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Bureau of State Audits

High Risk Update—State Overtime Costs:

A Variety of Factors Resulted in Significant Overtime Costs at the Departments of Mental Health and Developmental Services

HIGH RISK

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October 20, 2009 2009-608

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The California State Auditor presents its high-risk report concerning overtime costs paid to state employees. Specifically, this report addresses overtime costs incurred at the Department of Mental Health (Mental Health) and the Department of Developmental Services (Developmental Services).

This report concludes that certain state entities incurred significant costs for overtime during fiscal years 2003–04 through 2007–08. Specifically, our review of payroll records for all state entities—excluding the Department of Corrections and Rehabilitation—showed that employees of five entities were paid at least $1.3 billion of the $2.1 billion in overtime payments made to state employees during this five-year period. Furthermore, we noted that significant amounts of overtime were paid to a relatively small number of individuals in two classifications at Mental Health and Developmental Services. Bargaining unit agreements (agreements) do not provide these departments a method for distributing overtime evenly; nor do they impose a cap on the amount of voluntary overtime an employee can work. As a result, a relatively small group of employees work many hours of overtime, while other individuals work little or no overtime, a situation we noted at Napa State Hospital and Sonoma Developmental Center. Individuals working excessive amounts of overtime may compromise their own and patients' or consumers' health and safety.

Until recently, agreements allowed leave time to be used when computing time worked for the purpose of calculating overtime pay. Specifically, state law enacted in February 2009 disallowed this practice; however, this same state law indicates that it may be superceded by agreements ratified subsequent to the law's effective date that once again could contain provisions that allow employees' leave time to be counted as time worked in computing overtime. Another reason for the significant amounts of overtime worked at these facilities is the fluctuation in staffing ratios caused by the need to provide certain patients or consumers with one-on-one care. Because the departments' number of authorized positions does not take into consideration the need for staffing enhancements, these departments must rely on overtime to cover enhanced services.

To ensure that overtime hours worked are necessary, and to protect the health and safety of their employees, patients, and consumers, we recommended that Mental Health and Developmental Services encourage the Department of Personnel Administration (Personnel Administration) to include provisions in future agreements to cap the number of voluntary overtime hours an employee can work and to require that overtime hours be distributed more evenly among staff. In addition, we suggested that the departments encourage Personnel Administration to resist the inclusion of provisions in agreements that permit any type of leave to be counted as time worked for the purpose of calculating overtime compensation.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

Because of the current economic conditions and the State's growing budget deficit, it is critical to examine the State's spending, including its payroll costs, to ensure that limited funds are being used efficiently. One source of significant expense is the amount of overtime being paid to state employees. In fact, a review of the State Controller's Office uniform state payroll system (payroll records) found that the State paid more than $2.1 billion in overtime costs to state employees, excluding overtime paid by the California Department of Corrections and Rehabilitation (Corrections), during the five-year period from fiscal years 2003–04 through 2007–08. We excluded Corrections' payroll information from our universe because in September 2009, the Bureau of State Audits issued a report that included, among other things, an evaluation of Corrections' overtime costs. Our review of the payroll records for all other state entities showed that employees of five entities—the California Highway Patrol, the Department of Forestry and Fire Protection, the Department of Veterans Affairs, the Department of Mental Health (Mental Health), and the Department of Developmental Services (Developmental Services)—were paid at least $1.3 billion of the more than $2.1 billion in overtime pay during the five-year period.

Although all five entities incurred high overtime costs, we noted that significant amounts of overtime were paid to a relatively small number of individuals in two job classifications at Mental Health and Developmental Services. For instance, in fiscal year 2007–08, at Mental Health's Napa State Hospital (Napa), 19, or 4 percent, of the 489 nurses in the registered nurse–safety (nurses) classification averaged $78,000 in regular pay and $99,000 in overtime compensation. Similarly, during fiscal year 2007–08, Developmental Services' Sonoma Developmental Center (Sonoma) paid 27, or 6 percent, of its 430 psychiatric technician assistants an average of $33,000 in regular pay and $41,000 in overtime compensation. Furthermore, 10 individuals each at Napa and Sonoma with significant overtime earnings averaged 36 hours of overtime per week in fiscal year 2007–08, which creates a health and safety issue.

Under the terms of the bargaining unit agreements for nurses and psychiatric technician assistants, Mental Health and Developmental Services must make every effort to schedule staff in a manner that will minimize the need for mandatory overtime. Thus, rather than requiring all nurses and psychiatric technician assistants to work a specified amount of overtime, the facilities allow employees to volunteer for overtime. However, the bargaining unit agreements

Review Highlights . . .

Our review of the State's overtime costs revealed the following:

- *Employees at five entities, excluding the Department of Corrections and Rehabilitation, were paid at least $1.3 billion of the more than $2.1 billion in overtime pay during fiscal years 2003–04 through 2007–08.*
- *Significant amounts of overtime were paid to a relatively small number of individuals in two job classifications at the departments of Mental Health and Developmental Services. For instance, in fiscal year 2007–08, at Mental Health's Napa State Hospital (Napa), 19, or 4 percent, of the 489 nurses in the registered nurse–safety classification averaged $78,000 in regular pay and $99,000 in overtime compensation.*
- *According to various studies, individuals working excessive amounts of overtime may compromise their own and their patients' or consumers' health and safety.*
- *One reason for the significant amounts of overtime at Napa and Developmental Services' Sonoma Developmental Center (Sonoma) is fluctuations in staffing ratios caused by the need to provide certain patients or consumers with one-on-one care.*

continued on next page . . .

» *Pursuant to their respective bargaining unit agreements (agreements), both Mental Health and Developmental Services allowed leave hours to be counted as time worked in calculating overtime. For instance, during our review of overtime at Sonoma, we identified one employee who was paid for 160 hours of overtime in one month, even though that same employee took 167 hours of leave during that same month.*

» *State law was changed in February 2009 to no longer allow leave to be counted in computing overtime for the two job classifications we tested. However, this same state law indicates that it may be superceded by agreements ratified subsequent to the law's effective date that once again could contain provisions that allow employees' leave time to be counted as time worked in computing overtime.*

(agreements) do not impose a cap on the amount of voluntary overtime an employee can work nor do they provide a method for distributing voluntary overtime evenly. This can result in a disproportionate amount of overtime being worked by a relatively small number of employees, a situation we observed at Napa and Sonoma. Generally, these locations do not give preference when scheduling overtime to volunteers with the least accumulated overtime. According to various studies, individuals working excessive amounts of overtime may compromise their own and their patients' or consumers' health and safety.

One reason for the significant amounts of overtime at these facilities is fluctuations in staffing ratios caused by the need to provide certain patients or consumers with one-on-one care.[1] Staffing ratios may fluctuate based on assessments of a patient's or a consumer's needs made by physicians and other licensed persons. The departments' number of authorized positions does not take such staffing enhancements into consideration, so these facilities rely on overtime to cover enhanced services. Additionally, the use of overtime at Mental Health and Developmental Services most likely will increase because of recent furloughs imposed by the governor and layoff notices given to staff providing direct patient and consumer care. This will impose additional costs on the State. However, based on the Department of Finance's (Finance) audit of Mental Health's budget estimates performed in 2008, Finance concluded that Mental Health's current staffing model might not adequately reflect the hospitals' workload and noted that some level-of-care staff were performing administrative functions not directly related to patient care that could be performed by lower-paid staff. As a result of this audit, the Legislative Analyst's Office (Legislative Analyst) suggested in its *2009–10 Budget Analysis Series on Health* that an independent consultant evaluate Mental Health's workload distribution, all staffing ratios, and overtime.

A factor that affected the number of hours classified and paid as overtime was that before February 2009, pursuant to their respective agreements, both Mental Health and Developmental Services allowed leave hours to be counted as time worked in calculating overtime. For instance, during our review of overtime at Sonoma, we identified one employee who was paid for 160 hours of overtime in one month, even though that same employee took 167 hours of leave during that same month. State law was changed in February 2009 to no longer allow leave to be counted when computing overtime for the two job classifications we tested. However, this same state law indicates that it may be superceded

[1] Developmental Services refers to the individuals it cares for as consumers.

by agreements ratified subsequent to the law's effective date that contain provisions that allow employees' leave time to be counted as time worked when computing overtime.

Despite the large amounts of overtime paid at Napa and Sonoma in fiscal year 2007–08, we found that the cost of hiring a new nurse at Napa and a new psychiatric technician assistant at Sonoma, including base salary and benefits as well as the cost of recruiting and training these new employees, is comparable to paying overtime to the highest-paid nurse and psychiatric technician assistant at the respective facilities.

We also noted that Napa and Sonoma did not always follow their overtime policies and procedures. For example, not all overtime documentation was completed or maintained properly. In addition, 11 of the 20 employees in our sample from Napa and Sonoma were either overpaid or underpaid for overtime during the two months tested. Finance noted similar issues during an internal control review of Napa conducted in 2007. Among its recommendations was that Napa perform random overtime audits to help reduce fraud and abuse. However, Napa has yet to perform any such audits.

Recommendations

To make certain that the patients and consumers are provided with an adequate level of care, and that the health and safety of the employees, patients, and consumers are protected, Mental Health and Developmental Services should encourage the Department of Personnel Administration (Personnel Administration)—which is responsible for negotiating labor agreements with employee bargaining units—to include provisions in future collective agreements to cap the number of voluntary overtime hours an employee can work and/or to require the departments to ensure overtime hours are distributed more evenly among staff. One solution would be to give volunteers who have worked the least amount of overtime preference over volunteers who already have worked significant amounts of overtime.

To ensure that all overtime hours worked are necessary, and to protect the health and safety of its employees and patients, Mental Health should implement the Legislative Analyst's suggestion of hiring an independent consultant to evaluate the current staffing model for Mental Health's hospitals. The staffing levels at Mental Health should then be adjusted, depending on the outcome of the consultant's evaluation.

To ensure that the State is maximizing the use of funds spent on patients and consumers, Mental Health and Developmental Services should encourage Personnel Administration to resist the inclusion of provisions in agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation.

To improve internal controls over payroll processing:

- Napa and Sonoma should research the overtime over- and underpayments we noted and make whatever payments or collections necessary to compensate their employees accurately for overtime earned.

