



ANDREW M. CUOMO
GOVERNOR

STATE OF NEW YORK
COMMISSION ON QUALITY OF CARE AND ADVOCACY
FOR PERSONS WITH DISABILITIES
401 STATE STREET
SCHENECTADY, NEW YORK 12305-2397
1-800-624-4143 (Voice/TTY/Spanish)
www.cqc.ny.gov

JOHN RYBALTOWSKI
ACTING CHAIR
BRUCE BLOWER
PATRICIA OKONIEWSKI
MEMBERS

Executive Summary

In March 2009, a fire at the state-operated Riverview Individual Residential Alternative (IRA) in Wells, New York, took the lives of four individuals who resided there. Independent investigations conducted by the Office for People With Developmental Disabilities (OPWDD), the Office of Fire Prevention and Control (OFPC) and the New York State Police led to significant reforms to ensure improved fire safety practices were developed and implemented.

In the months following the fire, Commission staff visited the survivors of the Wells fire in their new homes. The Commission ensured these individuals felt safe and satisfied, and confirmed that adequate fire safety practices were in place to ensure the prompt, safe evacuation of all residents in an emergency.

In March 2011, OPWDD and OFPC entered into a Memorandum of Understanding (MOU) to strengthen fire safety oversight and internal accountability. The MOU delineated between OPWDD and OFPC services and duties related to ensuring fire safety in all programs licensed or operated by OPWDD, including formal site evaluations by OFPC Fire Safety Inspectors.

In furtherance of our mission, the Commission sought to independently verify that OPWDD fire safety reforms were being implemented throughout New York State as reported and were sufficient to meet resident needs. This report relates to ten unannounced nighttime inspections the Commission conducted at state-operated IRAs in October, 2012.

During those unannounced visits, an evacuation drill with minimum staffing was conducted at the Commission's request; and fire safety plans and drill records kept at the home were examined. The Commission was gratified to find that each residence was able to be completely evacuated within the time limit designated by OPWDD and OFPC, and noted that evacuation drills were periodically being conducted on all shifts at these programs as required. The homes chosen served individuals with physical limitations or challenging behaviors that complicated evacuation efforts; yet staff still successfully completed the evacuations in the required time - eight to thirteen minutes.

Irrespective of these positive findings, the Commission identified problems which may have impacted the safety of residents. These deficiencies were immediately shared with OPWDD and corrective actions were taken to remedy the problems. The Commission maintained frequent contact with OFPC to ensure study standards were appropriate and that problems the Commission identified merited prompt corrective action.

On January 30, 2013, the Commission shared its draft report, which included the following recommendations, with OPWDD.

1. Review existing Developmental Disabilities State Operations Office (DDSOO) fire safety policies and align them to provide consistency across the state, including the use of standardized fire drill evacuation forms.
2. Review and update E-scores for all state operated residences, provide training to ensure they are reviewed and/or updated on at least an annual basis and whenever there is a change in resident evacuation abilities, and implement an ongoing monitoring component to assess administrator performance in completing these documents.
3. Review fire evacuation plans for all state operated residences to ensure they are current, including identifying the current individuals residing in the residence. Accurately identify individuals who require additional assistance due to physical limitations or challenging behaviors and ensure each plan identifies a satisfactory safe area. Provide training to ensure plans are reviewed and/or updated yearly and whenever there is a change, and ensure staff review evacuation plans every two months.
4. Review site specific plans of protection for all state operated residences to ensure they are current, including the proper fire evacuation prompt level. Plans must identify the current individuals residing at the residence, and accurately identify individuals who require additional assistance due to physical limitations or behavior. Provide training to ensure plans are reviewed and/or updated yearly or whenever there is a change.
5. Review the Individual Support Plans, Individual Plans of Protection and Behavior Support Plans of all individuals to ensure accurate documentation of each individual's ability to evacuate during a fire drill and any additional staff assistance necessary.
6. Provide administrative supervision of fire drills to ensure the fire evacuation plan is being followed by staff members; observe that all residents are able to evacuate the house in the identified time and proceed to the safe area on a consistent basis.
7. Provide training and implement policies to ensure alarm inspections, fire extinguisher checks and emergency lighting checks are performed in accordance with the guidelines set forth by OPWDD.
8. Provide plans of corrective action expeditiously to OFPC when life safety violations have been identified so OFPC can promptly return to the residence to certify that the violations have been abated, thus ensuring resident safety.
9. Complete a physical plant review of all state operated residences to ensure that all fire doors close and latch and are never propped open, and that lighting is available in all interior and exterior stairwells and is properly functioning. If doors are locked a functional plan must be in place for staff to gain access to individuals in the event the individual is unwilling or unable to independently evacuate.

10. Complete environmental reviews of all state operated residences and rectify deficiencies including, but not limited to, ensuring that: faucets function correctly in all bathrooms, medications are locked, drapes are treated to be fire retardant, residences are free from unsanitary conditions, and repairs are made to necessary equipment and furnishings, ensuring that no hazardous conditions remain.
11. Work in collaboration with OFPC and draw on their expertise to ensure that OPWDD's residential programs and the individuals who live there are safe. Evaluate with OFPC the effectiveness of the current system of joint site visits and assess the flow of communication/documentation between the two agencies to determine if change is warranted.
12. Provide a justification within the Statement of Deficiency as to why OPWDD deems a violation identified by OFPC to not be considered a deficiency, to ensure and demonstrate that OPWDD is reviewing all reported violations and meeting the Life Safety Code.

