

# *Legislative Performance Audit*

## *Committee*

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## *Preaudit Inquiry:*

### *The Lincoln Regional Center Psychiatrists' Work Commitments*

On 5 November 2004, the Legislative Performance Audit Committee (Committee) voted to have the Legislative Performance Audit Section (Section) conduct a preaudit inquiry to determine the feasibility of and need for a full audit of the work commitments of Lincoln Regional Center (LRC) psychiatrists. This inquiry was prompted by a concern that LRC psychiatrists, some of whom have significant work commitments outside LRC, were not putting in sufficient hours at LRC and that the quality of their work might be suffering as a result.

In this preaudit inquiry, we set out to determine: (1) the minimum number of hours per week the LRC psychiatrists are required to work; (2) the means by which LRC administration assures that they do so; (3) the extent to which the psychiatrists have employment commitments outside LRC; and (4) whether those external commitments are detrimental to the quality of their work at LRC. However, we found that we could not adequately address the quality-of-work question in the timeframe for this preaudit.<sup>1</sup> Our findings relating to the other three issues follow.

## *Findings*

**Finding: Under state law, full-time LRC psychiatrists are required to work a minimum of 40 hours per week.**

Currently, LRC employs three full-time psychiatrists and three part-time psychiatrists. State law requires full-time employees of the state's public institutions, including the full-time LRC psychiatrists, to work at least 40 hours each week.<sup>2</sup> In addition, LRC requires that each psychiatrist be "on call," or available for emergencies, for a set number of hours beyond the 40 required.

## *Accountability for Psychiatrists' Work Hours*

In March 2005, the director of the Health and Human Services System (HHSS) appointed a new LRC CEO, Mr. Bill Gibson. We found that, prior to Mr. Gibson's arrival, there was little accountability for

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<sup>1</sup> We conducted an initial review to determine if LRC has internal controls in place to monitor psychiatrist work quality. We found that LRC conducts performance evaluations, peer reviews, and general documentation reviews that (directly and indirectly) address the quality of the psychiatrists' work. However, for the Section to assess the internal controls, we would have to do an extensive documentation review and possibly bring in a consultant with medical training to assist us in determining whether the controls are sufficient. This type of review is beyond the scope of a preaudit.

<sup>2</sup> Neb. Rev. Stat. sec. 84-1002.

the psychiatrists' work hours. However, under his leadership, accountability is improving as described below.

**Finding: Under the former administration, LRC psychiatrists had little direct supervision; now the Clinical Director actively supervises the full-time psychiatrists.**

The former LRC Clinical Director technically had supervisory authority over the other psychiatrists, but he did not directly supervise their work. In May 2005, a new Clinical Director was appointed. At the direction of the CEO, the new Clinical Director actively supervises the psychiatrists and other professional staff. He has informed the full-time psychiatrists that they are required to work 40 hours each week.

**Finding: In response to the initiation of our preaudit inquiry, the former LRC CEO attempted to bring some accountability into the system by requiring the psychiatrists to use a computerized time clock, known as KRONOS. The new CEO has continued this practice and also requires the psychiatrists to establish weekly schedules.**

One week after the LRC was notified of this preaudit inquiry, the former LRC CEO instituted a requirement that the psychiatrists use the institution's computerized time clock system, KRONOS, to track their hours.<sup>3</sup> The psychiatrists were required to use designated phones at LRC to "clock in" when they got to work and "clock out" any time they left the LRC premises (for example, for lunch, outside obligations, etc.). The current CEO has left this policy in place.

In May 2005, the CEO also added a requirement that psychiatrists keep up-to-date weekly schedules on the LRC computer network. At the same time, he designated a staff person to monitor the psychiatrists' schedules and report regularly to the Clinical Director.

### *Other Issues*

**Finding: Most of the full-time psychiatrists have outside work commitments in addition to their positions at LRC.**

When we reviewed this issue in May 2005, LRC employed four full-time psychiatrists, three of whom had jobs outside LRC.<sup>4</sup> Subsequently, one of those psychiatrists retired, another changed from full- to part-time employment, and a new full-time psychiatrist was hired. Table A shows the full-time LRC psychiatrists' outside employment that we were able to confirm.<sup>5</sup>

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<sup>3</sup> All hourly LRC staff have been required to use this system since 2003.

