



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued May 18, 2017

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## Review of Mandated Reports of Children Born with a Physical Dependence on an Addictive Drug at Lowell General Hospital

For the period January 1, 2014 through August 31, 2016





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May 18, 2017

Mr. Normand Deschene, Chief Operating Officer  
Lowell General Hospital  
295 Varnum Avenue  
Lowell, MA 01854

Dear Mr. Deschene:

I am pleased to provide this performance audit of Lowell General Hospital. This report details the audit objectives, scope, methodology, finding, and recommendation for the audit period, January 1, 2014 through August 31, 2016. My audit staff discussed the contents of this report with management of the hospital, whose comments are reflected in this report.

I would also like to express my appreciation to Lowell General Hospital for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump  
Auditor of the Commonwealth

cc: Linda S. Spears, Commissioner, Department of Children and Families  
Daniel J. Mansur, Chair, Board of Trustees, Lowell General Hospital

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## LIST OF ABBREVIATIONS

CDA	congenital drug addiction
DCF	Department of Children and Families
DPH	Department of Public Health
LGH	Lowell General Hospital
MMIS	Medicaid Management Information System
OSA	Office of the State Auditor

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted an audit of Lowell General Hospital (LGH) for the period January 1, 2014 through August 31, 2016. In this performance audit, we assessed LGH's compliance with certain aspects of Section 51A of Chapter 119 of the General Laws. This law requires all mandated reporters<sup>1</sup> to send a written report to the state's Department of Children and Families (DCF) within 48 hours of the birth of a child with a physical dependence on an addictive drug.

This audit was conducted as part of OSA's ongoing efforts to audit the activities of the Commonwealth's service providers and to promote accountability, transparency, and cost-effectiveness in state contracting.

Below is a summary of our finding and recommendation, with links to each page listed.

<b>Finding 1</b> <b>Page <a href="#">5</a></b>	LGH did not promptly prepare and retain all Section 51A reports of children born drug-dependent and send copies to DCF.
<b>Recommendation</b> <b>Page <a href="#">6</a></b>	LGH should establish proper oversight controls to ensure that all mandated reporters on its staff complete, retain, and send copies of all Section 51A reports within the prescribed timeframes and that it retains proper documentation to substantiate that reports have been submitted to DCF.

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1. This law defines mandated reporters as people who have direct contact with children under the age of 18 as part of their jobs.

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## OVERVIEW OF AUDITED ENTITY

Lowell General Hospital (LGH) was founded in 1891 and provides medical services in its two main facilities, both in Lowell, and a variety of other care centers throughout the Merrimack Valley. A significant portion of LGH's resources are devoted to maternity care; according to its website, LGH operates 26 maternity beds and 28 bassinets<sup>2</sup> and oversaw 6,227 live births during our audit period.

### Mandated Reporter Program

The Department of Children and Families (DCF) is the state agency that is responsible for investigating mandated reports of infants born with congenital drug addiction (CDA). According to the *Boston Globe* in 2014, the first year that Massachusetts tracked the problem, DCF investigated more than 1,700 reports of children born with CDA. According to the Massachusetts Department of Public Health (DPH), infants born with a physical dependence on an addictive drug (i.e., infants born with CDA) are at risk of a variety of medical conditions and developmental disabilities as well as abuse and neglect. To help provide proper care and treatment to infants born with CDA, the Legislature enacted Section 51A of Chapter 119 of the Massachusetts General Laws. This law requires mandated reporters to report to DCF immediately, and send a written report to DCF within 48 hours, when a child is born physically dependent on an addictive drug.<sup>3</sup>

In 2013, DPH issued its Guidelines for Community Standard for Maternal/Newborn Screening for Alcohol/Substance Use. The document states that it is intended to help healthcare professionals do the following:

- *Improve their ability to effectively identify substance-exposed newborns;*
- *Implement standardized guidelines for maternal screening in Massachusetts; and*
- *Improve the health and well-being of women and their at-risk newborns.*

It also states that hospitals should have written policies for medical and social workers to intervene in, and report, cases of infants born with CDA. According to the guidelines, after a 51A report is determined to be necessary, the mandated reporter should make a telephone report to DCF's Protective Service Unit. The hospital must then send the completed 51A report directly to DCF within 48 hours.

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2. A bassinet is a bed for babies from birth to about four months old.

3. LGH falls under the definition of "mandated reporter" in Section 21 of Chapter 119 of the General Laws.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of the Lowell General Hospital (LGH) for the period January 1, 2014 through August 31, 2016.