The OPWDD and OFPC joint response and plan of correction, attached to this report, offer detailed and comprehensive mechanisms to rectify all Commission concerns, further improve staff performance and enhance the safety of vulnerable New York citizens.

The Commission would like to thank both OPWDD and OFPC for their cooperation in this review.



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SCHENECTADY, NEW YORK 12305-2397
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www.cac.ny.gov

ROGER BEARDEN
CHAIR
BRUCE BLOWER
PATRICIA OKONIEWSKI
MEMBERS

April 11, 2013

Report on Fire Safety Practices at State-Operated Individual Residential Alternatives

In October 2012, the Commission on Quality of Care and Advocacy for Persons with Disabilities (the Commission) conducted a study into fire safety practices at state-operated Individual Residential Alternatives (IRAs) licensed by the Office for People With Developmental Disabilities (OPWDD). The purpose of the review was to determine whether the residences could properly evacuate individuals in accordance with their respective fire safety plans.

The Commission conducted unannounced site visits at ten residences located throughout the state to observe a fire drill.¹ While all ten residences were able to successfully evacuate, the Commission did find areas of concern that should be addressed by OPWDD, including:

- Some homes engaged in either problematic or dangerous practices during the evacuation;
- Fire safety policies and procedures were not consistently applied across the state or were outdated;²
- Fire evacuation plans were deficient in a number of instances;
- Site-specific protective oversight plans did not always contain accurate information;
- Current evacuation difficulty scores (E-scores)³ at some residences did not contain accurate information, were outdated, or could not be found;
- Standardized fire drill evacuation report forms were not being used at all residences;⁴
- Quarterly and yearly alarm inspections and monthly fire extinguisher checks were not completed at all residences;
- OPWDD at times failed to provide OFPC with Plans of Corrective Action in a timely manner; and,
- Environmental issues such as unsanitary or hazardous living conditions, and physical plant items in disrepair were noted at some homes.

¹ See Appendix A

² OPWDD Administrative Memorandum 2012-02, May 1, 2012

³ 14 NYCRR Part 635-7.2 (c)(2-4)

⁴ OPWDD Administrative Memorandum #2012-02

Background

In March 2009, a fire at the state-operated Riverview IRA in Wells, New York, took the lives of four individuals who resided there. OPWDD responded to the fire with significant reforms to ensure improved fire safety policies and practices were developed and implemented. These reforms included standardizing fire safety practices statewide, conducting unannounced observations of evacuations and fire drills, and setting minimum requirements on fire safety training and drill reporting.

Fire safety and fire drills are an integral part of the concept of protective oversight. According to state rules and regulations,⁵ in order to be certified, a residence, depending on its size, must either meet federal Life Safety Code requirements as published by the National Fire Protection Association (NFPA) or New York Uniform Fire Prevention and Building Code requirements. Residences, at a minimum, are required to conduct one full evacuation quarterly. For supervised residences, a full evacuation is required 12 times a year or quarterly for each shift (day, evening and overnight). Staffing levels must be maintained at all times and on all shifts in order to meet the requirements of a full evacuation.

An IRA must maintain an accurate assessment for each individual resident regarding her or his capacity to evacuate; the assessment must be performance based. Additionally, individuals who are capable must be trained to participate and respond to fires or other emergency conditions.⁶

In order to assess the ability of individuals to evacuate a facility, an “evacuation difficulty score” or “E-score” is calculated for each facility. The score is based on a number of criteria; such as, a rating for each resident, number of staff, the distance from the bedrooms to the exit and the physical plant of the facility. E-scores are broken out into three categories of difficulty:

- Prompt: Evacuates in less than three minutes
- Slow: Evacuates between three and 13 minutes
- Impractical: Unable to evacuate in a timely manner, longer than 13 minutes

E-scores should be updated when changes occur in an individual’s performance or in the makeup of the individuals living at the site.

One of the reforms enacted by OPWDD in March 2011 was a Memorandum of Understanding (MOU) between OPWDD and the Office of Fire Prevention and Control (OFPC).⁷ According to OPWDD, this agreement was a key step in strengthening fire safety oversight and internal accountability within OPWDD.⁸

⁵ Ibid

⁶ Essential Elements of Fire Drill Reporting - Attachment to Administrative Memorandum #2012-02

⁷ OFPC is an Office in the NYS Division of Homeland Security and Emergency Services

⁸ Correspondence from Commissioner Burke June 22, 2011.

The MOU delineated the services and duties related to fire safety between OPWDD and OFPC. Specifically, OFPC was responsible for reviewing residences to determine compliance with federal Life Safety Code requirements. OFPC inspections generally occurred simultaneously with OPWDD's annual certification reviews and staff from OPWDD would accompany an OFPC inspector on each inspection. If federal Life Safety Code violations were found, OFPC would issue a report to OPWDD, who would in turn, develop a Plan of Corrective Action (POCA). An inspector from OFPC was expected to follow-up with the residence to ensure that the home complied with the POCA.

