

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

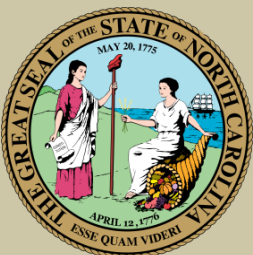
BETH A. WOOD, CPA



NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES CHERRY HOSPITAL

GOLDSBORO, NORTH CAROLINA

INVESTIGATIVE REPORT
MARCH 2020



NCOSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The Office of the State Auditor received an allegation through its Hotline that the Department of Health and Human Services (Department), Cherry Hospital violated the Office of State Human Resources (OSHR) policy for dual employment.

BACKGROUND

Cherry Hospital is an inpatient psychiatric hospital in Goldsboro, North Carolina. As one of three psychiatric hospitals operated by the Department, Cherry Hospital provides services to 38 counties in the eastern region of North Carolina. Cherry Hospital offers mental health services to adolescents, adults, and geriatric patients.¹ Its mission is “to provide excellent, psychiatric care to individuals with the greatest need and the fewest resources.”²

FINDING

- Cherry Hospital violated the State’s policy for dual employment by paying nurse management³ more than \$322,000 for additional hours worked in the same facility over a 33-month period.

RECOMMENDATIONS

- Department management should discontinue the practice of using dual employment to pay nurse management for additional hours worked within the same facility.
- Department management, including the Human Resource Director, should ensure that the Department complies with existing OSHR policies. Alternatively, given the apparent operational need for additional staffing, Department management should consider requesting approval from OSHR to include the nurse management classification as medical personnel eligible to receive pay for working extended duty.⁴
- Cherry Hospital management should seek to fill vacancies to provide adequate coverage for the operational needs of the facility.

¹ <https://www.ncdhhs.gov/divisions/dsohf/cherry-hospital>

² <https://files.nc.gov/ncdhhs/Cherry-%20Mission-%20Vision-Philosophy.pdf>

³ Nurse management includes directors of nursing, assistant directors of nursing, nurse managers, and nurse supervisors.

⁴ The *State Human Resources Manual* states extended duty occurs when “an employee of the State who is exempt from the hours of work and overtime provisions of [Fair Labor Standards Act] may, if the employee agrees, be scheduled to work additional hours beyond the regular work schedule and receive pay on a straight-time basis.” https://files.nc.gov/ncoshr/documents/files/Extended_Duty_for_Medical_Personnel.pdf

STATE OF NORTH CAROLINA
Office of the State Auditor



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State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Dr. Mandy Cohen, Secretary, North Carolina Department of Health and Human Services
Helen Wolstenholme, Director, State Operated Health Facilities
Dale Armstrong, Chief Executive Officer, Cherry Hospital

Ladies and Gentlemen:

Pursuant to *North Carolina General Statutes §147-64.6(c)(16)* and *§147-64.6B*, we have completed an investigation of allegations concerning the Department of Health and Human Services, Cherry Hospital. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General, and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the Department of Health and Human Services during our investigation.

Respectfully submitted,

A handwritten signature in black ink, reading "Beth A. Wood". The signature is written in a cursive, flowing style.

Beth A. Wood, CPA
State Auditor

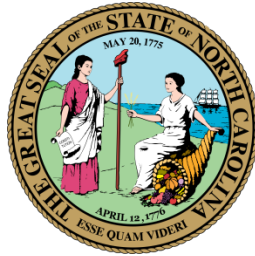


Beth A. Wood, CPA
State Auditor

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Article 5A, Chapter 147 of the *North Carolina General Statutes*, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.



BACKGROUND

The Office of the State Auditor initiated an investigation in response to a Hotline allegation that the Department of Health and Human Services (Department), Cherry Hospital violated the Office of State Human Resources (OSHR) policy for dual employment.

Our investigation of this allegation included the following procedures:

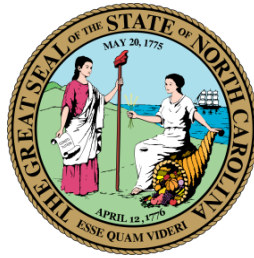
- Review of *North Carolina General Statutes*, the *State Human Resources Manual*, the *State Budget Manual*, and applicable Department policies and procedures.
- Interviews with management and staff from the Department, OSHR, and the Office of State Controller.
- Examination and analysis of timekeeping reports, payroll records, and personnel information.