- Napa and Sonoma should review, revise, and follow procedures to ensure that their overtime documentation is completed properly; that timekeeping staff are aware of the overtime provisions of the various laws, regulations, and bargaining unit agreements; and that staff who work overtime are paid the correct amount.

- Mental Health should fully implement Finance's recommendations cited in its report on Mental Health's internal controls dated December 2007.

Agency Comments

Mental Health and Developmental Services generally agreed with our findings and recommendations. However, although the departments indicated they will implement some of the recommendations included in our report, they were silent on what, if any, action would be taken to address others.

Introduction

Background

Identifying and addressing high-risk issues in California government can lead to the assessment and resolution of serious weaknesses in the State's use of significant resources and in its provision of critical services to its residents. The process of systematically identifying and addressing high-risk issues can contribute to enhanced efficiency and effectiveness, focusing the State's resources on improving the delivery of services related to important programs and functions. High-risk programs and functions include not only those that are particularly vulnerable to fraud, waste, abuse, and mismanagement, but also those that are of particular interest to residents of the State and those that may have potentially significant effects on public health, safety, and economic well-being. This report addresses an example of a high-risk issue: the State's overtime costs and the amount of overtime worked by some state employees.

Legislation effective in January 2005 authorizes the Bureau of State Audits (bureau) to develop a risk assessment process. In particular, Chapter 251, Statutes of 2004, added Section 8546.5 to the California Government Code. This section authorizes the bureau to establish an audit program to identify issues that pose a high risk to the State and to issue reports with recommendations for improving these issues, as well as to require the state agencies responsible for the high-risk programs or functions to report to the bureau periodically on their progress in implementing the recommendations.

In February 2009 the bureau issued a report titled *High Risk: The California State Auditor Has Designated the State Budget as a High-Risk Area* (2008-603). This report concluded that the State's budget condition should be added to the bureau's list of high-risk issues because of the current fiscal crisis and a history of ongoing deficits. It also indicated that the bureau would explore certain budget issues in more detail, to help decision makers find areas where expenses might be reduced or operational efficiencies improved. This current report, which addresses the significant amount of overtime compensation the State pays to its employees, is part of the bureau's continuing effort to examine issues that will aid decision makers in finding areas of government that can be modified to help improve efficiency and effectiveness.

Overtime Costs

A review of the State Controller's Office (Controller) uniform state payroll system (payroll records), excluding the California Department of Corrections and Rehabilitation (Corrections),[2] found that significant amounts of overtime were paid to state employees between fiscal years 2003–04 and 2007–08. Specifically, during this five-year period the State paid more than $2.1 billion in overtime to state employees at 141 state entities. Of this amount, more than $1.3 billion was paid to the employees of five entities: the California Highway Patrol (Highway Patrol), the Department of Forestry and Fire Protection (Cal Fire), the Department of Veterans Affairs (Veterans Affairs), the Department of Mental Health (Mental Health), and the Department of Developmental Services (Developmental Services). Furthermore, these five entities were the only ones with employees who earned more than $150,000 in overtime pay, which represented 50 percent or more of the total earnings they received during fiscal years 2003–04 through 2007–08. We define pay terminology used in this report in the text box. Because Mental Health and Developmental Services each had several employees in a single job classification—registered nurses–safety[3] (nurses) and psychiatric technician assistants—that fit this description, we focused our review on those two job classifications at a facility of each department.

Employee Pay Terminology

Base salary: The salary of an employee within the classes' salary ranges.

Base salary pay rate: The hourly cost of an employee based on the employee's yearly base salary divided by the annual hours for a full-time employee.

Overtime pay rate: The base salary pay rate times 1.5 for employees who work more than eight hours a day and 40 hours a week.

Total earnings: The sum of regular pay and overtime pay.

Sources: Bureau of State Audits' definitions based on analyses performed and Department of Personnel Administration's Web site.

Department of Mental Health

Mental Health provides community- and hospital-based services to adults who have serious mental illnesses and children with severe emotional disorders. These mental illnesses include schizophrenia, anxiety, depression, and bipolar disorder. County mental health departments, the courts, and Corrections refer patients to Mental Health facilities. With departmental expenditures of $4.9 billion and more than 9,400 staff in fiscal year 2007–08, Mental Health, among other responsibilities, operates five state hospitals throughout California: Atascadero State Hospital, Coalinga State Hospital, Metropolitan State Hospital, Napa State Hospital,

[2] We excluded Corrections' payroll information from our universe and all amounts represented in this report because in September 2009 the Bureau of State Audits issued a separate audit, part of which evaluated Corrections' overtime. This report is titled *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations* (2009-107.1).

[3] Registered nurse–safety is a classification that differs from other registered nurse classifications due to the custody requirements imposed by the criminal nature of the forensic client, patient, or inmate population and by the security features of the facilities that use these classifications.

and Patton State Hospital. It also operates two programs within Corrections: Salinas Valley Psychiatric Program and Vacaville Psychiatric Program. Even though the two correctional programs are located within Corrections' facilities, the staff members are Mental Health employees.

Each of Mental Health's facilities provides services 24 hours a day, seven days a week, to deal with all aspects of the lives of the individuals who are admitted to these facilities. In addition, the hospitals are licensed and certified as acute psychiatric hospitals and provide two or three levels of care, including acute psychiatric, skilled nursing, and intermediate care. This care is provided in residential units within specialized treatment programs designed to promote recovery and/or wellness and to align patients with unique services. For example, residential units within Program 5 at Napa State Hospital (Napa) provide specialized rehabilitation, education, and psychiatric services for male patients who are committed pursuant to Penal Code 1370 because they have been found incompetent to stand trial. The primary focus of treatment is to help individuals attain trial competency and return them to court for further disposition of pending charges.

On May 2, 2006, the U.S. Department of Justice and the State of California reached a settlement concerning violations of patients' civil rights at four state hospitals: Atascadero State Hospital, Metropolitan State Hospital, Napa, and Patton State Hospital. The resulting consent judgment, which is known as the *enhancement plan*, requires biannual reviews of each of these four hospitals to ensure that patients are protected adequately from harm and are provided adequate services that support their recovery and mental health. A court-appointed monitor and a team of clinical experts conduct these reviews.

Additionally, in December 2007, the Department of Finance's (Finance) Office of State Audits and Evaluations issued a review of Mental Health's internal controls. This review concluded that the internal controls at Mental Health, as well as at five state hospitals, were weak. For instance, Finance found that the personnel practices at the hospitals did not provide assurance that attendance records were correct and accurate and that payroll, especially overtime, was paid in the correct amounts. Furthermore, in November 2008, Finance performed an audit of Mental Health's budget estimates. This audit concluded that the current staffing model for Mental Health might not adequately reflect the hospitals' workloads and noted that some level-of-care staff[4] were performing administrative

[4] Level-of-care staff include individuals providing direct patient services, such as physicians, nurses, psychiatric technicians, and psychiatric technician assistants.

functions not directly related to patient care that could be performed by lower-paid, non-level-of-care staff. Finally, the Legislative Analyst's Office suggested in its *2009–10 Budget Analysis Series on Health* that Finance contract with an independent consultant to evaluate workload distribution issues, all staffing ratios, and overtime.

Department of Developmental Services

According to Developmental Services' chief deputy director, as of August 2009, Developmental Services provided services and support to approximately 208,000 children and adults with developmental disabilities and 33,000 infants at risk of developmental delay or disability. These services are provided through state-operated developmental centers, community facilities, and contracts with 21 nonprofit regional centers. The term *developmental disability* refers to a severe and chronic disability that is attributable to a mental or physical impairment that begins before an individual reaches adulthood. These disabilities include mental retardation, cerebral palsy, epilepsy, autism, and disabling conditions closely related to mental retardation or requiring similar treatment.

With a departmental budget of nearly $4.4 billion and more than 7,100 staff in fiscal year 2007–08, Developmental Services, among other responsibilities, operated five developmental centers throughout California: Agnews Developmental Center, Fairview Developmental Center, Lanterman Developmental Center, Porterville Developmental Center, and Sonoma Developmental Center (Sonoma), as well as two smaller state-operated community facilities, Sierra Vista and Canyon Springs. The developmental centers are licensed and certified as skilled nursing facilities, intermediate care/mentally retarded, and general acute care hospitals. Within each developmental center are residential units providing specialized treatment programs designed to increase the level of independence and functioning skills of consumers. (Developmental Services refers to individuals who reside in its facilities as 'consumers'.) For example, the primary focus of residential units within Program 2, a treatment program at Sonoma, is on the improvement of the individual's health status and on minimizing the debilitating effects of neuromuscular deficits through nursing care, restorative care, positioning, range of motion, and equipment adaptations. The two smaller community facilities are licensed as intermediate care/mentally retarded facilities.

These developmental centers provide services 24 hours a day, seven days a week, to deal with all aspects of the individuals' lives. The services include everything from residential services to skills

training, specialized health care and other therapies, to leisure and recreational opportunities. Admission to one of these facilities requires either a formal determination that the individual meets stringent admission criteria or a court order.

Staffing Requirements

The Department of Public Health (Public Health) is required to promulgate regulations that establish the minimum staffing requirements for all health facilities providing services 24 hours a day, seven days a week. The minimum-staffing ratio specifies the number of patients or consumers per level-of-care staff member for each of the three shifts: morning, evening, and night. For example, the minimum-staffing ratio requires one level-of-care staff member for every eight patients or consumers during the morning shift at the facilities operated by Mental Health and Developmental Services. However, state law requires staffing for patients and consumers in acute psychiatric and general acute care hospitals to be based on the patients' or the consumers' needs. Furthermore, in October 2007, the deputy director of Public Health's Center for Health Care Quality issued a letter to all state general acute care hospitals notifying and reminding them that it is imperative to make staffing assignments based on the needs of the patients or consumers, rather than on the minimum staffing requirements set forth by Public Health.

According to the information obtained from Mental Health's hospitals and Developmental Services' developmental centers, the two departments submit to Finance, on an annual basis, a request for the estimated number of positions needed. If Finance approves the departments' request, this number becomes the departments' authorized positions for that fiscal year. The departments then allocate the authorized positions among their facilities based on patient or consumer needs.

