



Memorandum

Date **OCT 28 2003**
From Regional Inspector General for Audit Services
Subject Final Audit Report - **REVIEW OF NURSING FACILITY STAFFING REQUIREMENTS AT WILLOWBROOKE COURT AT SOUTHAMPTON ESTATES** (Report Number A-03-02-00205)
To Sonia A. Madison
Regional Administrator
Centers for Medicare and Medicaid Services

Attached are two copies of the Department of Health and Human Services, Office of Inspector General report entitled "Review of Nursing Facility Staffing Requirements at WillowBrooke Court at Southampton Estates." This review was self-initiated and the audit objective was to determine whether WillowBrooke Court at Southampton Estates was in compliance with Federal and State staffing laws and regulations for nursing homes. Should you have any questions or comments concerning the matters commented on in this report, please contact me or have your staff contact Michael Walsh, Audit Manager at 215-861-4480.

To facilitate identification, please refer to Report Number A-03-02-00205 in all correspondence relating to this report.

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

Stephen Virbitsky

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

OFFICE OF AUDIT SERVICES

150 S. INDEPENDENCE MALL WEST

SUITE 316

PHILADELPHIA, PENNSYLVANIA 19106-3499

OCT 28 2003

Report Number: A-03-02-00205

Holly Schade, Administrator
WillowBrooke Court at Southampton Estates
238 Street Road
Southampton, Pennsylvania 18966

Dear Ms. Schade:

Enclosed are two copies of the Department of Health and Human Services, Office of Inspector General report entitled "Review of Nursing Facility Staffing Requirements at WillowBrooke Court at Southampton Estates." This review was self-initiated and the audit objective was to determine whether WillowBrooke Court at Southampton Estates was in compliance with Federal and State staffing laws and regulations for nursing homes. Should you have any questions or comments concerning the matters commented on in this report, please direct them to the Department official identified on page 2 of this letter.

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 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 which the Department chooses to exercise. (See 45 CFR Part 5).

To facilitate identification, please refer to Report Number A-03-02-00205 in all correspondence relating to this report.

Sincerely yours,

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

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Sonia A. Madison, Regional Administrator
Centers for Medicare & Medicaid Services - Region III
U.S. Department of Health and Human Services
150 South Independence Mall West, Suite 216
Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF NURSING FACILITY
STAFFING REQUIREMENTS AT
WILLOWBROOKE COURT AT
SOUTHAMPTON ESTATES**



**OCTOBER 2003
A-03-02-00205**

Office of Inspector General

<http://oig.hhs.gov/>

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:

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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 Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

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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.





DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES
150 S. INDEPENDENCE MALL WEST
SUITE 316
PHILADELPHIA, PENNSYLVANIA 19106-3499

OCT 28 2003

Report Number: A-03-02-00205

Holly Schade, Administrator
WillowBrooke Court at Southampton Estates
238 Street Road
Southampton, Pennsylvania 18966

Dear Ms. Schade:

This final report provides the results of our review of Nursing Facility Staffing Requirements at WillowBrooke Court at Southampton Estates (WillowBrooke Court). WillowBrooke Court is a 120 bed nursing home located in Southampton, Pennsylvania.

The objective of our review was to determine whether WillowBrooke Court was in compliance with Federal and State staffing laws and regulations for nursing homes. Based on our review of 92 direct care employees¹, we found, with minor exceptions, that WillowBrooke Court complied with Federal and State staffing laws and regulations. For six direct care employees, WillowBrooke Court did not comply with State background check requirements. Although these exceptions did not endanger the residents, we recommend WillowBrooke Court review and strengthen its internal controls to assure that it obtains State background checks on all new employees and prohibits employees from working directly with the residents if the background checks are not received within the required timeframes.

In a written response to our draft report, WillowBrooke Court concurred with our findings. WillowBrooke Court agreed with the minor exceptions identified by this review and has taken action to correct the discrepancies. The full text of WillowBrooke Court's response is included with this report as an Appendix.

¹ For purposes of this review, we define direct care employees as any nursing staff who are eligible to provide direct care to the residents.

INTRODUCTION

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. These reforms require nursing homes 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 nursing homes to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include: 1) a licensed nurse designated to serve as a charge nurse on 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 designated to serve as the director of nursing on a full time basis (the director of nursing may serve as a charge nurse only when the home has an average daily occupancy of 60 or fewer residents).