<sup>4</sup> As of May 2005, LRC also employed two part-time psychiatrists.

<sup>5</sup> Because LRC's records were incomplete and our access to information held by private entities is limited, our results may underrepresent the psychiatrists' actual non-LRC work commitments.

Table A: Full-Time LRC Psychiatrists' Employment Commitments				
	May 2005		June 2005	
Psychiatrist	Employer	Estimated Weekly Hours	Employer	Estimated Weekly Hours
Dr. James Anthony	LRC	Full-time	<i>Retired from LRC</i>	
Dr. Klaus Hartmann	LRC	Full-time	LRC	Full-time
	Lancaster County Mental Health Center	30 hours/week**	Lancaster County Mental Health Center	30 hours/week**
Dr. Y. Scott Moore	LRC	Full-time	LRC	<i>Changed to part-time 20 hours/week</i>
	Private practice	No time estimates	Private practice	No time estimates
Dr. Rafael Tatay	LRC	Full-time	LRC	Full-time
	HHSS Medicaid Program <sup>6</sup>	6 hours/week average*	HHSS Medicaid Program	6 hours/week average*
	Private practice	No time estimates	Private practice	No time estimates
Dr. Richard Dyer	N/A		LRC (5/05)	Full-time

Table prepared by the Legislative Performance Audit Section.

\*Calculated by the Section using unverified information provided by the HHSS Medicaid Program pertaining to its FY2003-2004 payments to Dr. Tatay.

\*\*Estimate provided by the Center's Executive Director.

In general, state employees, including psychiatrists, are not prohibited from having outside employment as long as that employment does not constitute a conflict of interest with their state jobs.<sup>7</sup> As HHSS employees, psychiatrists are required to notify their supervisors in writing before they engage in additional employment.<sup>8</sup> We found that the psychiatrists had reported most, but not all, outside employment.<sup>9</sup> (However, the CEO was aware of the psychiatrists' outside employment even in the two cases in which LRC did not have written notice on file.<sup>10</sup>)

**Finding: LRC psychiatrists are some of the highest-paid state employees.**

Each of the full-time LRC psychiatrists is paid between \$179,722 and \$190,274 annually.<sup>11</sup> In FY2003-04, all were among the top-ten highest paid state employees, and one was *the* highest paid state employee that year.<sup>12</sup>

<sup>6</sup> The Medicaid Program pays Dr. Tatay to review Medicaid cases in which the medical necessity of psychiatric treatment is in question. He does so under a contract with the Medicaid Program, not as part of his LRC duties.

<sup>7</sup> NAC Title 273, Chapter 15, Section 005.

<sup>8</sup> HHSS Employee Policy Manual, Chapter 12.

<sup>9</sup> Information provided by the HHSS Human Resources Administrator

<sup>10</sup> LRC did not have written notice of Dr. Moore's private practice or Dr. Tatay's Medicaid contract.

<sup>11</sup> Gross annual salaries for FY2003-2004 provided by the LRC Human Resources Manager.

<sup>12</sup> 2004 Personnel Almanac, State Personnel Division, Department of Administrative Services.

## *Conclusions*

Historically, LRC has not had an effective means of ensuring that full-time psychiatrists work 40 hours each week, as required by law. Former LRC management provided little direct supervision of the psychiatrists and allowed them nearly complete discretion in when they put in their hours. This absence of oversight created a risk that a psychiatrist could work less than 40 hours without the CEO's knowledge and, ultimately, without consequence. We believe this risk was increased by the psychiatrists' other work commitments, which compete for their time.

In any agency, management should be able to ensure to some reasonable degree of certainty that the state is "getting its money's worth" from its employees. That is especially so in this case, because there are significant state dollars involved, and because the psychiatrists are responsible for care of some of the state's most vulnerable residents.

## *Recommendation*

The purpose of this preaudit inquiry was to gather information about LRC psychiatrist work hours that would assist the Committee in deciding whether to pursue a full audit of this topic. The Section believes that, under prior management, there was a lack of accountability for LRC psychiatrists' work hours. However, we are satisfied with the new LRC leadership's efforts to address that problem. **Consequently, the Section recommends that the Committee not pursue a full audit at this time, but that it reconsider the issue in six months.** At that time, the Section could assess whether the new accountability measures are having the desired effect of ensuring that the psychiatrists are working for the state 40 hours a week, as required by law.