State hospitals and developmental centers determine their actual staffing levels using internal staffing ratios, which are based on the needs of the patients or consumers as determined by the level-of-care team. These needs can fluctuate; therefore, the staffing for these facilities is evaluated periodically to determine whether adjustments are needed. We focused our review on Napa and Sonoma because we noted each location had several employees within the same job classification who earned more than $150,000 in overtime pay, which represented 50 percent or more of the total earnings they received during fiscal years 2003–04 through 2007–08. In addition to routine evaluations of the patients' or consumers' needs, both Napa and Sonoma have policies to provide increased observation or treatment if a patient or consumer displays

an immediate risk of suicidal or self-injurious behavior, assaultive behavior toward others, medical problems that require frequent monitoring, or a decreased ability to protect himself/herself from harm by others. A patient or consumer exhibiting any of these problems or behaviors may require one-on-one observation by a level-of-care staff member. However, the staff members required for one-on-one observations are not included in the authorized positions approved by Finance because their numbers fluctuate and cannot be determined on an annual basis.

Bargaining Units

Collective bargaining, a process for negotiating wages, hours, and other terms and conditions of employment, covers rank-and-file civil service employees in California state government. The State's rank-and-file employees are divided into 21 bargaining units and are represented by various unions. All nurses employed by the State are members of bargaining unit 17, and all psychiatric technician assistants are members of bargaining unit 18. The unions negotiate directly with the Department of Personnel Administration (Personnel Administration). Once Personnel Administration and a union agree on a new contract, called a tentative bargaining unit agreement (agreement), the union members must approve it. The Legislature then must vote on the tentative agreement's economic provisions and any changes required in the law for implementation. The agreement then goes to the governor for signature, after which it is implemented. Managerial, supervisory, confidential, and exempt employees—employees who are exempt from civil service—are excluded from collective bargaining.

Scope and Methodology

California Government Code, Section 8546.5, authorizes the bureau to establish a process for identifying state agencies or issues that are at high risk for potential waste, fraud, abuse, and mismanagement or that have major challenges associated with their economy, efficiency, or effectiveness. The law also authorizes the bureau to audit any state agency that it identifies as being at high risk and to publish related reports at least once every two years.

We focused our initial review of overtime costs on five state entities: Highway Patrol, Cal Fire, Veterans Affairs, Mental Health, and Developmental Services. Corrections was excluded from our testing, as the Joint Legislative Audit Committee directed the bureau to conduct an audit that included evaluating its overtime. We selected these five entities because, according to the payroll records, they were the only ones with employees who earned more

than $150,000 in overtime pay, which represented 50 percent or more of the total earnings they received during fiscal years 2003–04 through 2007–08. From these five entities, we further studied three—Cal Fire, Mental Health, and Developmental Services—because each had numerous individuals in one job classification code earning more than $150,000 in overtime pay, which represented 50 percent of their total earnings during the five fiscal-year period we chose for review. We excluded Cal Fire from our testing because most of its employees' overtime was earned during fire season, which we consider to be a reasonable expectation. We further narrowed our focus to two classifications of jobs—nurses at Napa and psychiatric technician assistants at Sonoma—because employees in these job classifications at each of the facilities earned the majority of overtime pay.

To obtain an understanding of the State's overtime requirements for nurses and psychiatric technician assistants, we reviewed relevant laws, regulations, policies, and bargaining unit agreements. In addition, we reviewed Napa's and Sonoma's policies and procedures related to overtime to gain an understanding of how the facilities assign, monitor, and record overtime expenses and hours. Finally, we interviewed staff at Napa and Sonoma to assess their roles and responsibilities with regard to overtime at the facilities and to identify what pertinent policies, procedures, and internal controls are in place to ensure that overtime is appropriate and authorized. For our testing of overtime costs, covering December 2007 and January 2008, we selected a sample of 10 employees each at Napa and Sonoma who earned more than 50 percent of their total earnings in overtime in fiscal year 2007–08.

To gain an understanding and determine the effect of the level-of-care staffing ratios at Mental Health and Developmental Services, we reviewed relevant laws, regulations, and policies. In addition, we reviewed Napa's and Sonoma's policies and procedures related to their internal staffing ratios. The internal staffing ratio determines the number of patients or consumers per level-of-care staff member during a given shift. We also interviewed Napa and Sonoma staff to assess their roles and responsibilities with regard to staffing at the facilities and to identify what pertinent policies, procedures, and internal controls are in place for developing and executing the internal staffing ratios.

To identify health and safety issues related to working overtime, we reviewed industry standards applicable to staffing for health care facilities, reviewed studies on the impact of overtime on the health and safety of patients or consumers and staff, and interviewed Napa and Sonoma officials. In addition, we compared these studies with our analysis of Napa's and Sonoma's payroll records.

To determine whether shortages of nurses and psychiatric technician assistants existed at Napa and Sonoma, we interviewed officials at the two facilities. We also reviewed information regarding their respective vacancy rates obtained from Personnel Administration.

To evaluate the cost of hiring, training, and paying benefits for a new employee compared with the cost of paying overtime to existing employees for Napa's nurses and Sonoma's psychiatric technician assistants, we determined the hourly cost of a new employee, which includes the employee's salary and benefits as well as the cost of recruiting and training the new employee. We then compared the new employee hourly rate with the hourly overtime rate paid to an existing employee for the two employee job classifications being reviewed.

The U.S. Government Accountability Office, whose standards we follow, requires us to assess the reliability of computer-processed data. We determined that the data we obtained from the Controller's payroll records was sufficiently reliable for the purposes of presenting data on overtime and the cost of a new nurse and psychiatric technician assistant. We assessed the reliability of these payroll records by performing electronic testing of key data elements. In addition, we reviewed testing of the payroll system's major control features performed as part of the State's financial and federal compliance audits.

Analysis Results

Some State Entities Incurred High Overtime Costs

As we discussed in the Introduction, the State paid more than $2.1 billion in overtime to state employees, excluding the Department of Corrections and Rehabilitation (Corrections),[5] at 141 state entities during fiscal years 2003–04 through 2007–08. Five of these entities—the California Highway Patrol (Highway Patrol), the Department of Forestry and Fire Protection (Cal Fire), the Department of Veterans Affairs (Veterans Affairs), the Department of Mental Health (Mental Health), and the Department of Developmental Services (Developmental Services)—paid more than $1.3 billion, or 62 percent of the State's total overtime costs, during this five-year period. Moreover, these were the only entities that met our criteria of employees who were paid more than $150,000 in overtime pay, which represented 50 percent or more of the total earnings they received for the five-year period from fiscal year 2003–04 through 2007–08.

As shown in Table 1 on the following page, when we compared the five entities over the five fiscal-year period, we noted that Highway Patrol paid the most overtime, with a total of nearly $448 million, the majority of which was paid to patrol officers. During fiscal years 2003–04 through 2007–08, Highway Patrol employed 14,082 employees and paid overtime to 12,463 of them. The State Controller's Office uniform state payroll system (payroll records) revealed that only four employees at this entity were paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings during this five-year period.

Cal Fire incurred the second-highest overtime costs in the State, with a total of nearly $425 million during fiscal years 2003–04 through 2007–08. We noted that during the last two years of this period, Cal Fire's overtime costs increased dramatically, representing 54 percent, or $227 million of its $425 million in overtime costs. Cal Fire had 26 employees in various job classifications who were paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings during the five-year period we reviewed. Further study revealed that most of these employees were located in the Southern California area and a large portion of the overtime costs were incurred during fire season. This seemed reasonable considering that in 2006 and 2007 a series of wildfires burned hundreds of thousands of acres in

[5] We excluded Corrections' payroll information from our universe and all amounts represented in this report because in September 2009 the Bureau of State Audits issued a separate audit, part of which evaluated Corrections' overtime. This report is titled *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations* (2009-107.1).

Southern California. Therefore, it appears reasonable that Cal Fire employees in Southern California, specifically in the San Diego, San Bernardino, and Riverside areas, would be paid higher amounts of overtime during those fire seasons.

Table 1
State Entities Other Than the Department of Corrections and Rehabilitation Incurring High Overtime Costs Fiscal Years 2003–04 Through 2007–08

DEPARTMENT	OVERTIME PAYMENTS	NUMBER OF EMPLOYEES	NUMBER OF EMPLOYEES EARNING OVERTIME	NUMBER OF EMPLOYEES EARNING MORE THAN $150,000 IN OVERTIME PAY AND REPRESENTING 50 PERCENT OR MORE OF THEIR TOTAL EARNINGS
California Highway Patrol	$447,509,563	14,082	12,463	4
Department of Forestry and Fire Protection	424,999,732	11,336	10,191	26
Department of Veterans Affairs	16,439,007	3,267	1,298	7
Department of Mental Health	303,567,939	16,344	9,987	80
Department of Developmental Services	135,373,737	13,396	8,624	23
Total	**$1,327,889,978**			

Source: State Controller's Office uniform state payroll system for fiscal years 2003–04 through 2007–08.

Veterans Affairs paid the 15th highest overtime costs, with a total of more than $16 million over the five fiscal years. Certified nursing assistants were responsible for 43 percent of Veterans Affairs' overtime costs. We identified seven certified nursing assistants who were paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings for fiscal years 2003–04 through 2007–08. All these employees worked at the Veterans Home of California at Yountville. Our previous audit of this facility, titled *Veterans Home of California at Yountville: It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement* (2007-121), issued in April 2008, evaluated the overtime practices at this location. We recommended that the Veterans Home of California at Yountville consider adopting a formal policy for distributing overtime more evenly among nurses, establishing a cap on how much overtime nursing staff can work, and monitoring overtime usage for compliance with these polices to prevent nursing staff from working excessive overtime.

Mental Health paid the fourth highest overtime costs, with a total of nearly $304 million. Its overtime costs more than doubled from fiscal years 2003–04 through 2007–08. Overall, 80 employees throughout six of Mental Health's hospitals and/or psychiatric centers were paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings during fiscal years 2003–04 through 2007–08. Of these employees, 35 were

employed as registered nurses–safety[6] (nurses). Although nurses accounted for nearly 13 percent of its workforce, their overtime pay made up 34 percent of Mental Health's total overtime costs. Furthermore, the three employees earning the most overtime in the State, excluding Corrections' employees, were employed as nurses at Mental Health. Compensation for nurses is relatively high compared with that for other Mental Health employees, which could account for the large percentage of overtime costs attributable to them. Additionally, it is reasonable to assume that nurses are a critical component at the mental health facilities. Therefore, it seems logical that they would earn the most overtime.