Scope of Review

In early October 2012, the Commission made unannounced nighttime visits to ten state-operated residences located throughout the state to observe a fire drill with minimum staffing. The Commission randomly selected the homes from a universe of homes identified by OFPC as falling within the "slow" category.

Homes in the "slow" category normally take more than three and up to 13 minutes to evacuate; and staff members in these homes frequently care for individuals with limited or no independent mobility, or who may display combative, defiant behaviors during drills.

The Commission's unannounced visits included the following activities:

- An observation of the individuals evacuating from the residence to the safe area (Commission staff positioned themselves inside and outside the residence in a manner least likely to interfere with staff or residents and their ability to evacuate as they would normally).
- A review of the Fire Safety Book that minimally included the following documents: fire evacuation plans, site specific protective oversight plans, alarm inspection certificates, E-scores for the residence and the past one year of fire drill reports.
- Additional documents examined at some residences included training records of staff members' reviews of the fire evacuation plan, fire department notification information and OFPC inspection reports.
- A review of Individual Service Plans (ISPs), Individual Protective Oversight Plans (IPOP) and Behavior Support Plans (BSPs) for individuals identified with fire evacuation challenges.
- An environmental review of the residence.
- Assurance that deficiencies cited in the most recent Statement of Deficiency had been completed as outlined in the Plan of Corrective Action.

Commission Findings

All individuals were able to evacuate in the time allowed as assessed by OFPC. While this was reassuring, the Commission noted numerous problems which raise questions whether residents were secure from unnecessary risk during a fire. These problems are more fully identified below.

1. The Commission's review identified numerous environmental and safety deficiencies. All observed deficiencies that required immediate remediation were brought to the attention of the responsible Developmental Disabilities State Operations Office (DDSOO). Specific deficiencies are detailed below, as the discovery of these concerns demonstrates the need for improved, systemic oversight by OPWDD.
 - Not all individuals evacuated beyond the home's threshold to the designated safe area. Residential staff told the Commission that their evacuations generally did not go beyond the threshold, which is in direct contradiction to the fire evacuation plan. By not consistently evacuating to the safe area, residents are being placed at serious risk of harm in the event of an actual fire.
 - Some individuals were observed re-entering the home (sometimes more than once) prior to the drill being completed. Staff members were required to re-enter the house to evacuate these individuals, placing staff, residents and emergency responders at risk for harm/injury during an actual emergency.
 - In one instance, a staff person had to descend an outside staircase from the second floor carrying an individual, making it extremely dangerous to both the staff and the individual. The Commission learned that many of the residents' observed resistant behaviors were not new; yet the residents were not identified in evacuation plans or site-specific protective oversight plans as possibly being resistant to evacuation and requiring added assistance.
 - The time actually needed to evacuate one residence was in stark contrast to what had been documented during the past year. Records at this home regularly documented that individuals evacuated the residence in two minutes or less during the past year, but staff required more than six minutes during the Commission's visit.
 - One home had self-closing bedroom doors (normally held open by magnetic plates) that locked when the fire alarm was activated. Staff did not have a key on their person to unlock the doors in the event that an individual was unwilling or unable to exit the bedroom after the door closed. Some residents required considerable prompting from staff to open the door and exit, which added time to safely evacuate the residence.⁹

⁹ On an unannounced return visit, the Commission found that staff were still not carrying bedroom keys as required by the home's promised corrective plan.

- At another home, self-closing fire doors did not close when the alarm was activated due to being wedged open or having an object in front of the door preventing it from closing. Some fire doors to bedrooms closed, but did not latch, which created unsafe conditions where smoke or fire could move freely into bedrooms through these unsecured openings.
 - The Commission found enclosed interior stairwells which either lacked emergency lighting or had lights that were not operational. Some lights on external fire escape routes were not functioning. In some instances, staff members were unaware that the lights were not working properly. The Commission visited one residence where staff members were aware that the lights were not operational and there was a plan to use flashlights in the interim. In an interior stairwell at another residence, overhead lights were manually turned off by a resident during the evacuation and all residents immediately stopped evacuating until the light was turned back on.
 - OPWDD requires individuals to evacuate to a “safe area” that is “a safe distance from the building, avoiding roads, fire hydrants and areas to which rescue equipment/personnel may need access.”¹⁰ In several drills, the Commission observed the safe area to be in close proximity to the home or in areas where rescue personnel would need access. Many safe areas were identified as “the van,” which was commonly parked adjacent to the residence.
 - In one laundry room, the washer’s electric cord was unplugged from one wall outlet, and draped across the front of the washer to be plugged into an outlet on the opposite side of the room. Staff told the Commission that this was a “temporary solution” put in place during OFPC’s August 2012 inspection, two months prior to the Commission’s October visit. In another residence, drapes were found which were not treated in the required manner to be fire retardant.¹¹
2. The Commission noted environmental deficiencies not directly related to fire safety at some of the homes, including unsanitary and hazardous conditions, and physical plant items in need of repair. These included broken fixtures, tears in carpets presenting a tripping hazard, tears in furniture, cold water handles shut off so no water was produced when they were turned on, toilets containing waste both during the nighttime visit and again the next morning upon the Commission’s return, a strong smell of urine in bedrooms, comingling of individual bathing supplies in a bathroom shower area, an unlocked medication cabinet, an unkempt yard area that included broken, discarded items, and household items left on the stairs. These significant environmental issues

