

Inspections Report

Nursing Facility Emergency Preparedness

Mystic Park Nursing and Rehabilitation Center



**Inspector
General**

Texas Health
and Human Services

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Nursing Facility Emergency Preparedness

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Results in Brief

Why OIG Conducted This Inspection

The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Inspections) conducted an inspection of Mystic Park Nursing and Rehabilitation Center (Mystic Park), a skilled nursing facility.

In 2020, the U.S. Department of Health and Human Services Office of Inspector General conducted a review of selected nursing facilities in Texas to evaluate compliance with life safety and emergency preparedness requirements. The report identified noncompliance with emergency preparedness requirements related to emergency preparedness plans, emergency supplies, emergency power, communication plans, and emergency preparedness plan training.

OIG Inspections initiated this inspection because of potential health and safety concerns caused by inadequate emergency preparedness programs at nursing facilities.

Key Results

Mystic Park Nursing and Rehabilitation Center's (Mystic Park's) emergency preparedness plans and processes complied with 19 of 23 (82.6 percent) state and federal emergency preparedness requirements for nursing facilities reviewed as part of this inspection. Mystic Park had an updated emergency preparedness (a) plan and (b) training and testing program. Mystic Park also had updated procedures related to alternative power sources and subsistence needs for residents and staff. During a site visit to Mystic Park's facility, inspectors saw multiple emergency preparedness elements, including a generator used as an alternate energy source and supplies for resident and staff subsistence. However, Mystic Park did not consistently comply with four emergency preparedness requirements. Specifically, Mystic Park did not:

- Document initial employee training on emergency preparedness.
- Ensure its emergency preparedness plan identified how alternate energy sources should be used to maintain the power needs of key systems.
- Maintain a printed copy of its current emergency preparedness plan at each workstation assigned to a personnel supervisor who had responsibilities under the plan.
- Document the required contact information for the state licensing and certification agency in its communication plan.

Summary of Review

The inspection objective was to determine whether Mystic Park followed select state and federal requirements for emergency preparedness.

The inspection scope included Mystic Park's (a) documentation of calendar year 2021 emergency preparedness training and testing and (b) emergency preparedness program in place as of May 2022.

Recommendations

Mystic Park should ensure:

- All employees complete emergency preparedness plan training within 30 days of assuming applicable job duties and document each completion.
- Its emergency preparedness policies and procedures identify how alternate energy sources should be used to maintain required temperatures; emergency lighting; fire detection, extinguishing, and alarm systems; and sewage and waste disposal.
- A copy of its current emergency preparedness plan is present at the workstation of each personnel supervisor who has responsibilities under the plan.
- Its communication plan includes the required contact information for the state licensing and certification agency.

For more information, contact: OIGInspectionsReports@hhs.texas.gov

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Inspection Overview

Overall Results

Mystic Park Nursing and Rehabilitation Center's (Mystic Park's) emergency preparedness plans and processes complied with 19 of 23 (82.6 percent) state and federal emergency preparedness requirements for nursing facilities reviewed as part of this inspection. Mystic Park had an updated emergency preparedness (a) plan and (b) training and testing program. Mystic Park also had updated procedures related to alternative power sources and subsistence needs for residents and staff. During a site visit to Mystic Park's facility, inspectors saw multiple emergency preparedness elements, including a generator used as an alternate energy source and supplies for resident and staff subsistence. However, Mystic Park did not consistently comply with four emergency preparedness requirements. Specifically, Mystic Park did not:

- Document initial employee training on emergency preparedness.
- Ensure its emergency preparedness plan identified alternate energy sources to maintain the power needs of key systems.
- Maintain a printed copy of its current emergency preparedness plan at each workstation assigned to a personnel supervisor who had responsibilities under the plan.
- Document the required contact information for the state licensing and certification agency, Texas Health and Human Services (HHS), in its communication plan.

The HHS Office of Inspector General (OIG) Audit and Inspections Division (OIG Inspections) offered recommendations to Mystic Park, which, if implemented, will help ensure that Mystic Park follows selected state and federal requirements for emergency preparedness. Inspection findings identified in this report may be referred to HHSC for potential pursuit of enforcement remedies or OIG administrative enforcement measures,¹ including administrative penalties.²

¹ 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

² Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).