The three employees earning the most overtime in the State during fiscal years 2003–04 through 2007–08, excluding Corrections' employees, were employed as nurses at Mental Health.

In fiscal year 2007–08, job classifications represented by bargaining unit 17 at three departments—Developmental Services, Mental Health, and Veterans Affairs—received large pay increases. The pay increases were aimed at making the salaries comparable to those for Corrections' employees in the same job classifications. For example, in fiscal year 2003–04, the salary for a nurse at Napa was $5,500 per month. A nurse's salary jumped to $7,400 per month with the increase in fiscal year 2007–08. This pay increase had a significant effect on Mental Health's overtime costs.

According to the assistant deputy director of Long Term Care Services at Mental Health, state hospital overtime costs have more than doubled over the past five years in large part due to court-ordered (negotiated) salary increases for clinical staff. This jump in cost occurred between fiscal years 2005–06 and 2006–07 when the salary increases were implemented. Some salaries increased by more than 80 percent during this time, and the overtime costs reflect these increases. In addition, under the current consent judgment, Mental Health is required to provide specific mandatory training for all clinical staff. These mandatory training hours have increased well beyond the currently allowed hours within the existing relief factor. The relief factor results in an increased number of authorized positions for Mental Health facilities so there is a sufficient number of employees to cover for employees' training, holidays, sick days, and other time off. According to the assistant deputy director of Long Term Care Services, overtime is used to fill in when staff members are in training.

Finally, Developmental Services paid overtime costs totaling more than $135 million, the fifth highest among state departments, during fiscal years 2003–04 through 2007–08, and had a total

[6] Registered nurse–safety is a classification that differs from other registered nurse classifications due to the custody requirements imposed by the criminal nature of the forensic client, patient, or inmate population and by the security features of the facilities that use these classifications.

of 23 employees who were paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings, throughout all five developmental centers.

Based on our analysis of the State Controller's Office (Controller) payroll records, we narrowed our subsequent review to two departments—Mental Health and Developmental Services. Mental Health had the largest number of employees who met our criteria of being paid more than $150,000 in overtime pay, which represented 50 percent or more of their total earnings during fiscal years 2003–04 through 2007–08. Although Cal Fire incurred the second highest amount of overtime, the majority was paid during fire season. Only four employees at Highway Patrol had total overtime earnings of more than $150,000, which represented 50 percent or more of their total earnings during fiscal years 2003–04 through 2007–08. Several employees earning the most overtime at Veterans Affairs already were evaluated in a previous audit. Therefore, our review focused on Mental Health and Developmental Services because they had employees in two job classifications who earned a large portion of their total earnings in overtime.

A Small Group of Employees at Mental Health and Developmental Services Worked Significant Amounts of Overtime

In fiscal year 2007–08, $1.9 million in overtime wages was paid to only 19 of 489 nurses at Napa and $1.1 million in overtime wages was paid to only 27 of 430 psychiatric technician assistants at Sonoma.

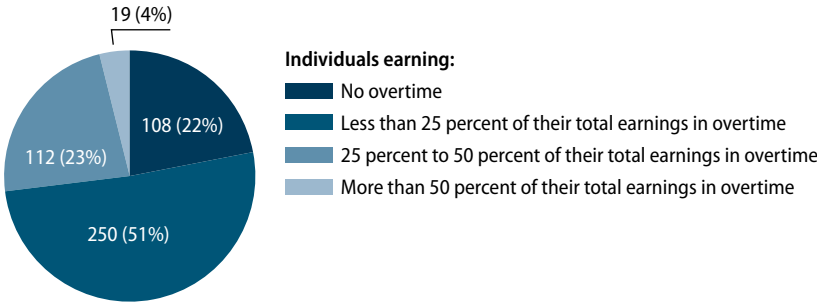
The focus on voluntary rather than mandatory overtime at Mental Health and Developmental Services, as required by their respective bargaining unit agreements (agreements), has resulted in a relatively small group of employees working many hours of overtime, while other individuals are working little or no overtime. For example, in fiscal year 2007–08, Mental Health's Napa State Hospital (Napa) paid $9.6 million in overtime wages to its 489 nurses. However, $1.9 million—20 percent of its total overtime costs—was paid to only 19 (4 percent) of these nurses. Similarly, in fiscal year 2007–08, Developmental Services' Sonoma Developmental Center (Sonoma) paid $1.1 million—25 percent of the total overtime paid to psychiatric technician assistants—to only 27 (6 percent) of its 430 psychiatric technician assistants. Sonoma's psychiatric technician assistants were the largest overtime earners at Developmental Services.

During fiscal years 2003–04 through 2007–08, Mental Health paid its nurses $104 million in overtime compensation. The three employees earning the most overtime statewide, excluding Corrections' employees, during fiscal years 2003–04 through 2007–08, were nurses employed at Mental Health. Two of these individuals were employed at Napa and earned, on average, 63 percent of their total earnings in overtime compensation.

The total overtime paid to these two nurses over this five-year period was more than $1.3 million—for an average of $132,000 a year. This was nearly twice their average regular pay of $76,000 a year.

For fiscal year 2007–08 alone, Mental Health paid its nurses $31 million in overtime compensation, $9.6 million of which was paid to nurses at Napa. As shown in Figure 1, for 19 nurses at Napa, 50 percent or more of their total earnings consisted of overtime pay during fiscal year 2007–08. On average, these nurses were paid $78,000 in regular pay and $99,000 in overtime. Moreover, during fiscal year 2007–08, the two highest-paid nurses at Napa received an average of $91,000 in regular pay and an additional $172,000 in overtime.

Figure 1
Overtime as a Percentage of Total Earnings for Registered Nurses–Safety at Napa State Hospital
Fiscal Year 2007–08



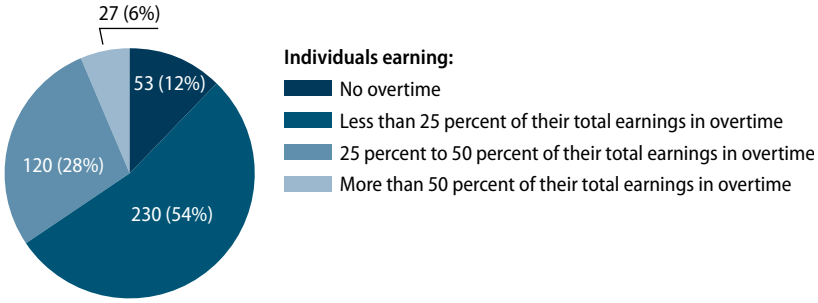
Source: State Controller's Office uniform state payroll system for fiscal year 2007–08.

Developmental Services also incurred significant overtime costs during fiscal years 2003–04 through 2007–08, including more than $29 million paid to its psychiatric technician assistants. A further review revealed that psychiatric technician assistants at Sonoma were the highest earners of overtime at Developmental Services.

In fact, in fiscal year 2007–08, psychiatric technician assistants ranked 14th in overtime earnings among state employees, accounting for more than $6 million of the $30 million in overtime wages paid by Developmental Services during that year. As illustrated in Figure 2 on the following page, Sonoma had 27 psychiatric technician assistants who earned more than 50 percent of their total earnings in overtime pay in fiscal year 2007–08. These 27 individuals were paid an average of $33,000 in

regular pay plus $41,000 in overtime compensation. Furthermore, they accounted for more than $1.1 million of Sonoma's $9.4 million in overtime costs for fiscal year 2007–08.

Figure 2
Overtime as a Percentage of Total Earnings for Psychiatric Technician Assistants at Sonoma Developmental Center
Fiscal Year 2007–08



Source: State Controller's Office uniform state payroll system for fiscal year 2007–08.

As discussed in the Introduction, rank-and-file civil service employees are covered by agreements that spell out the terms and conditions of their employment, including overtime provisions. Unions represent each bargaining unit and negotiate the terms of a new agreement directly with the Department of Personnel Administration (Personnel Administration), which represents the executive branch of state government in these negotiations. Agreements between bargaining units and Personnel Administration are not final until they are approved by union members, ratified by the Legislature, and signed by the governor.

The use of mandatory overtime at Mental Health and Developmental Services is discouraged by the agreements covering nurses and psychiatric technician assistants; however, the agreements do not limit the amount of voluntary overtime these employees may work. Furthermore, neither Napa nor Sonoma has set a cap on the amount of voluntary overtime an employee may work. They also have not ensured that voluntary overtime hours are distributed more evenly among staff, for example, by giving preference to volunteers who have worked the least amount of overtime. As a result of the limitations on mandatory overtime and the lack of a cap on voluntary overtime, a relatively small number of employees worked the majority of the overtime. This practice conflicts with a 2004 study published in *Health Affairs* on the working hours and their effect on hospital staff nurses and patient safety. This study cited a report by the Institute of

Medicine, which explicitly recommends that voluntary overtime be limited. However, according to decisions by the California Public Employment Relations Board, employing entities are prohibited from unilaterally limiting overtime opportunities, since doing so would constitute a change in an employee's wage opportunities. Therefore, such changes to employee wage opportunities must be negotiated rather than imposed.

Employees Working Excessive Amounts of Overtime May Compromise Health and Safety

Some nurses at Napa and psychiatric technician assistants at Sonoma work substantial amounts of overtime to meet internal staffing requirements, even though the vacancy rates were relatively low for these job classifications at the respective facilities in fiscal year 2007–08. We reviewed the payroll records for 10 nurses at Napa and 10 psychiatric technician assistants at Sonoma who earned significant amounts of overtime pay in fiscal year 2007–08 and found that these individuals worked an average of 36 hours of overtime each week. These hours were usually in addition to the employee's regular 40-hour workweek. In fact, we identified a nurse employed at Napa who earned $733,000, or 66 percent of his total earnings, in overtime during fiscal years 2003–04 through 2007–08. This amounts to about 51 overtime hours each week during the entire five-year period.