¹⁰ Essential Elements of a Fire Evacuation Plan

¹¹ In a subsequent unannounced visit to the residence, the Commission found that the drapes had been treated with fire retardant material and an outlet had been installed specifically for the electric cord that had been draped across the room.

found in homes the Commission visited demonstrated a disregard of the rights of individuals to enjoy the quality of life OPWDD espouses.¹²

3. Fire safety policies and procedures were not consistent across the state, outdated or did not include changes as required by OPWDD. The Commission was informed by OPWDD that there were site-specific plans, but no overall policy encompassing state-operated residences across all Developmental Disabilities State Operations Offices (DDSOO). Some DDSOO policies had not been updated since 2009. Reportedly, OPWDD is currently in the process of reviewing DDSOO policies in order to align them within the regional structure to provide consistency across the state.
4. Fire evacuation plans¹³ should: a) be “site-specific” to ensure staff and residents are able to evacuate as safely as possible in the event of an emergency in their respective residence; b) reflect the specific needs of the individuals (e.g. cognition, motor skills, ability to follow directions), as well as their location within the house, proximity to exits, etc.; and, c) list the specific responsibilities of staff during the evacuation process. Staff shall be given assignments by floor/area rather than being assigned to specific residents, except when an individual requires two staff to evacuate or has been designated to have 1:1 staffing. All staff must know exactly what their job is when the alarm sounds and must be trained to react properly and quickly.¹⁴

The Commission’s review of fire evacuation plans found that some plans were not updated to reflect the individuals currently residing at the residence, did not accurately reflect the fire evacuation capability of the residents, and either did not document the minimum staffing needed to evacuate or incorrectly reported the minimum number of staff needed to evacuate. Fire evacuation plans also were not being reviewed by staff every two months. At each location, staff must know the evacuation plan for the house, the layout of the house, the location of all exits and the location of each individual, their capabilities and needs.¹⁵

5. State regulations require all IRAs to develop a site-specific written plan for protective oversight. The plan shall include provisions for ensuring:
 - a) the assessment of each person’s need for the amount and type of supervision necessary including both staff and/or technology as appropriate to the person and circumstance;
 - b) the use of appropriately trained substitute personnel when the primary assigned personnel are unavailable;

¹² In a subsequent unannounced visit to the residence, the Commission found that broken fixtures had been repaired, there was no smell of urine in bedrooms, bathing supplies were not comingled in a bathroom, the medication cabinet was locked, the yard area was clean with no discarded items or household items left on stairs.

¹³ Ibid

¹⁴ Part 686.16 (b) (1); Attachment to Administrative Memorandum 2012-02

¹⁵ Fire Safety Training Video Level One, Module Three

- c) the establishment of qualifications and training requirements of those responsible for supervision; and
- d) the establishment of a process whereby the person's continuing need for the originally recommended amount and type of protective oversight can be periodically reviewed, and modified as necessary.¹⁶

The Commission reviewed site-specific protective oversight plans and found that some were not updated to reflect the current individuals residing at the residence, did not accurately reflect the fire evacuation ability of the residents including any challenges they presented, and did not accurately state the evacuation prompt level for the residence.

6. According to state regulations, there should be an assessment of the individual's ability to evacuate the facility in the event of a fire or other emergency. The assessment should be specific and take into account the person's cognitive ability and physical limitations, impact of medication, physical plant of the facility, etc. The assessment must be based on actual performance of the person evacuating and not just on the opinion of staff.¹⁷ The Commission was unable to find E-scores at several of the residences. Of the E-scores that the Commission was able to review, some were more than one year old, did not include all individuals currently residing at the residence, or conflicted with the E-scores that had been completed by OFPC. Further, staff at some residences reported that their evacuation difficulty level was "prompt," in contrast to the OFPC rating of "slow." The Commission found that E-scores completed by OFPC were more accurate and reflective of the individuals' evacuation capabilities observed during our visit.
7. Standardized fire drill evacuation report forms were not being used at all residences visited. OPWDD's Division of Quality Improvement and the Office of Safety and Security developed standardized evacuation report forms which were to be utilized in all certified residential programs. The forms were developed based on the occupancy requirements of various programs within OPWDD. The forms were expected to be used as received and not modified in any way. The drill forms should have been disseminated and in use by July 2, 2012.¹⁸ The Commission's review found that several residences were not using these new standardized forms.
8. The Commission was not always able to determine if quarterly and yearly fire alarm inspections and monthly fire extinguisher checks were completed. According to the OPWDD "*Fire Alarm System Contract*,"¹⁹ tests shall be performed on all system functions in accordance with the equipment manufacturer's instruction or correct operation. This includes quarterly cleaning and inspection as well as annual testing on the building equipment and main panels. Reports are to be provided and left at the site on the day of inspection, and copies are to be forwarded to the appropriate physical plant management department. Per the MOU with OFPC, the following duties are the responsibility of OPWDD:

¹⁶ Part 686.16 (6) (i-v)

¹⁷ Part 686.12 (b) (2); Part 635-7.2 (c)

¹⁸ Part 686.16 (b) (1) (2); Attachment to Administrative Memorandum 2012-02

¹⁹ Attachment to Administrative Memorandum 2012-02

- conduct, or cause to be conducted, required fire alarm system maintenance; and
- conduct, or cause to be conducted, monthly inspections of all fire extinguishers, in accordance with NFPA 10.²⁰

The Commission's investigation found that some residences did not have the required documentation regarding quarterly/yearly inspections of fire safety systems or monthly fire extinguisher checks available on site, and were unable to forward the documentation to the Commission in the weeks that followed our unannounced visit.

