Performance Audit

of

Albemarle Mental Health Center

OFFICE OF THE STATE AUDITOR
LESLIE W. MERRITT, JR., CPA, CFP
STATE AUDITOR

September 2007

STATE OF NORTH CAROLINA
Office of the State Auditor

Leslie W. Merritt, Jr., CPA, CFP
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet
http://www.ncauditor.net

October 8, 2007

The Honorable Michael F. Easley, Governor
Members of the North Carolina General Assembly
Mr. Dempsey Benton, Secretary
North Carolina Department of Health and Human Services
Mr. Pete Dail, Board Chair
Albemarle Mental Health Center

Ladies and Gentlemen:

We are pleased to submit this performance audit entitled *Albemarle Mental Health Center*. The objective of the audit was to determine whether the resources provided by the State were used for their intended purpose in a prudent business manner and with the proper oversight. Mr. Dail, the Albemarle Mental Health Center (Center) Board, and other appropriate members of management reviewed a draft copy of this report. Official responses from the Center Board or the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services (Division) are included after each finding identified in the report.

We wish to express our appreciation to Board Chair Dail, the Center Board of Directors, Area Program Director Charles Franklin and his staff, and Division personnel for the courtesy, cooperation, and assistance provided us during the audit.

Respectfully submitted,

Leslie W. Merritt, Jr.

Leslie W. Merritt, Jr., CPA, CFP
State Auditor

TABLE OF CONTENTS

Summary

The Albemarle Mental Health Center (Center) is managed by a regional Board of Directors and its Area Program Director. Many of the issues noted during our audit resulted from the lack of prudent administration and allocation of resources by this management team. We identified several issues that management should address to enhance its ability to better manage its assets in order to provide mental health, developmental disabilities, and substance abuse services to customers in its catchment area[1]. The findings are briefly summarized in the following statements:

1. The Area Program Director's base salary of $282,663 is excessive when compared to mental health peers, other government officials, and local management entity (LME) operational measures.
2. The Special Assistant's base salary of $142,848 is excessive after reviewing her clerical track of employment, lack of documented participation in formal training programs, actual duties performed, and salary comparison to other administrative personnel in the mental health system.
3. The Center's Board member expenses are excessive. The Center annually pays for Board members and their spouses to attend training conferences around the State at some of North Carolina's exclusive resorts. The conference activities do not appear to relate to the Board members' duties and responsibilities.
4. The Center is incurring excessive wage costs related to the payment of the employees' share of FICA taxes. The practice of the Center paying both the employer and employee share began in 1979 and continues today. For the last three calendar years, the Center has expended $1.5 million in this manner.
5. Problem areas were noted with the Center's contractual agreement for the provision of Area Program Director Services including:
    a. The contract between the Center's Board and its Area Program Director included overly favorable terms and conditions to the Contractor including: advance payments for services to be performed; a $1,000 monthly auto depreciation allowance in addition to reimbursement for travel costs at the IRS mileage rate; and the annual payment of leave benefits similar to those provided to its employees.
    b. The Area Program Director's automobile depreciation allowance is a duplicative reimbursement as the Internal Revenue Service (IRS) rate includes an auto depreciation component in its annual computation of the allowable reimbursement rate.
    c. An Administrative Law Judge determined that the Area Program Director's classification was an employee rather than a contractor. The decision also voided the contract because the Center's Board failed to meet the statutory requirements for hiring an Area Program Director. The financial ramifications of this decision affect both parties to the contract.

[1] Catchment area: the geographic part of the State served by a specific area authority or county program.

6. We noted that the Center contracts for services that may be duplicative in nature as they may already be available, at little to no cost, through other State resources. Documentation to support activities performed was insufficient to adequately determine the extent of services performed. In addition, the Center incurred costs for some of these contractors and their spouses to attend the same training conferences as the Board attended.
7. The Center improperly used State and Federal funds to pay for the Area Program Director's salary, a violation of contract terms. In addition, State funds were used to fund the services of a lobbyist for the Center in violation of statutory requirements.
8. The Center's Board should have exercised more oversight in its responsibilities to monitor operations and ensure public funds are used in the most effective and efficient manner to fulfill the Center's mission.
9. We identified internal control deficiencies that relate to the responsibilities of the Center's Business Officer as well as with some of the Center policies and procedures relative to items under review.