This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statutes* §147-64.6(c)(16) and §147-64.6B.

Cherry Hospital is an inpatient psychiatric hospital in Goldsboro, North Carolina. As one of three psychiatric hospitals operated by the Department, Cherry Hospital provides services to 38 counties in the eastern region of North Carolina. Cherry Hospital offers mental health services to adolescents, adults, and geriatric patients.⁵ Its mission is “to provide excellent, psychiatric care to individuals with the greatest need and the fewest resources.”⁶

⁵ <https://www.ncdhhs.gov/divisions/dsohf/cherry-hospital>

⁶ <https://files.nc.gov/ncdhhs/Cherry-%20Mission-%20Vision-Philosophy.pdf>



FINDING AND RECOMMENDATIONS

CHERRY HOSPITAL VIOLATED THE STATE’S POLICY FOR DUAL EMPLOYMENT BY PAYING NURSE MANAGEMENT MORE THAN \$322,000 FOR ADDITIONAL HOURS WORKED IN THE SAME FACILITY OVER A 33-MONTH PERIOD.

Between January 1, 2017 and September 30, 2019, Cherry Hospital misused the dual employment process to pay nurse management for additional hours worked in the same facility. Dual employment payments are only applicable in situations where one employee works in two roles at different agencies.⁷ Cherry Hospital misapplied the dual employment policy to include employees working in two positions within the same facility. As a result, Cherry Hospital paid 13 nurse management employees⁸ \$322,773 for dual employment, rather than providing compensatory time, when they worked additional hours to cover vacant registered nurse shifts. Department of Health and Human Services (Department) and Cherry Hospital management indicated using dual employment is a cost-effective way to manage chronic nursing staff vacancies.

Dual Employment Payments in Violation of State Policy

Despite Office of State Human Resources (OSHR) policy that requires dual employment agreements to be between two separate agencies, Department management accepted the ongoing practice to pay employees through dual employment methods when working in one facility. In April 2004, the Department redefined its dual employment policy as “an agreement when one (1) state agency secures the services of an employee of another state agency or **among divisions/facilities/schools within [the Department].**” [emphasis added]

The investigation revealed that the Department has been paying nurse management overtime (at the registered nurse straight-time pay rate) for filling nurse staffing vacancies since at least 2002. A November 6, 2002 Department memorandum stated:

[Fair Labor Standards Act] exempt nurse supervisors and managers, to include directors and assistant directors of nursing, who volunteer for dual employment within [the Department] shall be compensated at straight-time at no more than their current salary or the maximum of the salary range for a “staff” nurse, whichever is less, for the role in which they are substituting.

The memorandum also stated:

[Fair Labor Standards Act] exempt nurse supervisors and managers who have 24-hour accountability for direct care operations, may be eligible for straight-time compensation for working over 40 hours. Eligibility occurs when substituting for vacancies and/or shortages caused by such reasons as absenteeism, recruitment difficulties, and attrition within the institution worked. These nurse supervisors and managers shall only be compensated for hours worked in direct care and not for administrative duties normally associated with supervisory and managerial work.

⁷ <https://oshr.nc.gov/policies-forms/employment-records/dual-employment>

⁸ Nurse management positions are exempt from the Fair Labor Standards Act requirement to be paid at “least the federal minimum wage for all hours worked and overtime pay at not less than time and one-half the regular rate of pay for all hours worked over 40 hours in a work week.” https://www.dol.gov/whd/overtime/fs17a_overview.pdf.

Further review of the Department's misuse of the dual employment policy revealed that the Department's Office of the Internal Auditor identified in 2014 that Cherry Hospital relied heavily on dual employment and overtime to ensure adequate coverage of all wards. An internal audit report stated, "As vacancies are filled across the Nursing Office, management stated it plans to decrease its reliance on dual employment and overtime." The report also indicated that a periodic analysis of overtime will heighten awareness and "significantly reduce the amount of additional hours worked per employee."

In addition, Cherry Hospital circumvented the State's payroll system to pay nurse management through the dual employment method. Nurse management signed a dual employment agreement and submitted manual dual employment timesheets for the hours they worked covering vacant nursing shifts. The Office of State Controller (OSC) was not aware that the time sheets were improperly classified as dual employment hours worked. As such, OSC processed these payments as dual employment.