9. OPWDD failed to provide OFPC with Plans of Corrective Action in a timely manner (more than two months), which delayed OFPC's return to residential programs to ensure that violations of Life Safety Code requirements were abated. Prior to conducting visits to the selected residential programs, the Commission received from OFPC the Statement of Deficiency and Notice of Violations for each residential site. The Commission was unable to obtain the Plan of Corrective Action (POCA) for some of the residences as OPWDD had not yet forwarded them to OFPC. Consequently, OFPC was unable to return to these residential programs in a timely manner consistent with the requirements of the MOU to ensure that violations had been abated.
10. The Life Safety Code violations obtained from OFPC did not directly correlate with the Statement of Deficiency (SOD) issued by OPWDD in nine out of ten residences visited by the Commission. Some violations were identified on the SOD, while others were not. OPWDD informed the Commission that some violations were omitted from the SOD if OPWDD deemed the violation was not a deficiency.

Recommendations

1. Review existing DDSOO fire safety policies and align them to provide consistency across the state, including the use of standardized fire drill evacuation forms.
2. Review and update E-scores for all state operated residences, provide training to ensure they are reviewed and/or updated on at least an annual basis and whenever there is a change in resident evacuation abilities, and implement an ongoing monitoring component to assess administrator performance in completing these documents.
3. Review fire evacuation plans for all state operated residences to ensure they are current, including identifying the current individuals residing in the residence. Accurately identify individuals who require additional assistance due to physical limitations or challenging behaviors and ensure each plan identifies a satisfactory safe area. Provide training to ensure plans are reviewed and/or updated yearly and whenever there is a change, and ensure staff review evacuation plans every two months.

²⁰ National Fire Protection Association; Standard for Portable Fire Extinguishers

4. Review site specific plans of protection for all state operated residences to ensure they are current, including the proper fire evacuation prompt level. Plans must identify the current individuals residing at the residence, and accurately identify individuals who require additional assistance due to physical limitations or behavior. Provide training to ensure plans are reviewed and/or updated yearly or whenever there is a change.
5. Review the Individual Support Plans, Individual Plans of Protection and Behavior Support Plans of all individuals to ensure accurate documentation of each individual's ability to evacuate during a fire drill and any additional staff assistance necessary.
6. Provide administrative supervision of fire drills to ensure the fire evacuation plan is being followed by staff members; observe that all residents are able to evacuate the house in the identified time and proceed to the safe area on a consistent basis.
7. Provide training and implement policies to ensure alarm inspections, fire extinguisher checks and emergency lighting checks are performed in accordance with the guidelines set forth by OPWDD.
8. Provide plans of corrective action expeditiously to OFPC when life safety violations have been identified so OFPC can promptly return to the residence to certify that the violations have been abated, thus ensuring resident safety.
9. Complete a physical plant review of all state operated residences to ensure that all fire doors close and latch and are never propped open, and that lighting is available in all interior and exterior stairwells and is properly functioning. If doors are locked a functional plan must be in place for staff to gain access to individuals in the event the individual is unwilling or unable to independently evacuate.
10. Complete environmental reviews of all state operated residences and rectify deficiencies including, but not limited to, ensuring that: faucets function correctly in all bathrooms, medications are locked, drapes are treated to be fire retardant, residences are free from unsanitary conditions, and repairs are made to necessary equipment and furnishings, ensuring that no hazardous conditions remain.
11. Work in collaboration with OFPC and draw on their expertise to ensure that OPWDD's residential programs and the individuals who live there are safe. Evaluate with OFPC the effectiveness of the current system of joint site visits and assess the flow of communication/documentation between the two agencies to determine if change is warranted.
12. Provide a justification within the Statement of Deficiency as to why OPWDD deems a violation identified by OFPC to not be considered a deficiency, to ensure and demonstrate that OPWDD is reviewing all reported violations and meeting the Life Safety Code.

Appendix A

State Operated IRAs visited by the Commission:

1. 220 Noyes Road, Vestal (Broome DDSOO 2)
2. 369 Douglas Street, Brooklyn (Brooklyn DDSOO 5)
3. 24 Mountainview Drive, Cambridge (Capital District DDSOO 3)
4. 311 Southfield Drive, Fayetteville (Central NY DDSOO 2)
5. 31 Brooklawn Drive, Rochester (Finger Lakes DDSOO 1)
6. 258 Farmington Avenue, Sleepy Hollow (Hudson Valley DDSOO 4)
7. 1150 Merritts Road, Farmingdale (Long Island DDSOO 6)
8. 40 Nash Court, Staten Island (Staten Island DDSOO 5)
9. 4093 Rt. 82, Millbrook (Taconic DDSOO 4)
10. 86 Hopkins Road, Williamsville (Western NY DDSOO 1)



NYS Office For People With Developmental Disabilities

Andrew M. Cuomo, Governor
Courtney Burke, Deputy Commissioner

March 20, 2013

Ms. Joanne Scalzo
Facility Review Specialist I
Division of Quality Assurance and Investigations
Commission on Quality of Care and Advocacy
For Persons with Disabilities
401 State Street
Schenectady, NY 12305-2397

Dear Ms. Scalzo:

Attached please find the Office for People With Developmental Disabilities' (OPWDD) response to the Commission on Quality of Care and Advocacy for Persons with Disabilities' (CQC) recommendations in the January 30, 2013 draft report regarding fire safety practices in state-operated Individualized Residential Alternatives.

