

# State officials move to tighten oversight of nursing homes

By [Kay Lazar](#) | GLOBE STAFF FEBRUARY 11, 2016

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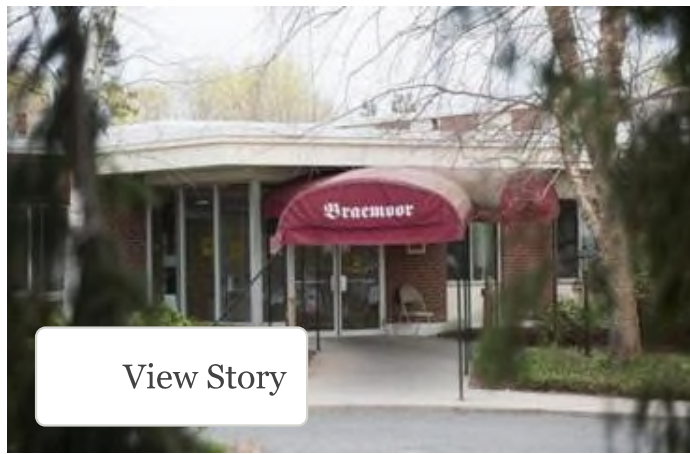
Massachusetts health regulators moved Wednesday to significantly strengthen oversight of nursing homes, creating a unit that will conduct unannounced inspections and promising to impose fines on problem-plagued facilities.

The overhaul, unveiled by the state's public health commissioner, also calls for intensified scrutiny of companies and executives seeking licenses to run nursing homes.

The actions follow revelations about serious gaps in state supervision of nursing homes at a time when dozens of facilities have been sold or closed.

Last year, a series of [Boston Globe stories](#) showed how an out-of-state chain had assembled its string of nursing homes with scant attention from regulators. That company, Synergy Health Centers, has been beset by [reports of substandard care](#) — festering pressure sores, medication errors, poor infection control, inadequate training, and short-staffing.

Dr. Monica Bharel, the health commissioner, also revealed Wednesday that the state has a backlog of consumer complaints about nursing homes. Bharel said that her department will hire and train more staff but did not detail how the agency will pay for the hires.



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Synergy Health Centers, which operates 11 facilities in Mass., faces health and safety problems at several locations.

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As part of the changes Bharel announced, consumers will have access to a new online system to file complaints and find more detailed information about nursing homes.

Families with relatives in nursing homes have long expressed frustration with the state's system for filing complaints.

Last year alone, the Department of Public Health was flooded with about 11,000 complaints from consumers and reports of problems filed by nursing homes, Bharel said.

“We need to find a better way to triage and address the backlog of complaints,” Bharel said as she presented the overhaul to the Public Health Council, an appointed body of academics, consumer advocates, and physicians that approves health regulations.

Roughly 40,000 residents live in the 400-plus nursing homes in Massachusetts.

Governor Charlie Baker's proposed state budget includes money for two additional nursing home inspectors.

Officials said the department may consider using money collected from the stepped-up fines to pay for a new unit, the Supportive Planning and Operations Team, which will be launched this spring and conduct surprise inspections that target problem facilities.

That unit, dubbed the SPOT team, will be a one-year experiment, Bharel said, and will focus on retraining management and staff at struggling nursing homes.

The state will start imposing fines in March.

Bharel acknowledged her agency already had the authority to impose penalties but had not used it. State law allows fines of up to \$50 per day — far less than federally imposed sanctions of up to \$10,000 per day.

“Fifty dollars a day seems to be absolutely token. You need to modify the fines structure,” said Dr. Alan Woodward, a member of the Public Health Council. “It may be that we need to take some licenses away to make clear we are serious.”

Bharel said the department would consider raising the \$50 fine, but that would require a change in state law.

She did not address whether her agency would more aggressively go after the licenses of problem facilities.

Nursing home advocates have lamented that the health department has not been more aggressive in using its longstanding ability to strip operators of their licenses or freeze admissions to problem nursing homes.

“These sanctions are clear in state and federal law,” said Wynn Gerhard, a senior attorney at Greater Boston Legal Services. “The question is, why don’t they utilize these powers in specific cases?”

Bharel said her department in March will require more information from companies seeking to buy nursing homes. That information will include details on the criminal and financial backgrounds of executives from a nursing home’s affiliated companies.

Those affiliates are routinely established to shield a nursing home company from liability if it is sued. An affiliated company legally owns the nursing home property, which makes it harder for someone who is suing to get access to the company’s money, according to attorneys who represent patients who have been harmed.

“In the areas of licensure and determining suitability [of nursing home applicants] our regulatory and operational approach is really not sufficient to handle the shift in the nursing home industry,” according to Bharel.

The public health commissioner also vowed that the department will do a better job of collaborating with other state agencies, elder advocates, and the nursing home industry.

Leaders of the state’s nursing home trade association welcomed that news.

“They need to put everybody at the table together,” said Abraham Morse, president of the Massachusetts Senior Care Association.

Morse and the trade association’s senior vice president, Tara Gregorio, said they needed to review the new rules regarding fines, but said they supported the move to require more information from license applicants.

“Complete transparency is important in helping consumers make choices for quality care,” Gregorio said.

Questions about quality of care have dogged Synergy, the New Jersey company that assembled a string of 11 Massachusetts nursing homes with little state scrutiny of the backgrounds of top executives.

In December, a Globe story highlighted Synergy's rapid expansion, even as an executive affiliated with the company faced tens of thousands of dollars in fines because of previous business dealings.

The Globe's review also found that the health department had neglected to verify tax information Synergy provided when it applied for several state nursing home licences. Synergy had reported that all of its taxes had been paid, but records showed the company had liens placed on it because of unpaid state taxes.

At the same time, state and federal documents showed a record of substandard care at a number of Synergy nursing homes.

A rule that went into effect Jan. 1 provides for more public say when nursing homes are sold or closed. Operators would be required to notify the public before homes are sold or closed, and hearings would be mandated for any closings.

Lawmakers had directed the health department in July 2014 to create a more public process, but the new rules were not put into effect until last month.

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