A nurse at Napa earned $733,000, or 66 percent of his total earnings, in overtime during fiscal years 2003–04 through 2007–08, amounting to about 51 overtime hours each week during the entire five-year period.

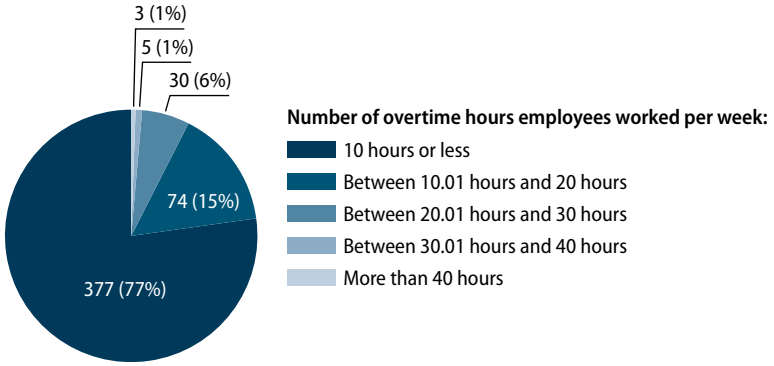
As shown in figures 3 and 4 on the following page, 38 nurses at Napa and 65 psychiatric technician assistants at Sonoma worked, on average, at least 20 hours of overtime each week during fiscal year 2007–08. At the same time, 451 nurses at Napa (92 percent) and 365 psychiatric technician assistants at Sonoma (85 percent) worked fewer than 20 hours of overtime each week, on average. If the overtime had been distributed equally among all nurses and psychiatric technician assistants, they would have worked only six and eight hours of overtime per week on average, respectively. This compares with the results of a 2004 National Sample Survey of Registered Nurses conducted by the U.S. Department of Health and Human Services that found that the typical full-time registered nurse works an average of 7.5 hours of overtime each week.

Although nothing came to our attention indicating that the overtime at Napa and Sonoma affected the quality of care provided to patients or consumers, an August 2004 study published in *Health Affairs* titled *The Working Hours of Hospital Nurses and Patient Safety*[7] suggested that working substantial amounts of

[7] Ann E. Rogers, et al., *The Working Hours of Hospital Staff Nurses and Patient Safety*, *Health Affairs*, Vol. 23, No. 4 (2004): pp. 202-212.

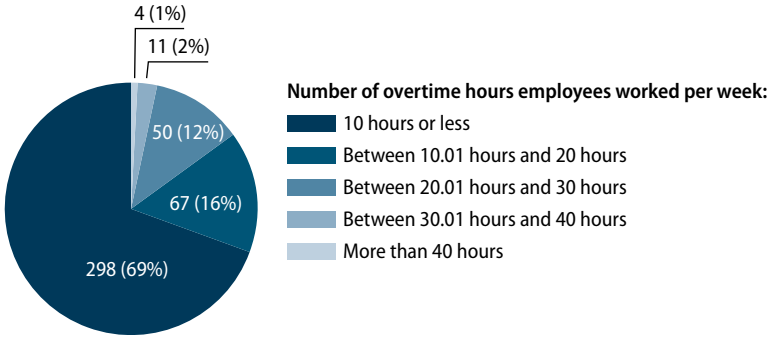
overtime could increase the risk of medical errors. Specifically, the study found that work duration, overtime, and the number of hours worked per week had a significant impact on errors in administering medication, charting, and transcription. Errors in administering medication constituted most errors reported by nurses in the study. For example, the study found that when a nurse worked a shift lasting more than 12.5 hours, the incidence of medical errors tripled. The study also found that the risk of errors increased when a nurse worked more than 40 or 50 hours in a week.

Figure 3
Average Weekly Overtime Hours for Registered Nurses–Safety at Napa State Hospital
Fiscal Year 2007–08



Source: State Controller's Office uniform state payroll system for fiscal year 2007–08.

Figure 4
Average Weekly Overtime Hours for Psychiatric Technician Assistants at Sonoma Developmental Center
Fiscal Year 2007–08



Source: State Controller's Office uniform state payroll system for fiscal year 2007–08.

Another study published in the *American Journal of Critical Care* titled *Effects of Critical Care Nurses' Work Hours on Vigilance and Patients' Safety Issues*[8] in 2006 indicated that these results could be applied to nurses and to psychiatric technician assistants. This study also indicated that experience in other industries suggests that accident rates increase when employees work 12 hours or more in a day.

Finally, a 2004 study by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, titled *Overtime and Extended Work Shifts: Recent Findings on Illnesses, Injuries, and Health Behaviors*[9] indicated that long hours also can increase the health and safety risks to the employee. Specifically, the report cited many studies in which overtime was associated with poorer perceived general health, more illnesses, increased injury rates, and increased mortality. Injuries and poor performance were particularly noted on long shifts and when employees worked 12-hour shifts combined with working more than 40 hours a week. Thus, nurses and psychiatric technician assistants who work long shifts or more than 40 hours a week could place patients or consumers—and the employees themselves—at greater health and safety risk. Despite the increased risks associated with working long hours, our testing showed that during December 2007 and January 2008, nine of the 10 Napa nurses we reviewed regularly worked 12 or more hours in a day and on average worked more than 34 hours of overtime per week. Similarly, eight of the 10 psychiatric technician assistants we reviewed at Sonoma regularly worked 12 or more hours in a day and on average worked more than 35 hours of overtime per week.

During December 2007 and January 2008, nine of the 10 nurses we reviewed at Napa and eight of the 10 psychiatric technician assistants we reviewed at Sonoma regularly worked 12 or more hours in a day and averaged more than 34 hours of overtime per week.

As we mentioned previously, the most recent agreements covering nurses and psychiatric technician assistants require management to attempt to limit the number of mandatory overtime hours an employee is asked to work. However, there is no cap on the number of voluntary overtime hours an employee may work in a month. There also is no system to ensure that voluntary overtime hours are distributed more evenly among staff members. As a result, some employees consistently work significant amounts of overtime that may present a health and safety risk to the patients, consumers, or themselves.

8 Linda D. Scott, et al., *Effects of Critical Care Nurses' Work Hours on Vigilance and Patients' Safety*, *American Journal of Critical Care*, Vol. 15, No. 1 (Jan. 2006): pp. 30-37.

9 Claire C. Caruso, et al., *Overtime and Extended Work Shifts: Recent Findings on Illnesses, Injuries, and Health Behavior*, Department of Health and Human Services, National Institute for Occupational Safety and Health.

Several Factors Cause the Need for Significant Amounts of Overtime

The annual authorized positions agreed to by state hospitals and/or developmental centers, Mental Health, Developmental Services, and the Department of Finance (Finance) do not take into account fluctuations in patient and consumer needs, resulting in the need for overtime to meet the monthly, weekly, and sometimes daily changes in staffing required to provide proper care to patients and consumers. With assistance from their respective facilities, Mental Health and Developmental Services determine the number of positions needed for the coming year based on the department's estimated patient and consumer needs and population. However, the estimate of positions needed does not take into consideration the need for certain patients and consumers to receive more intensive care, such as one-on-one observation (see the text box for definitions of the terms used in this discussion). Therefore, mental health hospitals and developmental centers prepare internal staffing ratios in order to meet the fluctuating needs of their patients or consumers. These internal staffing ratios are based on the average number of patients or consumers each level-of-care staff member will monitor, which then dictates the ratios needed. In some of the residential units at Napa and Sonoma, the internal staffing ratios are double the minimum staffing ratios established by the Department of Public Health (Public Health). Additionally, some of Napa's internal staffing ratios include a fixed number of staff to meet the need for one-on-one observation. However, because the two departments' annual authorized positions are generally insufficient to meet actual staffing needs, the facilities use overtime to meet their internal staffing ratios for level-of-care staff.

Staffing Terminology at the Departments of Mental Health and Developmental Services' Facilities

Annual authorized positions: The number of staffing positions necessary based on population and yearly assessment for monitoring of patients or consumers, as determined by the respective facilities and the departments, and as authorized by the Department of Finance on an annual basis.

Minimum staffing ratio: The minimum number of staff legally required for appropriate monitoring of patients or consumers, as required by the Department of Public Health. Usually expressed as a number of patients or consumers per level-of-care staff member.

Internal staffing ratio: The number of staff required for appropriate monitoring of patients or consumers, based on the level-of-care team's evaluation of the needs of the patients or consumers, which can fluctuate on a daily, weekly, and monthly basis. Usually expressed as a number of patients or consumers per level-of-care staff member.

One-on-one observation: Enhanced observation or treatment that requires a level-of-care staff member to be within arm's length of the patient or consumer at all times. Staffing for this type of observation is not included in the number of annual authorized positions.

Source: Bureau of State Audits' definitions based on information obtained from the departments of Mental Health and Developmental Services.

According to the assistant deputy director of Long Term Care Services at Mental Health, the impact of federal law changes, such as the Family Medical Leave Act (family leave), Enhanced Industrial Disability Leave (enhanced leave), and additional negotiated mandatory training and/or educational leave days has led to an overwhelming use of overtime to sustain the required staffing ratios in the state hospitals. When the current relief factor was established, it took into account a change in the number of holidays and the current average use of sick time and educational leave, among other things. All these issues were before implementation of family leave, enhanced leave, and the current consent judgment

requirements, leaving a very outdated relief factor that results in overtime to cover for these shortages. As an example, the enhancement plan (the implementation tool for the consent judgment) requires significant hours of training regarding new processes and training to implement a new electronic clinical data tracking system. It also requires computer use and basic computer skills from job classifications that have not historically required these training hours.

As recommended by the deputy director of Public Health's Center for Health Care Quality, and as required by law, staffing for patients and consumers in acute psychiatric and general acute care hospitals is based on the patients' or consumers' needs. Evaluations performed by trained experts at Napa and Sonoma may determine that patients or consumers require a higher level of care than can be provided with the minimum staffing ratios established by Public Health. For example, at Napa, the nurse administrator, the clinical administrator, and the program's management staff determine the level-of-care staffing needs for each residential unit. Based on this assessment of patients' level-of-care needs within these units, Napa develops its internal staffing ratios, which, as previously noted, may exceed the legally mandated minimum staffing requirements. For instance, one program at Napa includes eight residential units with three levels of care: acute psychiatric, skilled nursing, and intermediate care. This program houses individuals with more serious physical or complicated diagnostic conditions and multiple medical as well as psychiatric problems that require a higher level of observation from staff.