We also identified two issues relative to State oversight of LME activities that may have contributed to the challenges to mental health reform. Issues noted were:

10. There is need for statewide fiscal management procedures for the LME network. The task should begin by establishing a comprehensive system necessary to carry-out financial management functions, manage financial operations, and to report financial results to internal and external parties.
11. Monitoring activities by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services need to be strengthened over LMEs. Reports received do not provide information at a level of detail that would allow for an appropriate review. It appears the Division has the statutory authority to perform those monitoring activities that it deems necessary.

ORGANIZATION AND DIVISION RESPONSES

The responses from the Albemarle Mental Health Center or the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services are presented after each audit finding.

Introduction

BACKGROUND

In 2001, the General Assembly adopted mental health reform legislation. One of the objectives of the reform was to transition area regional authorities from service providers to managed care entities. The State's plan outlined the formation of regional units, described as Local Management Entities (LMEs), to provide oversight and management of mental health services for designated regions of the State.

LMEs are agencies of local government, area authorities, or county programs which are responsible for managing, coordinating, facilitating, and monitoring the provision of mental health, developmental disabilities, and substance abuse services in the region served. There are currently thirty LME regions in North Carolina that serve in this capacity. The responsibilities of the LMEs are legislatively mandated in *North Carolina General Statute* (NCGS) 122C-115.4. Responsibilities include: offering consumers 24-hour a day, seven-day a week access to services; endorsing and monitoring providers; developing and overseeing provider services; authorizing the utilization of State psychiatric hospitals and other State facilities; ensuring care coordination and quality management; ensuring customer services and consumer rights; providing information management for the delivery of publicly funded services; and financially managing and maintaining accountability of the use of State and local funds.

Due to a rising need for an alcohol and mental health agency in the Albemarle catchment area (Camden, Chowan, Currituck, Dare, Pasquotank, and Perquimans counties) during the early 1960s, an agency was founded in 1967 and named the Alcoholism Center for Information Services. The agency provided alcohol outpatient services and information. The agency changed its name to Alcohol Information and Mental Health Center in 1969 and increased its services to include limited mental health outpatient services. By 1970, the Center became known as the Albemarle Mental Health Center (Center) and offered basic outpatient treatment services for all disabilities including emergency services.

The Center currently offers mental health, developmental disabilities, and substance abuse services for the catchment area, but also provides a majority of the services that it manages in the region. In order to operate in this manner, the Center received a waiver from the Secretary of the North Carolina Department of Health and Human Services. The waiver allows the Center to continue serving as a direct service provider for specifically approved services; however, the Center's waiver is broad based and includes a wide variety of services.

It was anticipated that by July 1, 2007, the number of LMEs in North Carolina would be merged into twenty-five catchment areas due to the requirements of NCGS 122C-115(a). This statute provides that the catchment area of an area authority or a county program shall contain either a minimum population of at least 200,000 or a minimum of six counties. Therefore, the Center and the Tideland LME have planned to merge under the Center's management due to the Tideland LME's need to meet the requirements of the statute. The

Center has already taken on the Tideland LME's screening, triage, and referral (STR) services and was to assume all responsibilities of the Tideland LME by July 1st. The merger will add four more counties (Hyde, Martin, Tyrrell, and Washington) to the Center's catchment area and management responsibilities.

OBJECTIVES, SCOPE, AND METHODOLOGY

As a result of a request by the Pasquotank Board of Commissioners regarding the use and administration of government funds by the Albemarle Mental Health Center, the North Carolina Office of the State Auditor determined that there was a need to review the Center's business practices. The objective of this audit was to determine whether the resources provided by the State were used for their intended purpose in a prudent business manner and with the proper oversight.