After becoming aware of the misuse of dual employment, OSHR and OSC officials contacted the Department in September 2018 with concerns about the ongoing dual employment process. In June 2019, the Department drafted a proposed new policy statement for review. Initial review by OSHR indicated the draft policy failed to comply with state policy. As of December 2019, OSHR had not received the requested information to complete a needs assessment to move forward with recommending how to change the payment method.

Resulted in Payments of \$322,773 over a 33-month Period

By inappropriately using the dual employment payment process, Cherry Hospital paid nurse management \$322,773 for overtime at a straight-time rate when these employees should have received compensatory time instead.

Caused by Departmental Policy that Conflicts with State Policy

The Department inappropriately expanded its dual employment policy which allowed these payments. That policy change conflicted with the OSHR statewide dual employment policy.⁹

According to Cherry Hospital officials, there are over 50 vacant registered nurse positions that impact the ability to adequately staff for patient coverage. In addition to current staffing levels, Cherry Hospital officials indicated they use overtime and agency contract nurses to offset the gap in coverage. Management said that contract nurses received pay at a premium contract rate while staff nurses received pay at a time-and-a-half rate for overtime hours worked.

Cherry Hospital management believes that staff can only work so much overtime before fatigue or morale factors prompt turnover. Historically, Cherry Hospital managed this concern by allowing nurse management to fill vacant registered nurse positions after their regular hours worked. Instead of compensatory time, nurse management received straight-time pay at the registered nurse rate for the additional hours worked. Management told investigators this option (1) is less expensive than contract or overtime pay, (2) increases morale for staff, and (3) provides needed coverage for patient care areas. Cherry Hospital officials also claimed that

⁹ According to *North Carolina General Statute §126-4*, the State Human Resources Commission establishes statewide policies related to employee pay. The Department did not have the authority to expand policy beyond that established by the State Human Resources Commission.

nurse management would be more likely to work additional hours by receiving straight-time pay rather than compensatory time.

The Cherry Hospital Chief Executive Officer said, “It really gets down to us...having more of an insight for looking at how can we work within state regulations and state policy and yet still do what is best for the patient and to still do what is best for our employees.”

Dual Employment Defined by State Policy

The *State Human Resources Manual*, Section 3, page 11 states:

The dual employment policy is a state-wide uniform policy to be followed when one state agency secures the services of an employee of another State agency on a part-time, consulting or contractual basis...**This policy applies only in situations involving one employee and two agencies.** [emphasis added] For situations involving one employee assuming dual roles within the same agency, see Hours of Work and Overtime Compensation Policy.

Board of Nursing Guidance

In addition, the North Carolina Board of Nursing notes that nurse management may be expected to fill vacant shifts as part of their normal job duties. The Board of Nursing’s *Position Statement for RN and LPN Practice*, states:

During periods of understaffing, the RN manager/administrator may have to reassign staff to different client care areas as well as approve extended tours of duty (e.g., double shifts) for licensed nurses (RN or LPN) who volunteer or agree to work extra hours/shifts...If a replacement nurse cannot be found, the RN manager/administrator is responsible for providing the coverage.

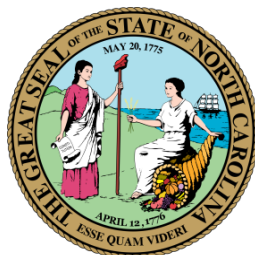
RECOMMENDATIONS

Department management should discontinue the practice of using dual employment to pay nurse management for additional hours worked within the same facility.

Department management, including the Human Resource Director, should ensure that the Department complies with existing OSHR policies. Alternatively, given the apparent operational need for additional staffing, Department management should consider requesting approval from OSHR to include the nurse management classification as medical personnel eligible to receive pay for working extended duty.¹⁰

Cherry Hospital management should seek to fill vacancies to provide adequate coverage for the operational needs of the facility.

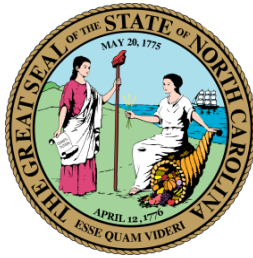
¹⁰ The *State Human Resources Manual* states extended duty occurs when “an employee of the State who is exempt from the hours of work and overtime provisions of [Fair Labor Standards Act] may, if the employee agrees, be scheduled to work additional hours beyond the regular work schedule and receive pay on a straight-time basis.” https://files.nc.gov/ncoshr/documents/files/Extended_Duty_for_Medical_Personnel.pdf