Similarly, Sonoma's staffing levels also depend on the consumers' needs. A team consisting of a psychologist, a social worker, a level-of-care staff member, the unit supervisor, the program director, and the consumer's physician, among others, determine each consumer's needs within the program's residential units on a monthly, weekly, and daily basis. Internal staffing ratios are determined for each residential unit based on the team's evaluation.

Annual authorized positions for Mental Health and Developmental Services do not account for circumstances that necessitate an increased level of care for patients and consumers.

However, as we noted previously, the annual authorized positions for Mental Health and Developmental Services do not account for circumstances that necessitate an increased level of care for individual patients and consumers. Consequently, level-of-care staff, including nurses and psychiatric technician assistants at Napa and Sonoma, respectively, must work overtime to compensate for the lack of staff to meet their internal staffing ratios. Although we reviewed the evaluations that documented the need for an increased level of care for a sample of patients and consumers, we did not attempt to assess whether the medical staff's decisions were valid because it was beyond the scope of our review.

As we discussed in the Introduction, Napa and Sonoma have policies to provide additional observation or treatment in a number of circumstances, such as when patients or consumers exhibit suicidal behavior or pose a risk to others. Such patients or consumers could require one-on-one observation by a level-of-care staff member. The facilities' level-of-care teams must complete a staffing increase request for long-term observations, stating the reason for and duration of the increase. Depending on the patient's or the consumer's needs, a one-on-one observation may be covered by a licensed or nonlicensed level-of-care staff member providing direct patient or consumer care. The facilities often rely on the use of overtime to cover one-on-one observations because there are not enough annual authorized positions to accommodate these observations.

Because of recent furloughs and potential layoffs of level-of-care staff, overtime at Mental Health and Developmental Services most likely will increase, adding to the State's overtime costs. Our testing was performed for fiscal year 2007–08, a year in which both Mental Health and Developmental Services had high overtime costs. In December 2008, in an attempt to reduce the State's spending, the governor issued an executive order directing Personnel Administration to implement a furlough plan. This plan required most state employees to take two unpaid days off each month, beginning in February 2009. In July 2009 Executive Order S-13-09 was implemented, adding a third unpaid furlough day each month. For facilities such as Napa and Sonoma that provide services 24 hours a day, seven days a week, the employees accrue their unpaid furlough days and use them when feasible. Additionally, Mental Health and Developmental Services have required their facilities to provide layoff notices to staff. Napa and Sonoma each have provided more than 40 layoff notices to their nonlicensed psychiatric technician assistants. Even though psychiatric technician assistants are a less expensive staffing option than some other level-of-care staff, both facilities need to ensure that an adequate number of licensed individuals are available to meet mandated and/or required internal staffing needs. Napa and Sonoma already rely on overtime to meet their fluctuations in staffing ratios, and the impact on staffing levels due to furloughs and layoffs likely will result in additional overtime.

Napa occasionally overstaffed some of its residential units, having more level-of-care staff on duty than necessary to meet the internal staffing ratio.

We also found that Napa occasionally overstaffed some of its residential units, having more level-of-care staff on duty than necessary to meet the internal staffing ratio. Specifically, within Program 4, Napa was overstaffed on six of the 10 days we tested during fiscal year 2007–08. According to Napa's central staffing officer, the overstaffing was due to the designated staffing units not accurately reporting patient and staffing needs to the central staffing office. However, based on discussions with Finance's Office

of State Audits and Evaluations and the results of its audit of Mental Health's budget dated November 2008, the Legislative Analyst's Office (Legislative Analyst) has suggested that an independent consultant evaluate workload distribution, staffing ratios, and overtime at Mental Health. Among other things, Finance's audit concluded that the current staffing model might not reflect the true hospital workload and the hospital may not be using staff efficiently. Although no time frame has been set for its commencement, if the evaluation concludes that current staffing ratios are unwarranted or that staff are not being used efficiently, an updated staffing model that reflects the accurate hospital workload could offset some of the increased overtime costs.

The assistant deputy director of Long Term Care Services at Mental Health agrees with the Legislative Analyst's recommendation to hire an independent consultant to perform a workload staffing study. Mental Health feels the staffing study will allow for changes to the existing ratios to better reflect the reality of staff workload. However, Mental Health would like to hold off on the study until the hospitals have reached and sustained full compliance with the consent judgment, which is expected in November 2011, in order to allow staff to focus their full attention on their compliance efforts.

Agreements Allowed Leave Time Taken to Count as Time Worked in Calculating Overtime Payments

Overtime provisions contained in the agreements for nurses and psychiatric technician assistants, bargaining units 17 and 18, respectively, contributed to the State's substantial overtime costs during fiscal years 2003–04 through 2007–08. Specifically, with the exception of sick leave for psychiatric technician assistants, the overtime provisions for bargaining unit 18 allowed employees to include hours they took as paid leave when computing overtime compensation. A similar provision was included in bargaining unit 17's agreement, but includes sick leave. Thus, for example, a nurse could use eight leave hours, including sick leave, to cover his or her regular shift, work an alternate eight-hour overtime shift during the same day, and ultimately earn pay for 20 hours in the same day (eight hours times the 1.5 overtime pay rate plus eight hours of paid leave). Therefore, staff covered by these agreements were paid at the overtime rate even though they may not actually have worked more than 40 hours during the week or more than eight hours in one day.

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A new state law overrides these overtime provisions in current agreements and would reduce the State's overtime costs. California Government Code, Section 19844.1 (Section 19844.1), which

became effective in February 2009, provides that periods of paid or unpaid leave shall not be considered as time worked for the purpose of computing overtime compensation, Therefore, employees covered by the agreements for bargaining units 17 and 18 are paid overtime only if their actual hours worked cause them to exceed 40 hours per week or eight hours per day. However, language in Section 19844.1 indicates that agreements ratified after the effective date of the section may contain provisions that require certain entities, including Mental Health and Developmental Services, to again include periods of paid and unpaid leave as time worked in the calculation of overtime.

One employee at Napa was paid for 215 hours of overtime for December 2007, even though she did not actually work more than eight hours a day or 40 hours a week.

There is no cap on the amount of voluntary overtime nurses may work, so they can volunteer for overtime continually and potentially earn more in overtime pay than in regular pay. There were 489 nurses employed at Napa in fiscal year 2007–08, including 19 who earned more than 50 percent of their total earnings in overtime. We reviewed the payroll records of 10 of these nurses for the months of December 2007 and January 2008 and identified nine for whom leave hours were counted as hours worked in the overtime calculation, including one employee who used 64 hours of leave during December 2007. Our review of this employee's attendance records found that the employee was paid for 215 hours of overtime during the month because she worked several alternative shifts on her days off, even though she used leave hours and did not actually work more than eight hours a day or 40 hours a week. Based on the average hourly overtime pay rate for the 10 nurses we tested at Napa for December 2007 and January 2008[10], we calculated that she was compensated $14,028 for overtime alone in December 2007. Had Section 19844.1 been in effect at the time, her leave hours would not have been included in the overtime calculation and she would have been compensated for only 160 hours at the overtime pay rate, rather than 215 hours. The remaining 55 hours would have been paid at the base salary pay rate because they would have been considered part of the employee's regular work hours of eight hours per day or 40 hours per week. The resulting savings to the State would have been $1,195 in December 2007 for this one employee for one month.

There were 430 psychiatric technician assistants employed at Sonoma in fiscal year 2007–08, including 27 who earned more than 50 percent of their total earnings in overtime. We reviewed the payroll records of 10 of these 27 psychiatric technician assistants for the months of December 2007 and January 2008 and identified

[10] Since each employee's monthly overtime rate can differ slightly between months and other employees within the same classification due to shift differentials and other factors, we used the average overtime rate for the 10 employees we tested at Napa for December 2007 and January 2008.

nine for whom leave hours were counted as hours worked in the overtime calculation, including one employee who used 167 hours of leave during January 2008. Our review of attendance records found that the employee was paid for 160 hours of overtime during the month because she worked several alternative shifts on her days off, even though she used leave hours and did not actually work more than eight hours a day or 40 hours a week. Similar to the employee at Napa, had Section 19844.1 been in effect in January 2008, preventing leave from being included in calculating overtime compensation, the employee would have been compensated at the overtime rate for only 57.5 hours rather than 160 hours. The remaining 102.5 hours would have been paid at the base salary pay rate because these hours would have been considered part of the employee's regular work hours of eight hours per day or 40 hours per week. Based on the average overtime rate of the 10 psychiatric technician assistants we tested for January 2008, the State could have saved $843 on this employee's overtime compensation for the month. As shown in Table 2 on the following page, overall the State would have saved more than $9,000 in overtime costs for the months of December 2007 and January 2008 for the 20 employees we tested at Napa and Sonoma if Section 19844.1 had been in effect at the time.

The current agreement for bargaining unit 18 expired on June 30, 2008, but remains in effect until the governor signs a new contract. The current agreement for bargaining unit 17 also expired on June 30, 2008, and the parties reached a tentative agreement on February 13, 2009 (AB 964 and AB 88). Although the Legislature considered both bills, neither obtained the necessary votes for ratification. However, the Legislature could reconsider AB 88 in the future. According to the legislative director of Personnel Administration, even though the union representing bargaining unit 17 is continuing to pursue legislative approval of the tentative agreement in its current form, Personnel Administration has expressed a desire to negotiate a new agreement. The status of the current tentative agreement is therefore uncertain. Nevertheless, if the State enters into an agreement that permits leave periods to be included in the calculation of overtime, thereby superseding Section 19844.1, the overtime costs for nurses at all state-run hospitals could increase significantly.