Upon receipt of CQC's draft report, OPWDD's State Operations Offices in conjunction with the Office of Buildings, Fire Safety and Emergency Services took immediate steps to review and address the areas of concern identified, as well as addressing systemic issues by creating additional checks and balances to ensure the consistent application of existing requirements and tools, and creating new processes for oversight and monitoring. As a result, many corrective actions have already been implemented. In addition, OPWDD's Office of Buildings, Fire Safety and Emergency Services (BFSES) developed an on-line Fire Safety Assessment tool that automates the results of site-specific compliance with fire evacuation drills and other fire safety requirements. The tool is used at specified intervals throughout the year and is verified at a sample of homes by the BFSES Fire Safety Representatives.

Thank you for the detailed review and findings. We appreciate the opportunity to respond to the Commission's concerns and request that you include our full response in your final report.

Sincerely,

Megan O'Connor-Hebert
Deputy Commissioner
Division of Quality Improvement

Enclosures

cc: Commissioner Burke
Helene DeSanto, OPWDD, Division of Service Delivery
Don Hughes, OPWDD, BFSES
John Gleason, OPWDD, State Operations Offices
Paul Martin, OFPC/DHSES
Kelly McGuirk, OPWDD, State Operations Offices
Mark Pattison, OPWDD, Division of Enterprise Solutions

44 Holland Avenue, Albany, NY 12229-0001, TEL: 518-473-1997 FAX: 518-473-1271
75 Marton Street, New York, NY 10014, TEL: 212-229-3231 FAX: 212-229-3234
101 West Liberty Street, Rome, NY 13440, TEL: 315-336-7300 x246 FAX: 315-571-7118
500 A Balltown Road, Schenectady, NY 12304 TEL: 518-381-2110 FAX: 518-381-2190
TTY: 866-933-4889 www.opwdd.ny.gov

**OPWDD's RESPONSE TO THE CQC REPORT:
FIRE SAFETY PRACTICES OF INDIVIDUALIZED RESIDENTIAL ALTERNATIVES (IRAs)
IN DEVELOPMENTAL DISABILITIES STATE OPERATIONS OFFICES (DDSOOs)**

OPWDD continues its focus on fire safety and the agency has taken aggressive steps to review existing policies and procedures, develop new policies where none existed, and identify best practices to arrive at a standardized approach to fire safety on a statewide basis. The thorough on site review and detailed feedback by CQC provides feedback for additional opportunities for improvement particularly related to monitoring and oversight by program managers. OPWDD Leadership from the Divisions of Service Delivery and Quality Improvement, in collaboration with the Division of Enterprise Solutions' Office of Buildings, Fire Safety, and Emergency Services (BFSES), have conducted a number of meetings with DDSOO Directors, Deputy Directors and their management staff to address the concerns noted in this report and to begin to identify those areas where both specific and systemic improvements can be made. In turn, heightened administrative oversight and monitoring has occurred at the local DDSOO team level to re-emphasize the importance of consistently implementing fire safety practices in accordance with regulation and policy. Furthermore, BFSES staff have been working more closely with the DDSOOs to conduct trainings, assist in oversight activities, and provide technical assistance in an effort to ensure remediation of identified issues and to prevent recurrence.

The following are specific actions taken to address CQC's specific concerns and implement corrective actions to the recommendations # 1-7, 9 and 10 outlined in the draft report, as follows:

1. On May 1, 2012, OPWDD issued the **Administrative Memorandum (ADM) - # 2012-02** (see attached) to providers of both state- and voluntary- operated residences and day programs in an effort to provide direction to the field regarding standardized fire safety practices; the use of a standardized fire drill form was one of the numerous directives outlined in the ADM.

In collaboration with each of the DDSOOs, OPWDD's BFSES has initiated steps to ensure that all the directives outlined in the May 2012 ADM have been incorporated into each of the DDSOOs' policies and procedures and implemented consistently on the local level.

More specifically, BFSES is putting together a standing committee comprised of representatives from each of the DDSOOs charged with developing a standardized set of policies, procedures, and practices consistent with the May 2012 ADM that also identifies best practices. Each DDSOO was directed to review fire evacuation plans to ensure they are consistent with the site-specific plan of protective oversight, the individuals' plans of protective oversight (IPOP) and the needs outlined in the individualized service plans (ISPs), including the behavior support plans (BSPs); review and evaluate the actual results of fire drills to ensure they are consistent with the IPOP, ISP and BSP, as applicable; and monitor fire drill logs to ensure the use of the standardized fire drill forms.