States are required to ensure that nursing homes follow these Federal staffing standards at a minimum. Each State may implement its own staffing requirements that exceed these standards. Through the State survey and certification process, the State Survey Agency in each State is required to conduct periodic standard surveys of every nursing home in the State. Through this process State Survey Agencies measure the quality of care at each nursing home by identifying deficiencies and assuring compliance with Federal and State requirements.

Pennsylvania has established staffing requirements that exceed the Federal standards. Under Pennsylvania State Code, Title 28, Part IV, Subpart C, Chapter 211.12, nursing homes are required to provide 2.7 hours of direct nursing care to each resident every day. The nursing homes are also required to provide a ratio of licensed nurses based on their number of residents. For example, a nursing home with between 60 and 150 residents is required to have 1 Registered Nurse on each shift for 24 hours a day.

The Pennsylvania Older Adults Protective Services Act (Protective Services Act) required nursing homes to obtain a State background check on all current employees hired after July 1, 1997. As of July 1, 1998, the nursing home must obtain a State background check within 30 days for any job applicant who has resided in the State within the previous 2 years. If the applicant has not resided within the State at any time during the previous 2 years, the nursing home must also obtain a Federal background check within 90 days. If the applicant provided a background check, it was required to be less than a year old. However, if the background check was not provided at the time of application, the Protective Services Act allowed the nursing home to hire the applicant on a provisional basis for no longer than the 30 or 90 day period while waiting for the background check. If the background check was not received within the required timeframe, the employee was not eligible to work directly with the residents until the background check was received and found in good standing in accordance with the Protective Services Act requirements.

WillowBrooke Court is a division of ACTS Retirement–Life Communities, Inc., a not-for-profit corporation that operates 16 homes in 4 States with over 6,500 residents and a staff of 4,700.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine whether WillowBrooke Court was in compliance with Federal and State staffing laws and regulations for nursing homes. Based on our analysis of data from the Centers for Medicare & Medicaid Services’s Online Survey Certification and Reporting System, we judgmentally selected WillowBrooke Court for review.

To accomplish our objective we:

- Obtained background, staffing and deficiency data for WillowBrooke Court from the Online Survey Certification and Reporting System database through the Centers for Medicare & Medicaid Services’s Nursing Home Compare website;
- Reviewed Federal and Pennsylvania State laws and regulations for nursing homes to determine what staffing standards WillowBrooke Court was required to adhere to;
- Obtained staffing schedules, time and attendance records and payroll records to determine the home’s direct care hours per resident per day as well as the employee-to-resident ratio for three two-week periods;
- Obtained and analyzed background checks for all direct care employees to assure they adhere to the State requirements;
- Conducted inquiries through Pennsylvania’s on-line license and certification systems to determine if all direct care employees were in good standing;
- Reviewed the survey and certification process at the Pennsylvania State Survey Agency and analyzed the results of the two most recent standard surveys conducted at WillowBrooke Court; and
- Obtained an understanding of WillowBrooke Courts’ procedures for recruiting, retaining and scheduling staff through meetings and discussions with personnel at the home.

Our review was conducted in accordance with the generally accepted government auditing standards. Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and scheduling of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at WillowBrooke Court.

We conducted our review during January 2003 at WillowBrooke Court in Southampton, Pennsylvania.

FINDINGS AND RECOMMENDATIONS

Our review found that, with minor exceptions, WillowBrooke Court was in compliance with Federal and Pennsylvania State staffing laws and regulations. For three selected 2-week periods, we determined that WillowBrooke Court scheduled its direct care employees in compliance with Federal staffing standards. We also determined that WillowBrooke Court scheduled sufficient direct care employees to comply with the State employee-to-resident ratio and the State requirement of 2.7 hours of direct care per resident per day. All 92 direct care employees at WillowBrooke Court were properly licensed and/or certified and were currently in good standing as determined by the State.

However, we found that for six direct care employees, WillowBrooke Court did not comply with State background check requirements. Pennsylvania's Protective Services Act required WillowBrooke Court to conduct background checks on 71 of its current 92 direct care employees. The remaining 21 direct care employees were hired before the effective date of the law.