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The Cost of Hiring New Staff Is Comparable to Paying Overtime to Existing Staff

Although overtime costs for Napa nurses represented $9.6 million of Mental Health's expenditures in fiscal year 2007–08, hiring new nurses would only slightly reduce Napa's overtime costs by 10 cents per hour. We estimated the overall cost associated with hiring

Table 2
Estimated Overtime Savings for 10 Napa State Hospital Employees and 10 Sonoma Developmental Center Employees if California Government Code, Section 19844.1, Had Been in Effect in December 2007 and January 2008

EMPLOYEE	OVERTIME PAY	ESTIMATED OVERTIME PAY UNDER SECTION 19844.1	ESTIMATED SAVINGS
Napa State Hospital			
1	$33,937.28	$33,589.76	$347.52
2	28,055.69	27,534.41	521.28
3	26,410.14	25,541.34	868.80
4	23,412.32	23,412.32	0.00
5	26,980.38	24,862.68	2,117.70
6	13,327.27	12,632.23	695.04
7	17,628.49	17,107.21	521.28
8	17,237.47	17,063.71	173.76
9	14,956.52	13,566.44	1,390.08
10	19,062.23	18,845.03	217.20
Total			**$6,852.66**
Sonoma Developmental Center			
1	8,868.46	8,802.86	65.60
2	8,983.99	8,918.39	65.60
3	7,853.31	7,645.85	207.46
4	8,580.88	8,449.68	131.20
5	9,588.66	8,745.70	842.96
6	6,525.99	6,398.89	127.10
7	7,791.86	7,506.50	285.36
8	8,745.56	8,417.56	328.00
9	4,665.28	4,665.28	0.00
10	5,041.36	4,944.60	96.76
Total			**$2,150.04**
Total State Savings			**$9,002.70**

Sources: Bureau of State Audits' review of attendance and timekeeping records for 10 Napa State Hospital registered nurses–safety and 10 Sonoma Developmental Center psychiatric technician assistants for December 2007 and January 2008, and the State Controller's Office uniform state payroll system for fiscal year 2007–08.

Note: Each employee's monthly overtime rate can differ slightly between months and with that of other employees in the same job classification due to shift differentials and other factors. An average overtime rate was used for each group of 10 employees to calculate overtime pay and savings based on the 10 employees we tested in each job classification.

a new nurse at Napa, including entry-level base salary, benefits, recruiting, hiring, and training costs, to be more than $116,000 for the first year of employment. We did not factor in workers' compensation insurance, unemployment insurance, disability insurance, or other overhead costs that could not easily be attributed to the hiring of new nurses. We determined the hourly pay rate for a new nurse based on information provided by Napa to estimate the actual hours a new nurse would work. Excluding leave time, holidays, and training hours, we estimated that a nurse

would spend 1,728 actual work hours a year providing patient care. For each new nurse hired, this is potentially the number of overtime hours Napa could expect to eliminate. The resulting estimated cost of replacing an hour of overtime worked with an hour of work by a new nurse is $67.35.

An hour of overtime costs 1.5 times a nurse's base salary hourly pay rate. Because a nurse working overtime does so in addition to his or her regularly scheduled shift, however, the expenses that increase the hourly cost of a new employee are not incurred. For example, retirement benefits and health care benefits, which cost Napa more than $2,000 per employee each month, generally are based on a nurse's base pay rate for working full time during normal working hours and do not increase with overtime pay. According to Personnel Administration's Web site, the cost of one hour of overtime pay for the highest-paid nurse employed at Napa in June 2008 was $67.45. Therefore, in June 2008, the hourly cost of paying a new nurse would have been comparable to the hourly overtime cost of the highest-paid nurse at Napa.

Similarly, although overtime costs for Sonoma psychiatric technician assistants represented $4.3 million of Developmental Services' expenditures in fiscal year 2007–08, we found that hiring new psychiatric technician assistants initially would cost Sonoma $1.97 more per hour than the hourly overtime cost of the highest-paid psychiatric technician assistant. In addition, new state employees at Sonoma who do not have certain prior public service credits do not receive retirement benefits for the first two years of their service. Therefore, after a new psychiatric technician assistant has worked for two years, the State incurs an additional $2.99 per hour for retirement benefits for that individual. Conversely, Napa's nurses fall under the registered nurse-safety classification, and as such are enrolled in the State's retirement plan on the first day of service. Thus, we included their retirement costs in the calculation described earlier. Using the methodology detailed earlier for nurses, we assessed the cost of hiring a new psychiatric technician assistant at Sonoma to be just about $45,000 for the first year of employment. Based on information provided by Sonoma, we estimated 1,676 actual work hours per year for a new psychiatric technician assistant and an hourly cost of $26.81. An hour of overtime for a psychiatric technician assistant at the maximum of that job classification's pay range is $24.84. Consequently, Sonoma actually incurs slightly lower payroll costs by paying overtime to existing psychiatric technician assistants than it would if it hired new employees in the same job classification. Therefore, based on our analysis, it appears that the overtime costs paid to nurses at Napa and psychiatric technician assistants at Sonoma has little fiscal impact on the State when compared

Based on our analysis, it appears that the overtime costs paid to nurses at Napa and psychiatric technician assistants at Sonoma has little fiscal impact on the State when compared with the cost of hiring new employees.

with the cost of hiring new employees. However, as previously discussed, working excessive amounts of overtime could pose health and safety risks to patients, consumers, and staff.

Weak Internal Controls Allowed Over- and Underpayments of Overtime

Our testing identified weaknesses in the internal controls at both Napa and Sonoma. Specifically, we found instances in which employees were overpaid or underpaid for overtime worked, instances when timekeeping and attendance records were not completed properly, and instances in which we were unable to locate timekeeping records at Sonoma.

During our review of 10 employees at Napa for December 2007 and January 2008, we found several discrepancies between attendance records and the payroll records. These discrepancies caused one overpayment and several underpayments of overtime made to employees at Napa. As shown in Table 3, our analysis revealed five such errors in the two months we tested. For example, payroll staff at Napa erroneously omitted from the attendance records used to calculate overtime payments the overtime hours worked by some employees and supported in the timekeeping records, causing underpayments. Napa's human resources manager stated that these types of over- and underpayments were due to clerical error.

Finance identified similar issues at Napa during a review of internal controls conducted from July 2007 through December 2007. Specifically, the report cited inadequate personnel practices that do not provide reasonable assurance that attendance records are accurate and that payroll is proper, especially regarding overtime. As a result of its review, Finance made several recommendations to Mental Health. Among these was that Napa develop adequate timekeeping procedures to ensure that attendance records are adequately prepared, certified, and retained for audits. Although Napa has written timekeeping procedures in place, they were not always followed. For example, although Napa requires that the shift lead, unit supervisor, and nursing coordinator certify the accuracy of attendance sign-in sheets by signing them, we identified instances in which not all the authorizing signatures were present.

Finance also recommended that Napa improve its overtime reviews and preapprovals and include a second-level review outside the unit of the individual working overtime, and that these reviews be documented adequately in the personnel records. According to Napa's corrective action plan, as of April 1, 2008, overtime must be

pre-approved by Napa's Central Staffing Office. However, for the five days we tested after this date, we identified four days when the tested unit did not obtain the required pre-approval.

Table 3
Overpayments and Underpayments Among the Registered Nurses–Safety and Psychiatric Technician Assistants We Tested at Napa State Hospital and Sonoma Developmental Center
December 2007 and January 2008

EMPLOYEE	HOURS OVER/(UNDER) PAID AT OVERTIME PAY RATE	HOURS OVER/(UNDER) INCORRECTLY PAID AT STRAIGHT RATE	TOTAL DOLLAR VALUE OF OVER/(UNDER) PAYMENTS
Napa State Hospital			
1	(7.75)	0.00	($522.82)
2	8.00	0.00	512.66
3	(2.75)	0.00	(185.52)
4	(8.50)	0.00	(542.79)
5	(6.00)	0.00	(402.52)
Sonoma Developmental Center			
1	8.00	0.00	68.24
2	8.00	0.00	66.51
3	15.60	(11.80)	528.37
4	(1.35)	(60.20)	(544.11)
5	5.50	0.00	131.67
6	0.00	1.00	8.39

Sources: Bureau of State Audits' review of attendance and timekeeping records for 10 Napa State Hospital registered nurses–safety and 10 Sonoma Developmental Center psychiatric technician assistants for December 2007 and January 2008.

In addition, Napa's unit sign-in sheets and authorizations for extra hours were not always completed properly. For example, we noted instances in which the required authorizations were missing, the reasons for the overtime were not provided, and the number of overtime hours worked was not included. Finally, Finance recommended that Napa conduct random overtime auditing to help reduce fraud and abuse. Mental Health's October 29, 2008, corrective action plan stated that as of April 2008, Napa had conducted random overtime audits. However, Napa's human resources manager contradicted this assertion, stating that it has not performed any random overtime audits because of the combination of furloughs and the current overtime investigations on some employees that are taking significant staffing resources.

During December 2007 and January 2008, Sonoma over- or underpaid six of the 10 employees we tested.

We also found several discrepancies at Sonoma between attendance and payroll records that caused several overpayments and one underpayment during December 2007 and January 2008, for the 10 employees reviewed. As shown in Table 3, our analysis revealed six such errors in the two months we tested. For example, some of the overpayments at Sonoma occurred because sick leave was counted as time worked for the purpose of calculating overtime payments, even though this practice is prohibited under the terms of the agreement. Sonoma's human resources manager attributed the mistakes to human error because personnel staff must enter information for hundreds of staff members into numerous complicated systems.

Sonoma uses overtime slips as its timekeeping records to approve and support its employees' overtime hours worked. We tested two employees' overtime slips for December 2007 and January 2008. Sonoma was able to locate only 96 of the 100 overtime slips it should have had on file for this period.

Recommendations

To make certain that patients and consumers are provided with an adequate level of care, and that the health and safety of the employees, patients, and consumers are protected, Mental Health and Developmental Services should encourage Personnel Administration—which is responsible for negotiating labor agreements with employee bargaining units—to include provisions in future collective agreements to cap the number of voluntary overtime hours an employee can work and/or to require the departments to ensure that overtime hours are distributed more evenly among staff. One solution would be to give volunteers who have worked the least amount of overtime preference over volunteers who already have worked significant amounts of overtime.

To ensure that all overtime hours worked are necessary, and to protect the health and safety of its employees and patients, Mental Health should implement the Legislative Analyst's suggestion of hiring an independent consultant to evaluate the current staffing model for Mental Health's hospitals. The staffing levels at Mental Health should then be adjusted, depending on the outcome of the consultant's evaluation.