The Fire Safety Self Assessment Tool (FSAT) is an automated checklist which goes through a series of questions related to fire safety requirements and practices; the house manager is

asked to go through the checklist and enter data related to compliance for each state operated home. This tool provides online information that DDSOO and OPWDD staff can use to monitor compliance and identify any problem areas. The tool will be utilized in the field over the next 30 days and will provide information related to compliance in a number of key areas.

2. As part of the Division of Quality Improvement's annual recertification process, the Office for Fire Prevention and Control (OFPC) has begun reviewing e-scores in any non-ICF Board and Care where e-scores are necessary to determine the level of evacuation difficulty in the home. In addition, BFSES's Fire and Safety Representatives provide training to the DDSOO staff on how to calculate e-scores. BFSES will request that, in the future, OFPC leave a copy of the e-scores at the residence following the certification visit to ensure the most current e-scores are present for review and consideration during fire safety planning.

The training offered by BFSES will enable appropriate staff at the DDSOOs to complete and/or modify an e-score if /when the condition of an individual changes. In residences where e-score evaluations are required based on the applicability of the federal Life Safety Code requirements, staff must review the evacuation plans every two months. Procedures for tracking and monitoring compliance with these requirements are being developed by BFSES. As these documents are finalized, they will be shared with CQC staff.

3. OPWDD has developed a checklist to review site-specific fire evacuation plans for compliance in accordance with the May 2012 ADM. BFSES' Fire and Safety representatives will be conducting a 10% random sample of residences identified as either in the PROMPT or SLOW category during March 2013. Following the survey, BFSES will provide the completed checklist to each DDSOO while also reinforcing the expectation that Treatment Team Leader (TTL) and Residential Managers must monitor for compliance on a regular basis.

In order to more effectively address fire drill procedures, Level 2 Fire Safety Training will be developed in 2013 and will include the use of the updated standardized fire drill form and outline the specific responsibilities of direct care staff. Additional training will be developed for supervisory staff that outlines the necessary steps when observing fire drills.

OPWDD's BFSES will train DDSOO staff to consult with Fire and Safety Representatives on fire evacuation plan development and any updates, as needed. Plans are required to include the *Essential Elements of a Fire Evacuation Plan*.

4. Each DDSOO Residential Manager will be responsible for regular reviews of each of the site-specific plans of protection to ensure they are current and accurately reflect the characteristics of the residents in each home. This review will also include a check to ensure that all plans that reference an individual's need for supports to safely evacuate the

home reference the individual's needs and what level of support is to be provided. The TTL will establish a schedule to ensure that each home within his/her jurisdiction is reviewed.

Training will be provided by BFSES staff, as needed.

5. See responses to 1, 3, and 4 above.
6. Per the May 2012 ADM, administrative staff above the level of house manager are required to be present on an unannounced basis to observe fire evacuation drills in order to ensure the plan is being followed as written and that all residents can evacuate in the time allowed. This activity is required at each supervised residence a minimum of once per year on the overnight shift and once per year on a shift chosen by the DDSOO. If problems result, additional unannounced drills will be conducted, recorded and reviewed by the treatment team for the residence within a week of conducting the drill. The TTL and residence staff will review the problematic drills to ensure that any recommendations made have been addressed and incorporated in the fire evacuation plans accordingly.

BFSES is currently in the process of developing an electronic fire drill reporting system that will provide administrators with the ability to search particular data points within the fire drill record and analyze trends in fire drill times and performance, and identify recurrent problems. It will allow for both an enterprise-wide perspective, as well as site-specific problem identification in order to expedite remediation. The anticipated implementation date is late June 2013.

7. The specifications for fire alarm inspection, testing and maintenance (ITM) are detailed in the May 2012 ADM. BFSES staff will provide assistance to the DDSOOs to better understand these requirements and monitor sites on a quarterly basis to ensure the requirements outlined in the 2012 ADM are followed.

The fire safety video entitled, *How to Inspect a Fire Extinguisher*, will be promoted as a means in which to assist staff to better understand the steps necessary to complete the physical plant review. A standardized emergency lighting checklist has also been developed and is beginning to be implemented statewide.

8. SEE ATTACHED letter dated 3/14/13 FOR RESPONSE FROM OPWDD's DIVISION OF QUALITY IMPROVEMENT (DQI) and OFPC.
9. The standardized fire drill form includes a checklist to ensure the proper functioning of fire safety equipment, including fire doors and emergency lighting, and is part of the post-drill review procedures. The drill forms include a checklist which addresses environmental issues. Drills are required once per shift per quarter. In addition, a monthly environmental checklist will be issued statewide for house staff to complete and request work orders necessary to repair any deficiencies found. This checklist will be implemented in April 2013.

Based on roll out of the checklist we anticipate all homes will have a completed monthly checklist by June 2013. A check of the doors to ensure they close and latch properly, and that they are not obstructed nor propped open will now be documented as part of the standardized fire drill form and are also included in the Quarterly Safety and Security checklists, and Annual Plant Superintendant checklists. These quarterly and annual checklists will be used for monitoring reviews and intended to verify compliance with the environmental requirements.

Locked doors in a residential setting require specific approval and are based on an individual's rights and capabilities in accordance with the regulations. For doors, such as bathroom or bedroom, that afford individual's greater privacy, staff will be (re)trained to ensure that keys are immediately accessible to these doors at all times should an individual need assistance and is unable to unlock a door.

