Caused Non Compliance with Staffing Requirements**

These deficiencies occurred because the facility did not have adequate policies and procedures in places to ensure that Federal and State staffing regulations were met.

### **Impact of Staffing Deficiencies**

These staffing deficiencies could affect the quality of care received by the residents.

## **RECOMMENDATIONS**

We recommend that Infinia take action to ensure:

- The facility is staffed with an RN for 8 consecutive hours a day, 7 days a week;
- All direct care nursing staff hold current Utah licenses, certifications, or registrations;
- Copies of licenses and certifications for all direct care nursing staff are maintained at the facility; and
- Evidence of Bureau of Criminal Identification screenings is maintained.

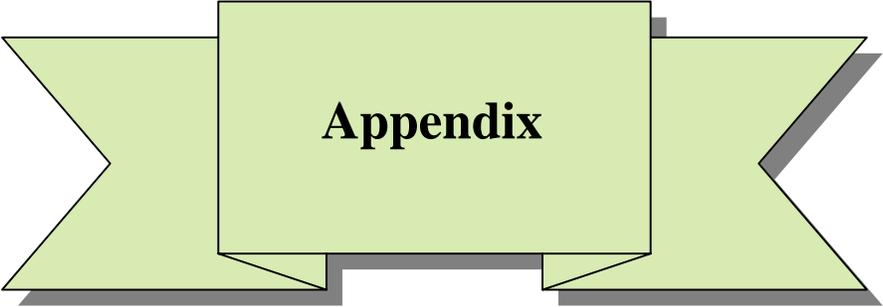
## **AUDITEE RESPONSE**

Infinia provided a written response to our draft report. Their response is included in its entirety as Appendix A.

Infinia has agreed with our recommendations and has agreed to take the following corrective action by:

- Employing one full time Registered Nurses and two part time Registered Nurses to cover 7 days a week. Continued efforts are in place to recruit additional RNs to fill shifts for time off when current staff is unavailable;
- Ensuring all direct care staff personnel records have been audited and updated, as of April 30, 2004. Any staff unable to provide current certification have been excused from employment until appropriate documentation is obtained;
- Ensuring all direct care staff and nursing personnel records have been audited and updated, as of April 30, 2004. Any staff unable to provide current certification or licensure have been excused from employment until appropriate documentation is obtained; and

- Ensuring all personnel records have been audited and updated as of April 30, 2004. Any staff without current documentation showing criminal identification screening have been excused from employment until appropriate documentation is obtained.



**Appendix**



May 17, 2004

James Korn  
Senior Auditor  
Office of Inspector General  
Offices of Audit Services  
601 East 12<sup>th</sup> Street, Rm 284A  
Kansas City, MO 64106

Dear James:

The purpose of this letter is in response to Report Number A-07-03-04028, a draft entitled "*Audit of Nursing Facility Staffing Requirements at Infinia at Granite Hills, Inc.*"

I would like to address each cited deficiency by listing the regulation found non compliant, followed by the remedies we have taken, or that are now in place to correct the deficiency. I hope the information provided is sufficient to your needs in taking the next steps in this audit.

-The regulation is that the facility will employ a Registered nurse (RN) for at least 8 consecutive hours a day, 7 days a week. The facility currently employs one full time RN and two part time RN's to cover 7 days of the week. Continued efforts are in place to recruit additional RN's to fill shifts for time off when current staff is available.

-The regulation is that direct care nursing staff, such as certified nursing assistants, be currently certified in the state of Utah. All direct care staff personnel records have been audited and updated, as of 4/30/04. Any staff unable to provide current certification have been excused from employment until such is obtained.

-The regulation is that nursing facilities maintain direct care staff licenses or certifications for review. All direct care staff and nursing personnel records have been audited and updated, as of 4/30/04. Any staff unable to provide current certification or licensure have been excused from employment until such is obtained.

-The regulation requires facilities, such as nursing facilities, to perform Bureau of Criminal Identification screening. All personnel records have been audited and updated, as of 4/30/04. Any staff without current documentation showing criminal identification screening have been excused from employment until such is obtained.

May 17, 2004

It should be further noted that personnel records, currently and going forward, are audited at least monthly to ensure that all staffing documentation requirements are met for each of our employees. Again, I hope this information is helpful. Please let me know if you need additional information. I can be reached at 801-486-5121 by phone, or at 950 East 3300 South, Salt Lake City, UT 84105.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon M Bryson", with a long horizontal flourish extending to the right.

Brandon M Bryson  
Administrator