To ensure that the State is maximizing the use of funds spent on patients and consumers, Mental Health and Developmental Services should encourage Personnel Administration to resist

the inclusion of provisions in agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation.

To improve internal controls over payroll processing:

- Napa and Sonoma should research the overtime over- and underpayments we noted and make whatever payments or collections necessary to compensate their employees accurately for overtime earned.

- Napa and Sonoma should review, revise, and follow procedures to ensure that their overtime documentation is completed properly; that timekeeping staff are aware of the overtime provisions of the various laws, regulations, and bargaining unit agreements; and that staff who work overtime are paid the correct amount.

- Mental Health should fully implement Finance's recommendations cited in its report on Mental Health's internal controls dated December 2007.

We prepared this report under the authority vested in the California State Auditor by Section 8546.5 of the California Government Code.

Respectfully submitted,

ELAINE M. HOWLE, CPA
State Auditor

Date: October 20, 2009

Staff: Steven A. Cummins, CPA, Audit Principal
Mary Camacho, CPA
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Legal Counsel: Stephanie Ramirez-Ridgeway, Esq.

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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(Agency response provided as text only.)

California Department of Mental Health
1600 9th Street, Sacramento, CA 95814

October 5, 2009

Elaine M. Howle, CPA*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The California Department of Mental Health (DMH) has prepared its response to the draft report entitled "High Risk Update - State Overtime Costs: A Variety of Factors Resulted in Significant Overtime Costs at the Department of Mental Health and Developmental Services". The DMH appreciates the work performed by the Bureau of State Audits and the opportunity to respond to the draft report.

Please contact Vallery Walker, Office of Internal Audits, at (916) 651-3880 if you have any questions.

Sincerely,

(Signed by: Stephen W. Mayberg)

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosure

* California State Auditor's comments appear on page 39.

Response to the Bureau of State Audits
Draft Report Entitled

"High Risk Update - State Overtime Costs: A Variety of Factors Resulted in Significant Overtime Costs at the Department of Mental Health and Developmental Services"

RECOMMENDATION:

To make certain that patients and consumers are provided with an adequate level of care, and that health and safety of the employees, patients, consumers at Mental Health are protected, Mental Health should encourage Personnel Administration to include provisions in the future collective bargaining unit agreements to cap the number of voluntary overtime hours an employee can work and/or to require the departments to ensure overtime hours are distributed more evenly among staff, for example, giving volunteers that have worked the least amount of overtime preference over volunteers who have already worked significant amounts of overtime.

RESPONSE:

1 Mental Health will raise the issue of having staff with the least amount of overtime to receive preference over the employees who have worked significant amounts of overtime.

RECOMMENDATION:

To ensure that all overtime hours worked are necessary, and to protect the health and safety of its employees and patients, Mental Health should implement the Legislative Analyst's Office suggestion of hiring an independent consultant to identify improvements necessary to the current staffing model of Mental Health's hospitals. Depending on the outcome of the consultant's evaluation, the staffing levels at Mental Health may need to be adjusted.

RESPONSE:

Mental Health entered into a consent judgment with the United States Department of Justice under the Civil Rights of Institutionalized Persons Act on May 2, 2006. Since that time, DMH has worked diligently to implement new staffing standards included in the agreement. Once fully compliant, Mental Health will consider reevaluating staffing needs.

RECOMMENDATION:

To ensure that the State is maximizing the use of funds spent on patients and consumers, Mental Health should communicate to the Department of Personnel Administration (Personnel Administration)--which is responsible for negotiating labor agreements with employee bargaining units-- the cost of allowing any type of leave to be counted as time worked for the purpose of computing overtime compensation. The should also encourage Personnel Administration to resist the inclusion of provisions in bargaining unit agreements that permit any type of leave to counted as time worked for the purpose of computing overtime compensation.

RESPONSE:

Mental Health has implemented California Government Code, Section 9844.1, which became effective March 1, 2009 and changed the methodology for computing overtime. 2

RECOMMENDATION:

Napa should research the overtime over-and underpayments we noted and make whatever payments or collections necessary to accurately compensate their employees for overtime earned.

RESPONSE:

All necessary salary adjustments have been made and sent to the State Controllers Office for processing.

RECOMMENDATION:

Napa should review, revise and follow procedures to ensure that their overtime documentation is properly completed; that timekeeping staff are aware of the overtime provisions of various laws, regulations, and bargaining unit agreements; and that staff who work overtime are paid the correct amount.

RESPONSE:

1. Napa established the process for random audits of overtime worked to reduce fraud and abuse.

    a. The Personnel Officer will randomly request unit sign-in sheets for a particular month from one of the units at the hospital.

    b. The unit sign-in sheets will be reviewed for accuracy, signatures, and completeness.

    c. They will be compared to the STD. 672 submitted to Personnel and compared to the warrant issued by State Controllers Office.

    d. Results of audit will be prepared and submitted to Executive Policy Team.

2. Napa Personnel Transaction Staff and Program Timekeepers were provided training in February 2009 regarding California Government Code, Section 19844.1.

3. Random audits of unit sign-in sheets reduce the likelihood of fraud/abuse and to ensure accurate payment of overtime worked have been established.

RECOMMENDATION:

Mental Health should fully implement the Department of Finance's recommendations cited in its report on Mental Health's internal controls dated December 2007.

RESPONSE:

Napa is currently working on two investigations/audits regarding alleged overtime fraud. These investigations have involved using numerous staff members of Napa, including administrative staff and the investigation unit. Due to the lengthy process of these investigations and furlough days, we have recently requested the assistance of headquarters and currently have two auditors working on these audits. For this reason, no additional staff members were available to perform random audits of overtime as stated in the Plan of Correction provided to the Department of Finance. However, it is the intent of Napa to begin performing random audits of overtime at the conclusion of these audits.

Additionally, the following have been implemented per the Department of Finance's recommendations:

1. Napa implemented mandatory pre-approval prior to working overtime by the Central Staffing Office.

2. Central Staffing Office continues to develop hospital wide policy and procedures to define responsibility and accountability for personnel practices for overtime.

3. Napa implemented the process for random audits of overtime worked to reduce fraud and abuse.

    a. The Personnel Officer will randomly request unit sign-in sheets for a particular month from one of the units at the hospital.

    b. The unit sign-in sheets will be reviewed for accuracy, signatures, and completeness.

    c. They will be compared to the STD. 672 submitted to Personnel and compared to the warrant issued by State Controllers Office.

    d. Results of audit will be prepared and submitted to Executive Policy Team.

4. Napa has recently changed the process of reporting medical officer of the day (MOD) and 2nd position hours to reduce the likelihood of fraud and abuse. A new reporting form and a pre-and post-approval process have been developed, prior to any payment being issued by Personnel.

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF MENTAL HEALTH

To provide clarity and perspective, we are commenting on the response to our report from the Department of Mental Health (Mental Health). The numbers below correspond with the numbers we have placed in the margin of Mental Health's response.

Simply stating that it will raise the issue of having staff with the least amount of overtime receive preference over employees who have worked significant amounts of overtime does little to address the problem. Rather, we believe Mental Health should develop a more detailed process for ensuring that overtime hours are more evenly distributed among staff. (1)

Mental Health did not fully address our recommendation in its entirety. Specifically, as stated on pages 32 and 33 of our report, we recommended that Mental Health encourage the Department of Personnel Administration when negotiating future collective bargaining unit agreements to ensure that leave is not included in the calculation of overtime payments. (2)

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(Agency response provided as text only.)

Department of Developmental Services
1600 Ninth Street, Room 240, MS 2-13
Sacramento, CA 95814

October 5, 2009

Ms. Elaine M. Howle, CPA*
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity to review the draft report entitled "High Risk Update—State Overtime Costs." The Department of Developmental Services' (DDS) primary concern is that of the health and safety of consumers served within the developmental centers. A secondary concern is to ensure the retention of the facility's certification with the Federal Centers for Medicare and Medicaid Services.

Overtime is a fundamental component of 24-hour care facilities and is necessary to ensure the delivery of services as it relates to consumer need and the ability to address the acuity needs of consumers served. Currently there are systems within the facilities to ensure the most efficient use of staffing resources. The developmental centers utilize a variety of approaches to monitor overtime usage including Executive Managers' review of overtime on a system wide basis, evaluation of the use of overtime on a program level, and review of overtime accrual on a case-by-case basis. Additionally, in an effort to nullify potential health and safety risks, line supervisors evaluate on a daily basis staff's ability to perform their duties and have the authority to make adjustments accordingly. (1)

To minimize the need for mandatory overtime, DDS strategically administers and monitors staffing hours within its developmental centers. When overtime is necessary, the parameters established with current bargaining unit agreements are followed, including that of seeking volunteers before requiring mandatory overtime. This can sometimes result in overtime not being evenly distributed amongst the staff; however, as noted above, the overall system for monitoring overtime is believed to address this concern. (1)

Sonoma Developmental Center (SDC), in working with the DDS headquarters, has initiated the process to reconcile the payment errors that were identified at the time of the audit. Additionally, SDC has developed an ongoing process to audit the overtime accrual in an effort to avoid payment errors in the future.

Thank you again for the opportunity to review the draft findings and to provide input as they relate to the findings.

Sincerely,

(Signed by: Mark Hutchinson for)

TERRI DELGADILLO
Director

* California State Auditor's comment appears on page 43.

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Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE DEPARTMENT OF DEVELOPMENTAL SERVICES

To provide clarity and perspective, we are commenting on the response to our report from the Department of Developmental Services (Developmental Services). The number below corresponds with the number we have placed in the margin of Developmental Services' response.

With one exception, reconciling payment errors that we identified during the review, Developmental Services did not specifically address our recommendations. Rather, Developmental Services' response was limited to general statements about the need for employees to work overtime and efforts made to monitor the use of overtime. We look forward to more specific responses to our recommendations from Developmental Services in its 60-day, six-month, and one-year responses to the review. 1

However, we disagree with Developmental Services' conclusion that the overall system for monitoring overtime sufficiently addresses our concern that overtime is not more evenly distributed among staff in order to limit potential health and safety risks. As shown in Figure 4 on page 20, there was a significant disparity in overtime worked during fiscal year 2007–08, with 15 employees averaging more than 30 hours of overtime per week and 298 employees averaging less than 10 hours of overtime per week.

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press