Section 51A of Chapter 119 of the General Laws requires mandated reporters to report to the Department of Children and Families (DCF) when a child is born with a physical dependence on an addictive drug. According to the Massachusetts Department of Public Health (DPH), these children are at high risk of receiving improper treatment and care; OSA determined that these risks are greater if there are problems with the mandated-reporting process.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is our audit objective, indicating the question we intended our audit to answer, the conclusion we reached regarding our objective, and where the objective is discussed in this report.

Objective	Conclusion
1. Has LGH taken appropriate measures to ensure compliance with Section 51A of Chapter 119 of the General Laws, which requires a written report to DCF for all cases of physical dependence on an addictive drug at birth?	<b>No; see Finding <u>1</u></b>

To achieve our objective, we gained an understanding of the internal controls at LGH that were related to our audit objective and tested those controls for operating effectiveness.

We reviewed the requirements of Chapter 119 of the General Laws as well as DCF and DPH publications and guidelines.

We requested additional documentation from LGH, including an organization chart, policies and procedures for mandated reporters/reports, and a list of internal assessments performed by LGH. We also met with LGH management to assess their familiarity with the requirements of Section 51A.

From MassHealth's Medicaid Management Information System (MMIS), we obtained medical-claim and medical-service data as well as member information for MassHealth members who received services from LGH during the audit period.

We identified nine diagnosis codes in the International Classification of Diseases that are associated with physical dependence on an addictive drug at birth, referred to as congenital drug addiction (CDA).<sup>4</sup> We identified all claims and medical services that occurred within 60 days after a child's birth and flagged those that included one or more CDA diagnosis codes. We considered only those for which LGH was the first provider to use a CDA diagnosis code, to avoid including instances where another provider might already have filed a mandated report.

We gave LGH a list of the medical services we had identified for audit and requested documentation that mandated reports had been made and/or documentation of any factors that they believed justified not making a report. In addition, we requested the Section 51A reports for infants born with CDA who were not MassHealth members. Thus we tested reporting for all 132 infants born with CDA at LGH during the audit period. After this audit testing and analysis were complete, we discussed discrepancies with LGH management. Because of incomplete data at LGH, we obtained Section 51A information from DCF to determine the number of 51A reports actually filed.

OSA separately assessed the reliability of information stored in MMIS, tested selected system controls, and interviewed knowledgeable agency officials about the data. We performed additional validity and integrity tests on all claim data, including (1) testing for missing data, (2) scanning for duplicate records, (3) testing for values outside a designated range, and (4) looking for dates outside specific time periods. Based on the analyses conducted and our current comparison of source documentation with MMIS information, we determined that the data obtained were sufficiently reliable for the purposes of this audit. We relied on hardcopy source documents for other data needs.

Based on the evidence we gathered to form a conclusion on our objectives, we believe that all audit work, in particular the work referred to above, taken as a whole is relevant, valid, reliable, and sufficient and that it supports the finding and conclusion reached in this report.

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4. See the appendix to this report for more information on CDA diagnosis codes.

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## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### **1. Lowell General Hospital did not promptly prepare, retain, and send to the Department of Children and Families all required reports of children born drug-dependent.**

For 12 of the 132 children who were born at Lowell General Hospital (LGH) with congenital drug addiction during our audit period, LGH did not send required reports to the Department of Children and Families (DCF) within the 48-hour timeframe required by Section 51A of Chapter 119 of the Massachusetts General Laws. Further, LGH's records of Section 51A reports were deficient: 47 records were missing copies of the Section 51A reports that LGH had sent to DCF, and another 40 records were missing documentation verifying that DCF had received the reports. Without accurate and complete records, LGH cannot properly oversee its Section 51A reporting process.

#### **Authoritative Guidance**

Section 51A of Chapter 119 of the General Laws identifies hospital personnel who are engaged in examination, care, or treatment as mandated reporters<sup>5</sup> who must prepare and submit reports to DCF for any incidents giving rise to a reasonable suspicion of abuse or neglect. Section 51A(a) of Chapter 119 of the General Laws indicates that "physical or emotional injury resulting from . . . physical dependence upon an addictive drug at birth" must be reported. Section 51A requires mandated reporters to notify DCF immediately by phone and then file a written report with DCF within 48 hours of that notification, detailing the suspected abuse or neglect.

LGH's Hospital Policy and Procedures Manual states that after the telephone report to DCF's Protective Service Unit, the mandated reporter must complete the 51A report and forward it to LGH's Continuity of Care Unit within 48 hours. That unit then sends the original 51A report to DCF and also retains a copy for hospital records. Although it is not required by policies, it is a sound business practice to maintain documentation that a Chapter 51A report has been submitted to DCF to ensure that LGH's staff is complying with these requirements.

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5. Section 21 of Chapter 119 of the General Laws enumerates a wide range of professionals who are mandated reporters, including physicians, nurses, psychologists, social workers, and certain mental-health and human-service professionals.