OIG Audit presented preliminary inspection results, issues, and recommendations to Mystic Park in a draft report dated August 10, 2022. Mystic Park agreed with the inspection's recommendations and elected not to provide management responses.

OIG Inspections thanks the management and staff at Mystic Park for their cooperation and assistance during this inspection.

Objective

The inspection objective was to determine whether Mystic Park followed select state and federal requirements for emergency preparedness.

Scope

The inspection scope included Mystic Park's (a) documentation of calendar year 2021 emergency preparedness training and testing and (b) emergency preparedness program in place as of May 2022.

Background

Mystic Park, owned by West Wharton County Hospital District, LLC and managed by Regency Integrated Health Services, LLC, is a skilled nursing facility located in San Antonio, Texas.

Nursing facilities are required to establish and maintain an emergency preparedness program,^{3,4} which includes, but is not limited to, the following emergency preparedness elements:

- Emergency preparedness plan
- Policies and procedures
- Communication plan
- Training and testing program
- Emergency and standby power systems

³ 42 C.F.R. § 483.73 (Nov. 29, 2019).

⁴ 26 Tex. Admin. Code § 554.1914 (Jan. 15, 2021).

Each nursing facility's emergency preparedness plan must address emergency events identified by the facility's risk assessment, such as heating or cooling system failures, fires, power outages, extreme winter conditions, hurricanes, and tornadoes.

HHS Long Term Care Regulation (LTCR) is responsible for ensuring nursing facilities comply with state and federal laws and regulations. LTCR provides training and guidance, conducts annual emergency preparedness surveys, and performs a follow-up review of deficiencies identified to ensure compliance.

What Prompted This Inspection

In 2020, the U.S. Department of Health and Human Services Office of Inspector General conducted a review of selected nursing facilities in Texas to evaluate compliance with life safety and emergency preparedness requirements.⁵ The report identified noncompliance with emergency preparedness requirements related to emergency preparedness plans, emergency supplies, emergency power, communication plans, and emergency preparedness plan training.

OIG Inspections initiated this inspection because of potential health and safety concerns caused by inadequate emergency preparedness programs at nursing facilities.

⁵ U.S. Department of Health and Human Services Office of Inspector General, *Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes*, A-06-19-08001 (Feb. 6, 2020).

Detailed Results

OIG Inspections conducted a site visit to Mystic Park's facility and reviewed Mystic Park's emergency preparedness plans and processes for compliance with 23 state and federal emergency preparedness requirements for nursing facilities related to:

- Emergency preparedness plans
- Emergency supplies and power
- Emergency communication plans
- Emergency preparedness plan training and testing

Mystic Park was compliant with requirements including:

- Processes for ensuring emergency power systems were maintained, inspected, and tested.
- Timely reviewing and updating the (a) emergency preparedness plan; (b) communication plan; and (c) training and testing program.
- Policies and procedures that addressed the subsistence needs for residents and staff.

The following sections of this report provide additional detail about the findings of noncompliance observed by OIG Inspections.

Observation 1: Mystic Park Did Not Consistently Document Initial Emergency Preparedness Plan Training Completions Within the Required Time Frame

Mystic Park did not consistently document that employees completed initial emergency preparedness plan training as applicable for assigned job duties. Texas Administrative Code requires training for staff on emergency preparedness plan responsibilities within 30 days of an employee assuming applicable job duties.⁶ Nursing facilities must also (a) provide training in emergency preparedness policies and procedures and (b) maintain documentation of the training.⁷

⁶ 26 Tex. Admin. Code § 554.1914(e)(1) (Jan. 15, 2021).

⁷ 42 C.F.R. § 483.73(d)(1) (Nov. 29, 2019).

OIG Inspections selected 10 employees to review training records; however, one employee was terminated prior to 30 days, so the employee was removed from OIG Inspection's testing. Specifically, of the 9 Mystic Park employee training records reviewed as part of this inspection, 8 (88.9 percent) did not indicate the associated employee completed the initial emergency preparedness plan training within 30 days of assuming applicable job duties.

