



The 2012-13 Budget:

Oversight and Accountability At State Hospitals

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Summary

In recent years, the Department of Mental Health (DMH) has struggled with the fiscal and programmatic operations of its state hospitals. The Governor's budget plan includes a proposal to eliminate DMH and create a new Department of State Hospitals (DSH), shifting the remaining community mental health programs to various departments. This new structure would allow the administration to better focus on the fiscal and programmatic issues unique to state hospitals, the origins of which we discuss in this brief.

Over the last ten years, changes in policies and patient demographics forced state hospitals to adjust their staffing, mental health care delivery model, and other aspects of state hospital operations. The major changes include: (1) a rise in the number of sexually violent predator (SVP) commitments; (2) the implementation of the Civil Rights of Institutionalized Persons Act (CRIPA) consent decree, requiring state hospitals to reform their practices; and (3) an increase in "forensic" commitments (those with mental illness who are involved in the court system).

In 2008-09, the Office of State Audits and Evaluations (OSAE) conducted an audit which outlined the problems state hospitals experienced due to the changes in policy and staffing. The audit concluded that the staffing model did not adequately reflect hospital workload, funding was not sufficient for annual operating expenditures, and that state hospitals were not efficiently using their staff. Similarly in a 2011 self-audit, DMH found that many of the same problems from the 2008 audit remained. The 2011 audit team recommended the state hospitals (1) improve fiscal transparency and accountability, (2) increase worker and patient safety, and (3) improve mental health outcomes.

We concur with both audit teams' assessments and recommend additional oversight of state hospitals in order to ensure compliance with the auditors' recommended changes. We therefore recommend an audit be conducted that looks at a number of issues, including state hospital budgeting practices, the fiscal controls being put in place, and the level of vacancies and their impact on the state budget and on hospital performance. We recommend this added oversight with respect to state hospitals should take place regardless of the Legislature's decision on the creation of a new DSH.

INTRODUCTION

The Governor's 2012-13 budget plan would eliminate the DMH. The DMH currently oversees and administers two major programs: (1) the Community Services Program and (2) the Long-Term Care Program, which includes five state hospitals and two in-prison psychiatric programs that specialize in treating the mentally ill. The Governor's plan would shift community mental health programs and state functions related to them to other departments, offices, and commissions or would eliminate them entirely. Under the Governor's plan, the workload that would remain at DMH would mainly be the administration of the state hospitals. To reflect this shift to a narrower focus for DMH, the Governor proposes to change the department's name from DMH to DSH.

The administration has provided the following rationale for its reorganization proposal:

- It would allow DSH to focus on effective patient treatment and increased worker and patient safety.
- It would integrate community mental health services with physical health services to provide an effective continuum of care, consistent with federal health care reform.
- It would better align the department's mission and functions to improve efficiency and program delivery.

This budget brief focuses on issues related to state hospitals. (For a discussion of the Governor's proposal to transfer various community mental health programs out of DMH, please see our February 21, 2012 handout, *Governor's Proposed Community Mental Health Program Shift*.)

California's State Hospital System

California has five state hospitals and two psychiatric programs which specialize in treating the mentally ill.

Atascadero State Hospital is located in the Central Coast and treats an all-male maximum security forensic patient population. As of January 2012, it housed over 1,000 patients.

Coalinga State Hospital is California's newest state hospital. Located in the City of Coalinga, it houses over 900 patients, most of whom are sexually violent predators.

Metropolitan State Hospital houses over 400 patients and is located in the city of Norwalk. Metropolitan does not accept individuals who have a history of escape from a detention center, a charge or conviction of a sex crime, or one convicted of murder.

Napa State Hospital, located in the City of Napa, is classified as a low- to moderate-security level state hospital. As of January 2012, this hospital had slightly less than 1,000 patients.

Patton State Hospital treats approximately 1,500 patients and is primarily a forensic hospital. Located in San Bernardino County, Patton has seen its forensic population grow quickly in the past few years.

Vacaville and **Salinas Valley** Psychiatric Programs are not hospitals, but psychiatric programs designated to treat inmates with mental health issues. Salinas Valley Psychiatric Program is located inside the Salinas Valley State Prison. Both programs combined treat less than 700 inmate-patients.