## Reasons for Noncompliance

LGH had not established proper oversight controls to ensure that its staff followed its policies and procedures regarding the completion, retention, and submission of all Section 51A reports within mandated timeframes.

LGH believed the process could be improved if DCF set up an electronic portal to file the 51A form. LGH officials also stated that hospital staff members typically fax Section 51A reports to DCF, but in some cases, they may give them directly to a DCF social worker when s/he comes to the hospital to investigate the matter. In those instances, LGH does not ask for a receipt from the social worker to verify that DCF received the report.

## Recommendation

LGH should establish proper oversight controls to ensure that all mandated reporters on its staff complete, retain, and send copies of all Section 51A reports within the prescribed timeframes and that it retains proper documentation to substantiate that reports have been submitted to DCF.

## Auditee's Response

LGH provided the following response to our draft report. Note that the term "neonate," used in this response, means a newborn child.

*DCF does not await receipt of a written 51A report to initiate an investigation into a child's health, welfare and safety. Rather, DCF opens a formal case and initiates an investigation immediately upon the oral communication by a hospital staff member that a child may potentially be at risk. The subsequent written 51A report merely serves an administrative function in confirming in writing the information that has already been imparted via telephone call. **In each of the 132 children born at the hospital for whom a 51A report was initiated, the medical record reflects the date upon which DCF was notified so that a timely investigation could be immediately initiated. . . .***

*We further respectfully object to the suggestion that the subject regulation mandates that the hospital maintain responsibility for retaining all Section 51A reports filed by staff members, as this is not consistent with the statutory obligations imposed by the regulation. There is no language in the regulation to that effect.*

*Notations in the medical record that a 51A report was filed should constitute evidence of the filing. Activities documented in the medical record are recorded by licensed individuals and reflect actions taken to care and manage the patient. The medical record is a legal document and regularly used in legal proceedings to verify and authenticate details of a patient's episode of care. The 51A reports themselves are not considered part of the legal medical record. It is*

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*improper to suggest that the hospital's inability to produce copies of the subject reports constitutes lack of compliance with the subject statute. . . .*

*The hospital appreciates the suggestion that the retention of these reports constitutes a "sound business practice" and will be immediately moving forward with enhancing our current internal practices to maximize document retention.*

## **Auditor's Reply**

Contrary to LGH's comments on late filings, although the files in question may have indicated the dates on which DCF was notified, it is LGH's responsibility to provide DCF with the 51A report so that DCF has the written documentation it needs to properly facilitate the child's treatment. Therefore, we do not agree with LGH that the 51A report "merely serves an administrative function in confirming in writing the information that has already been imparted via telephone call." On the contrary, after receiving a 51A report, DCF evaluates the allegations and determines whether to "screen in" the case. If a report is "screened in," it is assigned to an investigation, initial assessment, or short-term stabilization track based on an assessment of the allegations involved and interventions needed for stabilization. In addition, mandated reporters are required to answer any questions DCF may have regarding the 51A report to help determine whether a child is being mistreated and to assess the child's safety.

Regarding files that were missing 51A reports, we do not dispute that a copy of a 51A report is not a required part of medical record. However, LGH's own Hospital Policy and Procedures Manual requires that it keep copies of all 51A reports in its records. Despite this, LGH could not produce 39% (51 out of 132) of the requested 51A reports. Further, we acknowledged that LGH policy does not require a record documenting that a 51A report has been provided to DCF. However, we believe it is a good business practice to maintain such documentation to ensure that LGH's staff members have complied with the submission requirements. As noted above, LGH could not provide evidence of delivery to DCF for 59% (48 out of 81) of the 51A reports it had prepared; because of this, we had to contact DCF to determine whether these 51A reports had been filed at all and, if so, whether they had been filed in a timely manner.

Finally, in its response, LGH did not address the fact that 12 of the 51A reports it filed with DCF were sent after the mandated 48-hour report-submission timeframe. Therefore, we again recommend that LGH establish proper oversight controls to ensure that mandated reporters on its staff send copies of all Section 51A reports within the prescribed timeframes.

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## APPENDIX

### Congenital Drug Addiction Diagnosis Codes\*

Diagnosis Code	Description
6555	Fetal damage due to drug
65550	Fetal damage due to drug—unspecified
65551	Fetal damage due to drug—delivered
65553	Fetal damage due to drug—antepartum
7794	Newborn drug reaction/intoxication
7795	Newborn drug withdrawal syndrome
P044	Newborn affected by maternal use of drugs of addiction
P0449	Newborn affected by maternal use of drugs of addiction
P961	Neonatal withdrawal symptoms from maternal use of drugs of addiction

\* These codes are from the Centers for Medicare and Medicaid Services' *Definitions of Medicare Code Edits*.