The scope of this audit encompassed the operations associated with the Center's efforts to provide mental health, developmental disabilities and substance abuse services in addressing the needs of its customers. Unless otherwise described, our audit covered primarily the 2006 fiscal year (July 1, 2005 through June 30, 2006). However, some of our comparative data includes the most current information available and is appropriately identified.

To accomplish our objective, we interviewed current and former organization staff, contractors, board members, Division of Mental Health, Developmental Disabilities and Substance Abuse Services (Division) staff, Office of State Personnel staff, current and former County Commissioners and the Board's attorney. We reviewed the *North Carolina General Statutes* relating to the Division's and Area Authority's duties and responsibilities and also the Center's policies and procedures. We also reviewed internal control, board minutes, personnel files, performed compliance testing, and examined financial records and other documentation as related to the audit objectives.

We conducted this performance audit according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report contains the results of the audit including conclusions and recommendations. Specific recommendations related to our audit objectives are reported. Because of the test nature and other inherent limitations of an audit, together with the limitations of any system of internal and management controls, this audit would not necessarily disclose all weaknesses in the systems or lack of compliance.

We conducted the fieldwork from April to June 2007. We conducted this audit under the authority vested in the State Auditor of North Carolina by Section 147-64.6 of *North Carolina General Statutes*.

[This Page Left Blank Intentionally]

1. The Albemarle Mental Health Center's (Center) Area Program Director's Contracted Salary is Excessive

   The base salary of $282,663 paid to the Center's Area Program Director during the current 2007 State fiscal year is 2.4 times higher than the average salary paid to area program directors at the other 29 Local Management Entities (LMEs) in the State of North Carolina. In addition, the benefit package for the Center's Area Program Director sums to $36,087[2], bringing the Area Program Director's annual total compensation to $318,750. See Table 1 below which identifies the base salary for the other LME area program directors and the average salary for 2007 State fiscal year computed at $115,431.

Table 1: LME Area Program Directors 2007 Base Salaries

LME NAME	2007 BASE SALARY
Albemarle	$282,663
Piedmont	$156,067
Guilford	$149,078
Mecklenburg	$142,289
Wake	$132,715
Smoky Mountain	$132,480
Southeastern Center	$131,832
Onslow-Carteret	$128,937
Sandhills Center	$128,016
Crossroads	$125,167
CenterPoint	$118,794
Average Salary	$115,431
Durham	$115,027
Pathways	$114,940
New River	$114,888
Neuse	$112,657
Cumberland	$112,411
Eastpointe	$112,292
Catawba	$111,543
OPC	$111,509
Five County	$109,032
Western Highlands Network	$107,536
Alamance-Caswell/Rockingham	$101,886
Johnston	$101,876
Foothills	$ 99,804
Wilson-Greene	$ 94,800
Tideland	$ 92,436
Roanoke-Chowan	$ 92,292
Southeastern Regional	$ 91,200
Edgecombe-Nash	$ 90,552
Pitt	Vacant

Source: DHHS-DMH/DD/SAS, LME Director Salary Survey, July 2006

[2]As part of the benefit package, the Area Program Director at Albemarle Mental Health Center also receives an automobile depreciation allowance of $1,000 each month plus reimbursement for travel at the rate established by the Internal Revenue Service.

In trying to properly evaluate the Area Program Director's salary, we attempted to correlate the Area Program Director's duties and responsibilities to similar situations within the public sector. One such comparison was to the population served by the LMEs within the State of North Carolina. The Center ranks 26th out of 30 LMEs, serving approximately 1.54% of the total population. See details in Table 2:

Table 2: Population Served by each LME in North Carolina

RANK	LME NAME	POPULATION PROJECTIONS As of 7/1/2007	PERCENTAGE POPULATION SERVED
1	Mecklenburg	842,622	9.40%
2	Wake	807,934	9.01%
3	Piedmont	685,297	7.64%
4	Sandhills	531,311	5.92%
5	Western Highlands	491,778	5.48%
6	Guilford	455,137	5.07%
7	CenterPoint	423,441	4.72%
8	Pathways	366,695	4.09%
9	Southeastern	334,637	3.73%
10	Cumberland	307,463	3.43%
11	Eastpointe	294,695	3.29%
12	Crossroads	259,341	2.89%
13	Alamance-Caswell-Rockingham	258,370	2.88%
14	Southeastern Regional	256,034	2.85%
15	Foothills	249,261	2.78%
16	Durham	248,516	2.77%
17	Five County	231,946	2.59%
18	Onslow-Carteret	223,377	2.49%
19	Orange-Person-Chatham	221,571	2.47%
20	Smoky Mountain	187,005	2.09%
21	New River	165,853	1.85%
22	Johnston	155,874	1.74%
23	Catawba	152,597	1.70%
24	Pitt	147,721	1.65%
25	Edgecombe-Nash	145,742	1.62%
26	Albemarle (6 counties)[3]	137,885	1.54%
27	Neuse	117,137	1.31%
28	Wilson-Greene	98,890	1.10%
29	Tideland	94,040	1.05%
30	Roanoke-Chowan	76,630	0.85%
	TOTALS	8,968,800	100.00%

Source: ***http://www.ncdhhs.gov/mhddsas/budget/projectionpop7-07.pdf***

[3] Effective July 1, 2007, four counties from the Tideland LME will merge with the six counties already served by the Albemarle LME. The projected population of the Albemarle LME's new 10-county catchment area will be 185,470, which is 2.07% of the total projected population for North Carolina. This change will update the above rankings, but not of a significant nature.

A parallel to the population size can also be seen in the size of the annual budget for which the LME area program directors are responsible. It should be noted that most of the other LME area program directors are responsible for managing much larger annual budgets than the Center's annual budget. For the 2006 fiscal year, the Center ranked 18th (out of 31 LMEs at the time) as to the size of its estimated annual budget. As a contrast, the Mecklenburg LME area program director is responsible for managing an annual budget of approximately $99 million compared to the Center's annual budget of approximately $29 million.[4] Therefore, the Mecklenburg LME area program director is responsible for an annual budget greater than three times that of the Center yet is paid about half of the Area Program Director's salary at $142,289.

We also looked at the salaries of other prominent officials, both in Statewide and local area government positions. The base salary for the Center's Area Program Director is higher than the Governor, members of the Council of State, and senior officials within the North Carolina Department of Health and Human Services which oversees mental health activities for the entire State. And according to the most recent Appropriations Act, he is paid more than the highest paid non-university State employees, i.e., the Director - North Carolina Museum of Art and the Executive Director - North Carolina Education Lottery. See details in Table 3.

Table 3: Comparison to Other Government Positions in North Carolina

POSITION TITLE	2007 BASE SALARY
Area Director - Albemarle Mental Health Center	$282,663
Director - NC Museum of Art[5]	$250,000
Executive Director - NC Education Lottery[6]	$246,750
Chancellor - Elizabeth City State University	$200,000
Special Assistant - Area Program Director at Albemarle[7]	$142,848
Director - Albemarle Regional Health Services	$136,983
Governor of North Carolina	$130,629
Director - Division of MH/DD/SAS	$126,375
Council of State Members in North Carolina	$115,289
Non-Elected Department Heads in North Carolina	$112,637

Source: North Carolina Session Law 2006-0066, and review of other relevant officials salary information

The main focus of the LMEs is to ensure that mental health services are available at the community level. As such, physicians play a core role in the overall operations and oversight of the delivery of services. Our review of LME physician salaries indicated that the average physician base salary was higher than the area program director's salary for all LMEs except at the Center. On the average, physicians at the LMEs received about $59,000 more than their respective area program director. However, the Center's

[4] Effective July 1, 2007, Albemarle LME will merge with Tideland LME and the total annual budget of both will be about $47 million.
[5] This individual is the highest paid non-university state employee in North Carolina.
[6] This individual is the second highest paid non-university state employee in North Carolina.
[7] See discussions of Special Assistant salary per Finding 2.