BACKGROUND

The state's five state hospitals—Atascadero, Coalinga, Metropolitan, Napa, and Patton—provide treatment to a combined patient population of over 5,000. (See the nearby box for more information on these facilities.) State hospitals treat patients under several forensic commitment classifications, including Not Guilty by Reason of Insanity, Incompetent to Stand Trial (IST), SVPs, and Mentally Disordered Offenders. State hospitals also treat mentally ill persons referred by the

counties under civil commitments. Additionally, two psychiatric programs located on the grounds of state prisons at Vacaville and Salinas Valley have a combined inmate patient population of less than 700. In the last decade, state hospitals have seen a shift in their population—with the forensic population increasing steadily and the civil commitments in decline. The DMH reports the forensic population is now approximately 92 percent of the state-wide hospital system.

GOVERNOR'S BUDGET PROPOSAL FOR STATE HOSPITALS

The Governor's budget plan proposes \$1.4 billion (\$1.3 billion General Fund) for DSH in 2012-13, an increase of \$72 million General Fund from the adjusted current-year expenditures for state hospitals. Below, we describe the Governor's current-year adjustments and budget-year proposals in more detail.

State Hospitals Face Current-Year Deficiency.

The Governor's budget plan includes a net increase of \$63 million General Fund for 2011-12 to support increases in state hospital operating costs that were not accounted for in the current-year budget. The administration indicates that it will seek funds through a supplemental appropriations bill.

Budget-Year Proposals. The DSH budget plan includes the following major proposals:

- ***Court-Ordered Patient Admissions.***

The budget plan reflects an increase of \$28.1 million from the General Fund and 277.5 positions to respond to the anticipated population increase related to the court-ordered increase in *Coleman* patient admissions in order to reduce the waiting list.

- ***Department of Juvenile Justice (DJJ) Closure.***

The budget plan assumes a \$3.4 million reduction in other funds and 47.9 positions due to the elimination of mental health services for DJJ inmates.

- ***California Healthcare Facility (CHCF), Stockton.***

The budget reflects an increase of \$11.4 million from the General Fund for mental health-related staff positions. These positions are slated for CHCF, a prison being built in Stockton. The positions are needed for the pre-planning phase of CHCF. The CHCF will provide mental and physical health care. The DSH will be responsible for approximately 475 beds in what will be called the Stockton Psychiatric Program. The CHCF is scheduled to open in July 2013.

- ***Alarm Systems at Napa, Metropolitan, and Patton State Hospitals.***

The budget plan assumes an increase of \$27.2 million for the implementation of a Personal Duress Alarm System for the Metropolitan and Patton State Hospitals. This also

includes \$446,000 for 2.5 positions for ongoing maintenance of these alarm systems at the Napa State Hospital.

- ***Fire Sprinklers and Fire Alarm System Replacement at Napa and Metropolitan.*** The budget reflects an increase of \$14.1 million to fund fire sprinklers for skilled nursing facilities at the Napa and Metropolitan State Hospitals. Additionally, it assumes \$15.5 million to replace the fire alarm system at the Napa State Hospital.
- ***IST Treatment in County Jail.*** The Governor's budget includes a decrease of \$3 million General Fund resulting from treating defendants found to be IST in county jails, rather than state hospitals, when medically appropriate.

LAO Recommendations

No Current Concerns About Most of Budget Proposals. On five of the six proposals, we do not take issue at this time. (However, if we receive additional information, we may revise our position.) With regard to the IST proposal, however, we do have the concern described below.

Uncertainty About Achievability of Savings From IST Treatment Reduction. We are supportive of the proposal to treat those who are IST in county jail. (Please reference our January 2012 report, *An Alternative Approach: Treating the Incompetent to Stand Trial.*) However, we are unclear as to how the administration expects to achieve these savings. We therefore recommend the administration report at budget hearings on how the \$3 million in General Fund savings will be achieved.

STATE HOSPITALS FACED A SERIES OF CHALLENGES OVER THE PAST DECADE

Below, we provide information about the challenges the state hospitals have faced over the past decade and future challenges. We also assess related fiscal issues and how the administration proposes to address them.

SVP Commitment and Treatment: Workload Increases for State Hospitals

In accordance with Chapter 763, Statutes of 1995 (AB 888, Rogan), and Chapter 762, Statutes of 1995 (SB 1143, Mountjoy), California established a new civil commitment category for SVPs. This law requires that certain criminal offenders who have been committed by the courts as SVPs be placed upon their release from prison in state hospitals for inpatient treatment and then eventually released into the community for further supervision and treatment. The commitment generally lasted two

years, but could be renewed if a District Attorney sought recommitment. The law's intent was to ensure that SVPs be confined and treated until they no longer presented a threat to society. The state constructed Coalinga State Hospital, a new 1,500 bed secure mental health treatment facility that opened in 2005 to provide the state hospitals with additional capacity to treat patients committed under the SVP law.