APPENDIX

Cherry Hospital Nursing Leadership Approved for Dual Employment Assignments and Payments Received for January 1, 2017 through September 30, 2019			
Position according to Organizational Chart	Year-to-Date through 9/30/2019	2018	2017
Nursing Director	\$ 23,651.23	\$ 29,670.48	\$ 31,868.72
Nurse Supervisor	8,249.25	9,179.01	
Nursing Director	18,583.26	25,698.16	25,914.74
Nurse Supervisor	18,681.56	20,348.95	16,115.53
Nurse Supervisor	10,098.85	11,999.91	17,541.33
Nurse Supervisor	11,436.99		
Nurse Supervisor	858.41	1,723.36	
Nurse Supervisor	1,108.90		
Nurse Supervisor	744.61	2,977.57	196.80
Nurse Supervisor	1,038.67		
Nurse Supervisor	686.57	4,140.54	4,329.97
Nurse Supervisor		6,979.32	9,158.44
SEPARATED Nurse Supervisor		6,165.72	3,626.69
Totals	\$ 95,138.30	\$ 118,883.02	\$ 108,752.22

Grand Total: \$ 322,773.54



RESPONSE FROM DEPARTMENT OF HEALTH AND HUMAN SERVICES



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

February 25, 2020

The Honorable Beth A. Wood
State Auditor
Office of the State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0600

Dear Auditor Wood:

Thank you for the opportunity to respond to the February 2020 Investigative Report on the use of dual employment at Cherry Hospital. We agree with the findings of the report and appreciate the State Auditor's Office identifying an area where DHHS can better comply with State policy.

While dual employment was used solely to ensure quality care and treatment for patients at Cherry Hospital, we acknowledge that the 2002 DHHS memorandum endorsing the use of this practice within a facility is inconsistent with OSHR policy.


The DHHS Human Resources Office has worked with OSHR to establish a new policy, Additional Work for Medical Classes only within DHHS Divisions/Facilities (see attached). It is currently being implemented and Cherry will request approval for a small number of nurses in management positions to work additional hours. As soon as approval is granted from OSHR, Cherry Hospital will cease the use of dual employment within the facility.

Sincerely,

A handwritten signature in black ink that reads "Mandy K. Cohen".

Mandy Cohen, MD, MPH
Secretary

WWW.NCDHHS.GOV
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MAILING ADDRESS: 2001 MAIL SERVICE CENTER • RALEIGH, NC 27699-2001
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

	Title: Additional Work for Medical Classes only within DHHS Division/Facilities	
	Division: DHHS Human Resources	
	Original Effective Date:	
	Revised Effective Date:	
	Last Reviewed Date:	
	Approved by:	Approval Date:

Policy:

This policy replaces the current process of dual employment within DHHS. When the business need arises for any medical classification, to work a current employee within the same division/facility and/or a different division/facility within DHHS in a different classification approval must be given by DHHS Classification and Compensation.

Please note, for the purpose of this policy medical classification does not include the Health Care Technician Series.

Procedure:

1. Local HR Office will complete a hiring package to include the following:
 - DHHS HR Action Request Form (Hourly rate requested & Annual rate in the comments for equity purposes)
 - Justification Memo (to include the length of time)
 - Equity Analysis
 - Salary Qualification Worksheet
 - Last Application
 - Additional Work Agreement
2. The complete hiring package should be uploaded to the **Borrowing/Receiving Salary** Administration Smartsheet.
3. Salary administration guidelines must be followed. Based on the salary/classification OSHR approval may be needed.
4. Once approval is received, update Extended Duty in Position Setting "PO13" - Extended Duty must be effective 1st day of the month (follow current guidelines for retro time eval if needed).
5. If there are two facilities/divisions involved their budget offices will need to work out the funding for additional hours worked.
6. All approvals must be added to the "Additional Work within DHHS" Smartsheet by the initiator.
7. The Borrowing/Receiving Facility/Division must give the employee a letter regarding the approval of additional work, explaining time entry and the payout of overtime and retirement.
8. Once the "Additional Work" is completed, delimit Position Setting "PO13" - Extended Duty (follow current guidelines for retro time eval if needed).
9. Update the status on the smartsheet "Additional Work within DHHS" to Inactive.

ORDERING INFORMATION

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For additional information, contact the
North Carolina Office of the State Auditor at 919-807-7666.



This investigation required 374 hours at an approximate cost of \$38,522.