Area Program Director was paid approximately $63,600 more than the average base salary paid to the Center's physicians. It should also be noted that the average salary paid to physicians at the Center was higher than the average salary paid to similar physicians at other LMEs around the State.

To substantiate the salary justification endorsed by the Center's Board, we met with local board members and examined evaluation documents. The Center's Board Chair justified the Area Program Director's salary by stating, "*We have the best mental health director in North Carolina and desire to keep his services."* Similar sentiments were expressed in our discussions with other Board members and this information correlates with our review of the Area Program Director's most recent annual evaluation. However, our review of the management tool used for the evaluation process noted that many of the evaluation criteria were generic in nature and did not correspond to the current functions required of the Area Program Director.

North Carolina Session Law 2006-142 directed the Secretary of the North Carolina Department of Health and Human Services to "*Develop and implement critical performance indicators to be used to hold LMEs accountable for managing the mental health, developmental disabilities, and substance abuse services system*." This was seen as an effort to track and hold LMEs accountable for progress and meeting goals within the mental health system reform. It would appear that these performance measures could serve as a component piece of the evaluation process and would provide a comparative basis of evaluation in measuring the Area Program Director's performance.

Our review of the Center's performance in those Department measurements found the Center below the state average for 18 (56%) of the 32 Progress Indicators for the Second Quarter of the State Fiscal Year that ended December 31, 2006. The Center was last on one indicator, tied for last on another indicator, and next to last place on two indicators. For 50% of the indicators, Albemarle was ranked in the bottom third of all LMEs. See details in Tables A-1 and A-2 found in the Appendix at the back of this report. Additionally, our review of these measurements over the past year identified similar results to those reported for the Second Quarter.

Another focus of the Area Program Director's evaluation should be centered around how well the LME is meeting the required primary LME functions as provided for by NCGS 122C-115.4. A key function is the development of the local private provider network. In our discussions with representatives of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division), this is an area which the Center has not made sufficient progress. Our discussions with the Area Program Director indicated that many private providers would not be able to provide effective quality services. Our inquiries indicated that greater emphasis is placed on the Center's abilities to continue providing the majority of mental health service functions. Interviews with providers suggest that this is done by making consumer choice difficult, placing unreasonable demands on potential private providers, or simply not placing the required effort necessary in developing a private network.

Subsequent Event: In July 2007, the Albemarle Mental Health Center Board approved for the Area Program Director to continue in his current capacity as an employee of the Center at an annual salary of $225,000. That amount continues to be the highest salary paid within the LME system and would still rank in the upper echelon of salaries for public officials.

Recommendation: The Albemarle Mental Health Center should seek appropriate guidance from Division personnel in addressing this matter. There is an expectation of salary differentials among the LME area program directors' salaries; however, the variances should be based on objective measurement requirements that are relevant to the LME system. In addition, the Secretary of the North Carolina Department of Health and Human Services, by statute, is allowed to adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services. Division management should seek to develop guidelines on the appropriate use of all funds to ensure proper accountability. Those rules should include salary guidelines as well as management tools that would allow local boards to more effectively evaluate the performance of the area program directors.

Albemarle Mental Health Center's Response:

Area Program Director's Salary:

Matters related to the Area Program Director's salary and previously proposed management agreement has already been dealt with by the Board. However, because the State Auditor has included this in his report, AMHC will also revisit this area. The Area Director previously proposed to provide services via an agreement with his management company, at a compensation amount negotiated with the Board. The proposed agreement was ultimately set aside as void by an administrative court for procedural reasons. After considering related concerns and potential issues, the Albemarle Board has set the Area Director's compensation as an employee at a level, plus expense reimbursements in accordance with normal AMHC policy, that has been deemed appropriate by the Albemarle Board. In the performance of Albemarle Mental Health Center the State Auditor has based its position on data in Tables A-1 and A-2 in the Appendix to their report. The State Auditor's conclusions based on this data, without further assessment than face value, are flawed as a basis for assessing AMHC's (and therefore the Area Program Director's) performance. As to concerns as to the level of performance, please consider that AMHC, both as a service provider and LME is one of two Center's in the State that has been nationally accredited by the Council on Accreditation (COA) with the finding, "meeting the *highest* national standards of professional performance." The Board believes COA is more qualified to assess the operations of the Center.