Mystic Park's training logs for the eight employees that did not complete the training within 30 days indicated that (a) six of the employees completed the training between seven and nine months after assuming applicable job duties and (b) two employees, hired in September and October of 2021, had not completed the training as of June 2022.

Mystic Park's internal policies and procedures require new employees to complete orientation training within 21 days of hire. Mystic Park includes emergency preparedness training as part of orientation for all employees regardless of job duties. Mystic Park asserted that it did not have a process to appropriately document orientation training completions at the time the employees sampled were hired.

Employees that do not receive timely emergency preparedness plan training may pose a safety risk to themselves and residents in the event of a fire, hurricane evacuation, or other emergency.

Recommendation 1

Mystic Park should (a) ensure that all employees complete emergency preparedness plan training within 30 days of assuming applicable job duties and (b) document each completion.

Observation 2: Mystic Park Did Not Have Policies and Procedures that Identified Alternate Energy Sources to Maintain Power Needs for Key Systems During an Emergency

During the site visit to Mystic Park's facility, OIG Inspections observed a generator as the facility's alternate energy source. Mystic Park has policies and procedures that included the maintenance of alternate energy sources; however, the policies and procedures did not identify how alternate energy sources should be used in an emergency. Key systems are required to be maintained during a power outage.

Nursing facilities must have policies and procedures, based on the emergency preparedness plan, that address how the alternate energy sources are used to maintain:

- Temperatures at levels necessary to (a) protect resident health and safety and (b) safely and sanitarily store food and medications.
- Emergency lighting.
- Fire detection, extinguishing, and alarm systems.
- Sewage and waste disposal.⁸

The emergency preparedness policies and procedures did not specify which systems are key systems to be maintained by alternate sources of energy. If key systems cannot function due to a lack of power, staff and resident safety may be compromised.

Recommendation 2

Mystic Park should ensure its emergency preparedness policies and procedures identify how alternate energy sources should be used to maintain required temperatures; emergency lighting; fire detection, extinguishing, and alarm systems; and sewage and waste disposal.

Observation 3: Mystic Park Did Not Maintain a Copy of Its Current Emergency Preparedness Plan at Each Personnel Supervisor Workstation as Required

During the site visit to Mystic Park's facility, OIG Inspections observed that Mystic Park kept a printed copy of its current emergency preparedness plan in a central location within its facility but did not maintain a copy at each workstation assigned to a personnel supervisor who had responsibilities under the plan as required. As a nursing facility, Mystic Park must maintain a current printed copy of its emergency preparedness plan (a) at a central location that is accessible to staff at all times and (b) at the workstation of each personnel supervisor who has responsibilities under the plan.⁹

Mystic Park asserted that all personnel supervisors had a copy of its emergency preparedness plan prior to February 2022; however, printed copies of the plan were

⁸ 42 C.F.R. § 483.73(b) (Nov. 29, 2019).

⁹ 26 Tex. Admin. Code § 554.1914(b)(2) (Jan. 15, 2021).

not distributed to some personnel supervisors after a February 2022 update to the plan.

Mystic Park personnel supervisors without immediate access to the emergency preparedness plan may have a disorganized or delayed response during an emergency, which could affect the safety of residents.

Recommendation 3

Mystic Park should ensure a copy of its current emergency preparedness plan is present at the workstation of each personnel supervisor who has responsibilities under the plan.

Observation 4: Mystic Park's Communication Plan Did Not Include Some Required Contact Information

Mystic Park's communication plan contained most of the required contact information; however, Mystic Park's communication plan did not contain the required contact information for the state licensing and certification agency. Nursing facilities must have a communication plan that contains contact information for:

- Federal, state, regional, or local emergency preparedness staff
- The state licensing and certification agency
- The Texas HHS Office of the Long-Term Care Ombudsman
- Other sources of assistance¹⁰

Mystic Park asserted that contact information for the state licensing and certification agency was included on its communication board located next to the central nursing station but was not included in its communication plan.

A communication plan containing contact information for all required sources ensures the information is available to staff in an emergency.

Recommendation 4

Mystic Park should ensure its communication plan includes the required contact information for the state licensing and certification agency.