10. In order to help expedite the identification of physical plant issues that relate to the health and safety of individuals, a safety alert will be issued by the end of March 2013. This safety alert will outline the types of physical plant features that relate to health and safety, the importance of timely identification and remediation of any issue related to these physical plant features and the need to follow up if issues are not resolved. In addition, the quarterly Safety and Security checklist will be completed by BFSES Safety & Security staff, and the annual Plant Superintendant checklist will be completed by BFSES Plant Superintendant staff to monitor for these items including, properly functioning faucets, locked medications, flame retardant treated drapes, an environment free from unsanitary and hazardous conditions, and timely repairs to equipment and furnishings. BFSES will provide immediate feedback to residential staff regarding any issues noted during the reviews and will leave a copy of their respective reports at the residence for staff's reference.

An additional layer of operational oversight occurs as a result of the annual 1204 inspections which are now performed by OFPC. OFPC is obligated to provide the results of their annual fire safety and physical plant inspections to each DDSOO Director. These deficiency reports require that violations are abated within a 30-day window or an acceptable plan of correction is approved by OFPC. Periodic review of these reports by the TTLs and the Residential Managers, as well as the proposed Fire Safety Committee, provides an additional mechanism for identifying fire safety and environmental issues. The safety alert will also reinforce the need to identify and correct problems identified by these inspections.

11. SEE ATTACHED letter dated 3/14/13 FOR RESPONSE FROM OPWDD's DIVISION OF QUALITY IMPROVEMENT (DQI) and OFPC.



NYS Office For People With Developmental Disabilities
Office of Fire Prevention and Control

Andrew M. Cuomo, Governor
Courtney Burke, Deputy Commissioner
Bryant D. Stevens, Director of Fire Prevention and Control

March 14, 2013

Joanne Scalzo
Commission on Quality of Care and Advocacy
For Persons with Disabilities
401 State Street
Schenectady NY 12305-2397

Dear Ms. Scalzo:

We are in receipt of your January 30, 2013 draft report on CQC's review of fire safety practices of Individual Residential Alternatives (IRAs), with an evacuation prompt classified as Slow by the Office of Fire Prevention and Control (OFPC) in state operated residences. This letter represents a joint response from the Office for People With Developmental Disabilities Division of Quality Improvement (DQI) and the Office For Fire Prevention and Control (OFPC) regarding recommendations # 8, 11 and 12 from your draft report.

The Office for Fire Prevention and Control (OFPC) and the Office for People With Developmental Disabilities (OPWDD) maintain an open line of communication at multiple levels to include bi-weekly conference calls between regional supervisors of each agency and quarterly meetings of senior leadership. These meetings have resulted in greatly improved communications and problem solving. The Division of Quality Improvement (DQI) and OFPC believe that the aforementioned open channel of communications will fully address the issues identified by CQC with respect to DQI's partnership with OFPC. In particular:

- The effectiveness of the system of joint site visits has been evaluated by DQI and OFPC in these meetings. As a result, a policy change has recently been agreed upon wherein, effective March 1, 2013, OFPC will have the latitude to schedule the Life Safety Code component of a survey independent of those elements performed by DQI. This action is expected to provide substantial operational flexibility and increased productivity for OFPC.
- The policy is expected to have a significant impact on DQI's ability to provide plans of correction to OFPC expeditiously, to better facilitate prompt verification of correction of deficiencies. Any delays previously resulting from the coordination of Life Safety Code and programmatic reviews will be eliminated by this new process.

Ms. Joanne Scalzo

March 14, 2013

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- CQC notes an issue in which violation(s) identified by OFPC were not being reflected on Statements of Deficiencies issued by DQI. These instances, mainly occurring early in the developing dialogue between the agencies, may have been the result of differences of initial opinion on the part of respective OFPC-OPWDD staff with respect to interpretations of specific requirements, or the degree to which 1204 findings might be relevant to the compliance with Part 635 requirements. The growing interagency relationships and open discussion are expected to minimize, if not eliminate, the occurrence of such "conflicts." That said, DQI and OFPC are in agreement that OFPC will continue to document and report to OPWDD any item it determines to be noncompliant with established fire and life safety codes or standards. DQI and OFPC management will continue to discuss all situations where there are differences in interpretation or both agencies are committed to working through any concerns or operational issues that arise. As stated in the Memorandum of Understanding between OFPC and OPWDD, OPWDD shall retain final decision-making authority with respect to the levy of any fines, penalties or any other enforcement actions.

DQI and OFPC remain committed to holding agencies accountable to high standards in fire safety practices and ensuring the safety of individuals with disabilities. DQI welcomes the opportunities afforded by working closely with OFPC, and benefiting from this exemplary agency's skills, experience, and expertise in the area of fire safety accumulated over the last 60 years.

If you have any additional questions or concerns, please contact Megan O'Connor-Hebert, OPWDD at 518-474-3625 or Paul Martin, OFPC/DHSES at 518-474-6746.

Sincerely,



Megan O'Connor-Hebert
Deputy Commissioner
Division of Quality Improvement

Sincerely,



Paul D. Martin
Chief, Inspections and Investigations
Division of Homeland Security and
Emergency Services