Table A-1 and A-2, from the Division of MH/DD/SAS Community Progress Indicators Report for the second quarter of SFY 2006-2007 for Albemarle Mental Health Center, fails to properly evaluate the performance of LMEs as this measurement includes the performance of private providers. Specifically, these performance indicators are used as an indication of how statewide mental health reform is progressing and <u>is not used</u> as a performance measurement of LMEs. The State is constantly changing rules, regulations,

and funding of the system which impact both the private providers and the LMEs. Depending on funding and the rural demographics of an LME, indicators will differ and also be skewed. The State Auditor cites raw data on progress indicators from on Appendix to NCDHHS' Report for Second Quarter SFY 2006-2007, which covers the period from October 1 - December 31, 2006. His conclusion is based on the fact that Albemarle is "below the State average" for 18 of 32 indicators. However, deeper analysis shows that these indicators reflect systemic problems with mental health reform being experienced by all LMEs, not just Albemarle. For example, the State Auditor ignores data (Exhibit 1) showing that urban LMEs averaged 19 of 32 indicators "below the State average."

Exhibit 1: Review of Progress Indicators for Albemarle Mental Health Center (AMHC) in Comparison to other Urban LMEs Statewide

Progress Indicators	State Average	AMHC Average	Urban Average
1. SERVICE DELIVERY: Services to Persons in Need			
• Adult Mental Health	38%	44%	32%
• Adult Developmental Disabilities	35%	35%	32%
• Adult Substance Abuse	8%	10%	7%
• Child/Adolescent Mental Health	37%	39%	33%
• Child/Adolescent Developmental Disability	18%	18%	17%
• Adolescent Substance Abuse	7%	4%	6%
2. SERVICE DELIVERY: Timely Initiation & Engagement in Service			
• Mental Health: 2 Visits within 14 Days	33%	31%	33%
• Mental Health: 2 Additional Visits within Next 30 Days	20%	13%	20%
• Developmental Disabilities: 2 Visits within 14 Days	59%	40%	54%
• Developmental Disabilities: 2 Additional Visits within Next 30 Days	45%	20%	38%
• Substance Abuse: 2 Visits within 14 Days	56%	40%	57%
• Substance Abuse: 2 Additional Visits within Next 30 Days	37%	22%	37%
3. SERVICE DELIVERY: Effective Use of State Psychiatric Hospitals			
• 1-7 Days of Care	56%	64%	58%
• 8-30 Days of Care	32%	25%	30%
4. SERVICE DELIVERY: Timely Follow-up After Inpatient Care			
• ADATCs Seen in 1-7 Days	21%	33%	19%
• ADATCs: Seen in 8-30 Days	11%	11%	10%
• State Psychiatric Hospitals: Seen in 1-7 Days	30%	33%	31%
• State Psychiatric Hospitals: Seen in 8-30 Days	15%	14%	13%
5. SERVICE QUALITY: Consumer Choice of Service Providers			
• LME provided list of choices	71%	80%	65%
• Consumer contacted provider directly	22%	16%	27%
6. SERVICE QUALITY: Use of Evidence-Based/Best Practices			
• Number of Services With Endorsed Providers	5	4	6
• Number of Services That Were Billed	4	1	5
7. SYSTEM MANAGEMENT: Consumer/Family Involvement in System			
• Consumer/Family Involvement in System	50%	83%	46%
8. SYSTEM MANAGEMENT: Effective Management of Service Funds			
• All Disability Groups	39%	27%	38%
• Adult Mental Health	27%	31%	16%
• Child Mental Health	27%	11%	28%
• Adult Developmental Disability	49%	35%	45%
• Child Developmental Disability	34%	2%	38%
• Adult Substance Abuse	31%	6%	39%
• Child Substance Abuse	10%	0%	5%
9. SYSTEM MANAGEMENT: Effective Management of Information			
• Consumer Admissions	93%	98%	94%
• Consumer Outcomes	67%	92%	66%