Incomplete Background Reviews

Our review found three direct care employees for whom WillowBrooke Court obtained background checks other than the required State background checks and one direct care employee for whom WillowBrooke Court did not follow-up on an incomplete background check. These four employees continued to work directly with the residents even though their background reviews were not complete in accordance with the Protective Services Act requirements. WillowBrooke Court, as a result of our inquiry, obtained the complete State background checks for three of the four employees. The fourth employee no longer worked at the home. The three background checks obtained did not list any offense that would preclude the employees from working directly with the residents.

Untimely Background Reviews

Our review also found two direct care employees for whom WillowBrooke Court had not obtained background checks. WillowBrooke Court continued to allow these employees to work directly with the residents and only obtained the background checks as a result of our inquiry. The range of time these employees worked directly with the residents after the initial 30-day period was 52 and 62 months, well after the timeframes established by the Protective Services Act. Once obtained, neither background check listed any offense that would preclude the employees from working directly with the residents.

WillowBrooke Court has internal procedures for obtaining background checks and scheduling employees. Our review found that for six employees these procedures were not followed. WillowBrooke Court has since obtained the proper background checks for the five employees who still worked at the home. Because these five employees did not

have any offense on their background checks that would preclude them from working directly with the residents, and because our inquiries through the Pennsylvania State on-line license and certification systems found that all five employees were currently in good standing with the State, all five are eligible to work with the residents. However, we believe that WillowBrooke Court should review and strengthen its internal controls with regard to employee background checks in order to assure that it does not hire someone who has a criminal history that would preclude them from working in a nursing home and would possibly endanger the residents.

RECOMMENDATION

We recommend that WillowBrooke Court review and strengthen its internal controls to assure that it:

- obtains State background checks on all new employees; and
- prohibits new employees from working directly with the residents if the required background checks are not received within the timeframes specified in the Protective Services Act.

WILLOWBROOKE COURT RESPONSE

In a written response to our draft report, WillowBrooke Court concurred with our findings. WillowBrooke Court agreed with the minor exceptions identified by this review and stated that it has taken action to correct the discrepancies. The full text of WillowBrooke Court's response is included in this report as an Appendix.

To facilitate identification, please refer to report number A-03-02-00205 in all correspondence relating to this report.

Sincerely yours,



Stephen Virbitsky
Regional Inspector General
for Audit Services

Direct Reply to HHS Action Official:

Sonia A. Madison, Regional Administrator
Centers for Medicare & Medicaid Services - Region III
U.S. Department of Health and Human Services
150 South Independence Mall West, Suite 216
Philadelphia, Pennsylvania 19106-3499

APPENDIX



Skilled Care Center at
Southampton Estates
www.willowbrookecourt.com

July 16, 2003

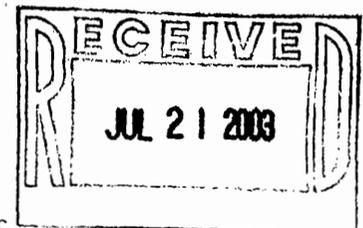
Stephen Virbitsky
Regional Inspector General
for Audit Services

WillowBrooke Court at Southampton Estates response to the auditor's results and recommendations:

- 1) WillowBrooke Court at Southampton Estates, while admitting no liability, concurs with the auditor's recommendations in regards to compliance with state background check requirements.
- 2) WillowBrooke Court at Southampton Estates has strengthened its internal controls to assure that state or federal background checks are done on all new employees. It is current policy to obtain a state or federal background check on all new employees. The three direct care employees who had county background checks done were hired after July 1, 1997 and before July 1, 1998. They had county background checks done instead of the state due to our misinterpretation of the law in regards to the exception of being employed by the facility for a continuous period of at least one year prior to July 1, 1998. Once this was brought to the facility's attention, state background checks were completed on all three employees. The results were that these three employees all received negative background checks. In the future, any pending background checks will be tracked and followed up to assure their proper and timely completion.
- 3) An internal tracking system has been established to assure that background checks are received within the required time frame and completed in its entirety. If a background check has not been received within the required time frame, the employee will be notified that he/she cannot work directly with the residents until such a time that the background check has been received and the results do not list any offense that would preclude the employees from working directly with the residents. A quarterly report of the completion of background checks will be submitted to the facility's Quality Assurance Committee to monitor the on-going compliance.

Sincerely,

Holly Schade RN, MBA
Health Care Administrator



ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

Michael Walsh, *Audit Manager*

Leonard Piccari, *Senior Auditor*

William Maxwell, *Auditor-in-Charge*

Gladys Guadalupe, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.