In 2006, Proposition 83, also known as Jessica's Law, was approved by the voters. Jessica's Law increased criminal penalties for sex offenses and strengthened the state's oversight of sex offenders. For example, the law requires SVPs be committed by the court to a state mental hospital for an undetermined period of time rather than the renewable two-year commitment provided for under previous law. The measure generally makes

more sex offenders eligible for an SVP commitment by (1) reducing from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment and (2) making additional prior offenses “countable” for purposes of an SVP commitment. Jessica’s Law more than doubled the workload related to screening and evaluating sex offenders for a SVP commitment. This workload affects both the hospitals and DMH headquarters in Sacramento.

Federal Civil Rights Law Consent Decree Required State to Implement Reforms

Pursuant to CRIPA, a federal civil rights law to protect individuals housed in public institutions such as mental hospitals, the U.S. Department of Justice took a series of actions affecting California’s state hospital system. A court monitor was appointed to review the compliance of each state hospital.

In 2006, four out of five of the state hospitals were found to be in violation of CRIPA. The investigation found that these hospitals failed to provide a safe environment for its patients, failed to provide complete psychiatric assessments, and in some cases neglected to regularly review a patient’s needs before prescribing medication. Hospitals were ordered to correct their treatment of patients through changing its recovery model to one that was therapeutic and rehabilitative. The consent

judgment required these hospitals to implement an Enhancement Plan—a comprehensive approach to fixing the problems outlined in the judgment. The Enhancement Plan also required biannual reviews of each hospital’s progress in changing its delivery of care. The change in treatment model coupled with the necessary documentation required increased the workload for hospital workers. The Governor’s budget includes \$65 million for General Fund costs related to this workload. As of January 2012, there were only two hospitals which have yet to meet CRIPA standards.

Increased Violence Requires Increased Safety Measures

Due to the increased forensic population, there has also been an increase in violence towards patients and workers. In 2010, DMH reported there was an average of 23 incidents of violence per day towards both patients and workers in state hospitals, with almost three staff injuries per day. In 2009, Napa State Hospital received national attention when an employee was killed by a patient. These incidents prompted requests by DMH for increased funding for additional alarms and security measures. Since state hospitals were not built for the forensic population, the state expects to spend millions of dollars on updating the security at these hospitals in order to create a safe environment for both patient and worker.

AUDIT REPORTS SHOW NEED FOR BETTER FISCAL CONTROLS

Audit Findings

2008-09 Audit Finds Problems. The 2008-09 *Budget Act* directed the OSAE within the Department of Finance to conduct an audit of DMH’s budget estimation process. The OSAE audit

made several findings regarding state hospitals, concluding that:

- The staffing model did not adequately reflect hospital workload.

- Funding was not sufficient for annual operating expenditures.
- State hospitals were not efficiently using their staff.

The OSAE’s findings indicated a misalignment of the way funding was budgeted for state hospitals for personal services and operating expenditures and equipment (OE&E). For example, the audit identified that cost savings from personal services, known as salary savings, were being used to offset OE&E costs. As a result, the OSAE found that the state hospitals were at risk for operational shortfalls in the future. That is because salary savings would eventually decrease when vacant positions were filled and they would no longer be available to be redirected to pay OE&E costs.

Recent Audit Finds More Problems. Similarly, in December 2011, DMH released a self-audit report outlining many of the same issues OSAE reported in 2009. The audit was conducted by five retired annuitants and covered worker and patient safety, fiscal oversight, and health outcomes. A few of the major components the audit team identified as contributors to the operational deficit included: (1) increased operational costs in general, (2) unfunded overtime, and (3) increased patient aggression, leading to increased costs related to a new personal alarm system at each of the hospitals. We discuss each of these below.

Increased Operational Costs. The audits found that in recent years there has been an increase in outside hospitalization of patients at the state hospitals. Outside hospitalizations are largely due to patients harming themselves or others. Between 2007-08 and 2010-11, these outside medical costs increased \$9.5 million, an average of 10 percent a year. State hospitals spent a total of \$41.4 million in 2010-11 on outside medical costs. Additionally, operational costs due to carrying out the required CRIPA Enhancement Plan have also risen. In 2006,

the department received \$40 million in funding for the Enhancement Plan, but expenses rose as the court monitor imposed additional workload requirements not considered in the 2006 plan.