The State Auditor fails to investigate whether there were major external changes creating, or adding to, this systemic impact on all LMEs, not just Albemarle. Also apparently ignored was the State's switch to using Value Options for service authorizations and utilization review during the time covered by the report the State Auditor cites. Deeper research would have shown that Value Options struggled in implementing its responsibilities for the entire state of North Carolina. Indeed, delays of 30 to 90 days by Value Options are documented. We reference the State Auditor to Mr. Mike Moseley, Division of MH/DD/SAS Director and Dr. Allen Dobson, Assistant Secretary for Health Policy and Division of Medical Assistance, June 1, 2006, July 13, 2006, and August 31, 2006, Communication Memos which all addressed the delays of authorization processes by Value Options which negatively impacted all LMEs and private providers. These memos clearly point out systemic problems in the state reform system which would prevent an LME from meeting progress indicators.

Additionally, private providers are struggling to cope with the new system and sometimes take months to submit claims. To further complicate service implementation for consumers, private providers struggled to comply with core rules established by the Division of MH/DD/SA services, the changes in provider endorsement and service definition criteria which are referenced in Mr. Mike Moseley and Dr. Allen Dobson's Communication Bulletin #55 dated June 1, 2006. This bulletin amends previous communication bulletins because of the State's systemic issues with reform, policies, timelines, and private provider endorsement criteria. On July 10, 2006, Mr. Mike Moseley and Dr. Allen Dobson published an Enhanced Services Implementation Update #11 to further clarify and address the systemic problems with State reform that was directly related to many problems the private providers were having in meeting the core rules, service definitions, and endorsement criteria. We also refer the State Auditor to Mr. Mike Moseley and Dr. Allen Dobson's October 23, 2006, Enhanced Service Implementation Update #17 Memo which provides further clarification and addresses continuing systemic State problems with the private provider service implementation and network.

Additionally, the impact of having no inpatient or crisis mental health/detox facilities within the 30 minutes or 30 miles access point has a serious impact on services. This is a State requirement for access to services that Albemarle will never be able to meet until the State provides the needed funding that has been requested for many years. Also, mental health reform is founded upon transferring revenue from state institutions to the local LMEs so a continuum of local services can be developed. Transfer of significant state revenue has not occurred and hampers LMEs in developing a continuum of local program services to handle deinstitutionalization associated with mental health reform. We make this point in order to emphasize that geographic and funding issues impact raw numbers in the performance indicator report. This is why the Division of MH/DD/SAS evaluates LMEs based upon its Performance Contract with LMEs rather than raw numbers from the Appendix to the Progress Indicator Report. It also should be noted that in DMH's Performance Contract with LMEs for the same period the State Auditor uses, DMH evaluates Albemarle's administrative performance as meeting "Best Practices" in 7 of 10 categories and "Meeting Standards" in two more categories. One system called

Consumer Data Warehouse (CDW) was not ranked due to computer interfacing problems between the Center and the State computer systems. The State's computer system would not accept our data information, however, the State later fixed their system and our information data was successfully transmitted. Further, the Center should not be evaluated on the supplemental appendices attached to the quarterly performance contract reports since the appendices are raw data that does not weigh the impact or allow for the LME's environmental challenges (e.g. 3200 square land miles) or the external challenges (e.g. Value Options and the sophistication of private providers delivering services).

