

2017-109  
Brius Healthcare—Medi-Cal Reimbursements

Requesters: Assemblymember Wood and Senator McGuire

---

**Request Date:** June 7, 2017

**Requested Completion Date:** The members did not request a specific completion date for this audit.

**Estimated Cost:** \$424,800

**Estimated Hours:** 3,540

**Other Work Within the General Area:**

*2014-111 California Department of Public Health: It Has Not Effectively Managed Investigations of Complaints Related to Long-Term Health Care Facilities (October 2014)*

*2006-106 Department of Health Services: Its Licensing and Certification Division is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities (April 2007)*

2017-109  
Brius Healthcare—Medi-Cal Reimbursements

ANALYSIS OF AUDIT REQUEST  
June 28, 2017

I. AUDIT REQUEST

Assemblymember Wood and Senator McGuire are requesting an audit of data reported to the California Office of Statewide Healthcare Planning and Development (OSHPD), the California Department of Healthcare Services (DHCS), and the California Department of Public Health (Public Health) by Brius Healthcare for services provided in their skilled nursing facilities.

II. BACKGROUND

California currently has more than 1,200 skilled nursing facilities, which provide nursing and support to Californians who need ongoing care. To serve the needs of one of the State's most vulnerable populations, skilled nursing facilities receive federal and State support through Medicare and Medi-Cal reimbursements. However, recent allegations claim that some of the State's skilled nursing facilities have not disclosed required information regarding costs and related-party transactions and have neglected proper patient care. For example, in a legal filing Public Health and DHCS stated that a company named Brius repeatedly failed to comply with the law.

Brius LLC, Brius Management Company, and various other related business organizations (collectively "Brius") are under the direction of a single individual who directly or indirectly owns or operates more skilled nursing facilities than any other person in the State. According to a 2014 report from the *Sacramento Bee*, Brius controls more than 70 facilities. Further, at least one of these Brius nursing facilities has paid significant sums to "related-party" businesses to purchase services, goods, and supplies for its nursing homes. Related-party transactions could cause concerns because they may create opportunities for conflicts of interest. For example, a company may be paying higher than market rates to related parties, which are then reimbursed using Medi-Cal funds.

According to OSHPD, *related parties*—in the context of reporting for skilled nursing facilities—include individuals or organizations with which the facility is associated or affiliated, or is controlled by the organization furnishing the services. OSHPD requires that skilled nursing facilities report related-party transactions annually. In 2014 Public Health and DHCS attempted to block Brius from acquiring more skilled nursing facilities due, in part, to its failure to disclose these related-party transactions.

A number of State offices oversee skilled nursing facilities in California. OSHPD collects data and disseminates information about California's health care infrastructure. State law grants OSHPD the authority to collect long-term care facility data, of which skilled nursing facilities are a subset. As previously mentioned, these data include information regarding related-party transactions, among other financial and operational data. DHCS sets Medi-Cal reimbursement rates for skilled nursing facilities in addition to auditing skilled nursing facilities to ensure compliance with Medi-Cal reporting standards. DHCS may withhold payments to skilled nursing facilities for failure to comply with reporting standards. Finally, Public Health is responsible for developing, implementing, and enforcing programs to protect patient health and safety and ensuring quality of health care for patients. It ensures this through licensing, inspecting, and investigating complaints related to health care facilities and it can assess fines to skilled nursing facilities for noncompliance.