Unfunded Overtime. A major budgetary problem found in the audits was unfunded overtime for employees. The unfunded overtime related to increased operational costs directly impacted spending in the state hospital budget. This unfunded overtime has contributed to deficiency requests in the current year and the prior year. Overtime costs almost doubled between 2005-06 and 2010-11, rising from \$58.6 million to \$110 million, an average annual increase of 17.5 percent a year. Since 2005-06, DMH has spent over \$500 million in overtime costs, as shown in Figure 1.

Patient Aggression Increases Costs. The department reports a 92 percent forensic population in the state hospitals. In 2010, DMH reported that over 50 percent of all aggressive incidents by patients were towards other patients, with the remainder directed towards staff. Statistical data on patient aggression varied at each individual hospital. The administration is currently planning to implement a personal alarm system in all of the hospitals to improve worker and patient safety. This system is estimated to cost approximately \$50 million for all hospitals combined.

**Figure 1
Hospital Overtime Expenditures**

(In Millions)

Fiscal Year	Expenditure
2005-06	\$58.6
2006-07	72.4
2007-08	83.1
2008-09	81.1
2009-10	101.3
2010-11	109.5
Total	\$506.2

Audit Team Lays Out Plan to Address Problems

The increase in workload and expense has led to a series of fiscal issues for state hospitals. In its 2011 self-audit, DMH recognizes the need for change in order to ensure a strong fiscal future. The audit team outlined a series of short-term and long-term goals in order to (1) ensure fiscal transparency and accountability, (2) increase worker and patient safety, and (3) improve mental health outcomes. The audit team made a series of recommendations for the department on how to reach the previously mentioned goals, as discussed below.

Ensure Fiscal Transparency and Accountability. The audit team found that DMH contributed to the deficiency through a lax approach to fiscal management. The audit team recommended that:

- A deputy director be hired to provide leadership and oversee the budget.
- The department do a technical review of its budget to ensure it accurately reflects its budgetary needs.
- The department establish criteria for hospitals, such as cost per patient, to better understand the expenses involved with caring for patients.
- The department improve its knowledge of medical expenditures, simplify the Enhancement Plan for both savings and for patient care, and modernize the data management system.

Increase Worker and Patient Safety. In order to increase worker and patient safety, the administration plans on implementing alarm systems at all five of the state hospitals. Napa State Hospital is scheduled to be the first hospital with this new alarm system, with the others being phased in over the next two years.

Improve Mental Health Outcomes. The audit team recommended the department establish a clinical deputy director at headquarters who is also a forensic psychiatrist. This would allow the state hospitals to receive the appropriate program direction and oversight from headquarters. Additionally, the audit team suggested that the department consider more on-site clinics to improve patient care and reduce outside medical costs. The audit team also recommended that department develop electronic health records to help medical staff manage patient care and save medical staff time. (The administration has requested funding in the budget year in order to develop a system for better patient record care.)

LAO Recommendations Regarding Oversight of State Hospitals

Many of the problems identified by the OSAE audit in 2008-09 have not been addressed and were still problems when DMH conducted its self-audit in 2011. Therefore, we believe the administration's plan to address the audit findings needs monitoring in order to ensure changes are made.

We therefore recommend additional oversight in the beginning stages of the transition to a new DSH. If the Legislature does not approve the plan for a creation of a new DSH, we believe the audit measures should apply to DMH. Due to the lax management of fiscal controls shown in the past, we recommend OSAE audit the new department beginning in January of 2013. The audit should assess what measures are being taken to ensure proper fiscal controls and whether those measures are effective. Additionally, the audit should include a detailed look at vacancies and their impact on the state budget and hospital performance. A detailed review of the needed personnel by hospital should be analyzed. A look into patient aggression and the impact of the newly implemented security measures should also be considered. We recommend the

Legislature adopt the following trailer bill language to provide this needed oversight:

The Department of State Hospitals (DSH) shall reimburse the Office of Statewide Audits and Evaluations (OSAE) within the Department of Finance to conduct a review and analysis of the budget methodology, including relevant data, formulas, and cost assumptions, used in developing the annual state budget for the state hospitals. Additionally, the audit should provide a status update on the level of, and current issues with, vacancies, patient aggression,

and security at the DSH. The DSH shall provide information to the OSAE as necessary for it to complete its analysis and provide recommendations. It is the Legislature's intent for the DSH to notify the OSAE to proceed with this analysis during the fall of 2012. The OSAE's report should be submitted to the Legislature by April 1, 2013 to ensure hospitals are making progress and to enable the Legislature to consider what further actions may need to be taken for the following fiscal year.

LAO Publications

This brief was prepared by Lishaun Francis and reviewed by Shawn Martin. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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