¹⁰ 42 C.F.R. § 483.73(c)(2) (Nov. 29, 2019).

Appendix A: Methodology, Standards, and Criteria

Detailed Methodology

To achieve the inspection objective, OIG Inspections collected information through (a) discussions and interviews with LTCR staff and Mystic Park staff, (b) a site visit to Mystic Park's facility in San Antonio, Texas, and (c) a review of:

- Regulations, policies, and procedures that address the objective.
- Mystic Park's emergency preparedness plan, communication plan, and training and testing records.

OIG Inspections selected the emergency preparedness requirements to test as part of this inspection after (a) discussions with LTCR and (b) review of prior deficiencies identified in both LTCR reviews and the U.S. Department of Health and Human Services Office of Inspector General's review of selected nursing facilities in Texas to evaluate compliance with life safety and emergency preparedness requirements.

In March 2022, there were 1,154 nursing facilities participating in Texas Medicaid. To choose the nursing facility to inspect, OIG Inspections considered the following criteria:

- Location of the nursing facility.
- Date LTCR last inspected the nursing facility.
- Nursing facility incidents reported to HHS.

Standards

OIG Inspections conducts inspections of Texas HHS programs, systems, and functions. Inspections are designed to be expeditious, targeted examinations into specific programmatic areas to identify systemic trends of fraud, waste, or abuse. Inspection reports present factual data accurately, fairly, and objectively, and present findings, conclusions, and recommendations in a persuasive manner to strengthen program effectiveness and efficiency. OIG Inspections conducted the inspection in accordance with *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Criteria

OIG Inspections used the following criteria to evaluate the information provided:

- 42 C.F.R. § 483.73 (2019)
- 26 Tex. Admin. Code § 554.1914 (2021)

Appendix B: Summary of Recommendations

Table B.1: Summary of Recommendations to Mystic Park

No.	Recommendation
1	Mystic Park should (a) ensure that all employees complete emergency preparedness plan training within 30 days of assuming applicable job duties and (b) document each completion.
2	Mystic Park should ensure its emergency preparedness policies and procedures identify how alternate energy sources should be used to maintain required temperatures; emergency lighting; fire detection, extinguishing, and alarm systems; and sewage and waste disposal.
3	Mystic Park should ensure a copy of its current emergency preparedness plan is present at the workstation of each personnel supervisor who has responsibilities under the plan.
4	Mystic Park should ensure its communication plan includes the required contact information for the state licensing and certification agency.

Source: OIG Inspections

Appendix C: Resources for Additional Information

The following resources provide additional information about the topics covered in this report.

To view the U.S. Department of Health and Human Services Office of Inspector General Report A-06-19-08001, Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes:

“Life Safety and Emergency Preparedness Deficiencies Found at 18 of 20 Texas Nursing Homes,” U.S. Department of Health and Human Services Office of Inspector General, <https://oig.hhs.gov/oas/reports/region6/61908001.asp> (accessed August 1, 2022)

For more information on HHS emergency preparedness:

“Emergency Preparedness,” HHS, <https://hhsconnection.hhs.texas.gov/building-services/safety-security/emergency-preparedness> (accessed July 21, 2022)

For more information on Mystic Park Nursing and Rehabilitation Center:

“Mystic Park Nursing and Rehabilitation Center,” Regency Integrated Health Services, <https://www.regencyhealthcare.com/locations/mystic-park-nursing-and-rehabilitation-center> (accessed July 20, 2022)

Appendix D: Report Team and Distribution

Report Team

OIG staff members who contributed to this inspection report include:

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- James Aldridge, Manager of Inspections
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- Michelle Dionne-Vahalik, Associate Commissioner for Long Term Care Regulation

Mystic Park Nursing and Rehabilitation Center

- Elizabeth J. Ruehle, Administrator
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Appendix E: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Audrey O'Neill, Principal Deputy Inspector General, Chief of Audit and Inspections
- Susan Biles, Chief of Staff, Chief of Policy and Performance
- Erik Cary, Chief Counsel
- Christine Maldonado, Chief of Operations and Workforce Leadership
- Steve Johnson, Chief of Investigations and Reviews

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- Phone: 1-800-436-6184

To Contact OIG

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