### III. AUDIT SCOPE AND OBJECTIVES

The audit by the California State Auditor will provide independently developed and verified information related to data reported to the California Office of Statewide Healthcare Planning and Development (OSHPD), the California Department of Healthcare Services (DHCS), and the California Department of Public Health (Public Health) by Brius Healthcare (Brius) for services provided in their skilled nursing facilities, and will include, but not be limited to, the following:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Assess the roles and responsibilities of relevant state agencies—including OSHPD, DHCS, and Public Health—that oversee skilled nursing facility financial reporting, collect a variety of health facility data, set Medi-Cal rates and reimbursements, audit compliance with reporting requirements, and ensure and enforce quality of care. Determine whether there is effective coordination among these entities.
3. Evaluate whether the policies, processes, and practices for establishing rates and/or reimbursements for skilled nursing facilities are reasonable and appropriate. Specifically, for the most recent three years, to the extent possible assess whether related-party transactions affect Medi-Cal rate and reimbursement policies, practices, and processes.
4. For a selection of the related-party transactions covering the past three years for both Brius' skilled nursing facilities and for a comparable company's skilled nursing facilities, do the following to the extent possible:
  - (a) Assess the total dollar amount of related-party transactions, the amount of related-party transactions reimbursed by Medi-Cal, and the percentage of non-payroll expenses these transactions represent.
  - (b) Determine the number of related-party businesses that performed any sort of financial transactions with the facilities and what services, goods, or supplies these

- related parties provided. Determine which related parties had the most transactions in terms of dollar value.
- (c) Evaluate the number of facilities engaged in related-party transactions for the purpose of leasing buildings, property, and/or equipment. Determine the dollar amount for these transactions and compare those amounts to the amounts paid in transactions with non-related parties and to market rates for similar purposes.
  - (d) On a county-by-county basis, determine the difference in the annual lease per nursing home bed paid by selected facilities versus non-selected facilities.
5. To the extent possible, for the most recent three years using the selection identified in Objective 4, do the following:
- (a) Determine whether related-party transactions comply with relevant laws and regulations in addition to being reasonable. Assess whether related-party transactions were properly reported and whether available records indicate the ownership of related parties.
  - (b) Assess whether the terms and conditions of related-party transactions are memorialized in written contracts.
  - (c) Determine how many skilled nursing home facility owners engaged in related-party transactions to lease buildings.
  - (d) Identify and assess the financial services that related parties provide to the facilities and the number of employees these related parties employ. Assess how common it is for skilled nursing facilities and other related businesses to purchase financial services from a related party.
  - (e) With respect to related parties that have extended loans and credit to the selected facilities, evaluate whether the interest rates charged by the related parties are fair and reasonable and comply with relevant laws, regulations, and contract provisions.
6. Determine how quality of care can impact Medi-Cal payments to skilled nursing facilities. For the selection of skilled nursing facilities identified in Objective 4, assess the effectiveness of state agency oversight and monitoring of these facilities.
7. Evaluate the effectiveness and comprehensiveness of OSHPD's annual reporting form and the department's associated policies and protocols to determine whether these disclosure tools are adequate for monitoring skilled nursing facility related-party transactions and for safeguarding taxpayers from abuse and fraud. To the extent possible do the following:

- (a) Assess whether the financial reporting requirements allow for collection of adequate information on related-party transactions.
  - (b) Determine whether the form provides sufficient information regarding whether related-party transactions create a conflict of interest or exceed area market prices.
  - (c) Evaluate whether sufficient transparency and accountability safeguards exist to identify and prevent conflicts of interest, fraud, and abuse.
8. Assess what audits and investigations state agencies perform related to skilled nursing facility related-party transactions. Ensure audits and investigations are being performed as required and are adequate for their purposes.
9. Identify any best practices from other states regarding approaches to enhancing the transparency of skilled nursing facility related-party transactions including an assessment of related-party transaction legislation passed in 2013 in Connecticut.
10. Review and assess any other issues that are significant to the audit.

#### IV. OTHER WORK IN THE GENERAL AREA

*2014-111 California Department of Public Health: It Has Not Effectively Managed Investigations of Complaints Related to Long-Term Health Care Facilities (October 2014)*

*2006-106 Department of Health Services: Its Licensing and Certification Division is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities (April 2007)*

#### V. RESOURCE REQUIREMENTS

We estimate that this audit will require approximately 3,540 hours of audit work at a cost of approximately \$424,800 plus travel and administrative expenses and any potential costs related to an outside consultant, if necessary. We will conduct this audit using our existing budget authority to the extent funding is available for audits approved by the Joint Legislative Audit Committee.

VI. REQUIRED DATE OF COMPLETION

The members did not request a specific completion date for this audit.

*Elaine M. Howle*

---

ELAINE M. HOWLE, CPA  
California State Auditor