The data obtained for the Progress Indicators is a mixture of data obtained from FY 05-06 and FY 06-07 and was not inclusive of all LMEs as the State Auditor eluded. The report had various reporting discrepancies per LME and was not reflective of the transition of services authorized from the LME to Value Options which greatly caused discrepancies in private provider and LME performances. The statistics reflect the difficulty of private providers to operate within the State's desired benchmarks. AMHC is the "provider of last resort" so that difficult and hard to serve consumers with no means to pay, ultimately return to AMHC. The logic of the State Auditor's conclusion that performance indicators "below the State average" relate to inferior provision of services by private providers and AMHC and, therefore, reflect a lack of effective leadership by the Area Program Director, and thus the Area Program Director does not warrant the Board's support is flawed because it does not incorporate all the pertinent factors. The State Auditor ignores the impact of private providers' problems in serving consumers in this setting. The State Auditor lumps private providers with AMHC provision of services when private providers do not have or cannot keep sufficient staff in low population density areas, and cannot afford to serve difficult hard to reach consumers. In this situation their service and the related performance indicators suffer.

In his performance audit of New Vista - Mountain Laurel, Inc., Mental Health Service Provider, May 2007 (this entity is now bankrupt and closed), the State Auditor specifically notes the impact on NVML of (1) being the provider of safety-net services (i.e. the "provider of last resort," like Albemarle), (2) having private providers that do not/cannot serve patients who fail to appear for appointments or for whom reimbursements are low, and (3) having private providers that "cherry pick" consumers they want to serve, were among the major causes of the closure of NVML. However, in the audit of Albemarle, the State Auditor ignores and does not point out that Albemarle, unlike NVML, is operating successfully as the "provider of last resort" and, in fact, Albemarle is out-performing the State's Urban LMEs. The State Auditor does not make any comment that this situation, similar to the one noted in the audit of NVML, will impact the raw data they cite in the Appendix to Community Systems Progress Indicators for the second quarter of SFY 2006 - 2007.

As continuously reported to the Division of MH/DD/SA Services, the Albemarle Mental Health Center is comprised of a rural ten county region in Northeastern North Carolina with approximately 3,200 square land miles (exclusive of water miles) and a population base of 185,470. In geographic comparison, Mecklenburg County is a single county metropolitan LME with a population base of over 800,000 citizens and 527 square land

miles. Albemarle's region has significantly greater barriers to providing MH/DD/SA services which include: limited industry, low per capita income, lack of quality MH/DD/SA services, and health care providers. Barriers for successful operations by MH/DD/SA service private providers include: a generally lesser skilled and qualified labor force, significant geographic population dispersion, lack of public transportation, and a population that responds to "reactive" mental health care instead of "proactive" care and treatment. Mental health reform privatizing MH/DD/SA services in rural northeastern North Carolina is more problematic for Albemarle Mental Health Center in comparison than its sister LMEs in metropolitan regions. The State Auditor's conclusion from this report is that Albemarle LME fails to perform at the rate of other LMEs.

Additionally, the State Auditor states that evaluation criteria for the Area Program Director "are generic in nature and do not correspond to many of the current functions required of the Area Program Director." The State Auditor failed to review the June 1, 2004, Communication Bulletin #20 which clearly lists evaluative criteria that are "generic in nature." The State Auditor fails to assess the coordination with, and integration of, the three (3) major reports the Area Program Director is required under AMHC Bylaws - Article V to submit to the Board each year that are made part of the Area Director's evaluation. Also, the AMHC Board puts substantial effort into training its members so they can be aware of, understand, and assess information about the operations of AMHC and other LMEs; and network with other Board members from other LMEs throughout the State. This is done to assist the Board members in assessing the performance of AMHC which is one of only two (2) LMEs nationally accredited as an LME and service provider; one of three (3) LMEs still providing community support enhanced services, perhaps the only LME directly providing substantial outpatient treatment and group therapy services); and the only LME who has a master's level Area Program Director with over 39 years of human service experience with 37 of the 39 years as an Area Program Director which is very likely unique among the other Area Program Directors through the State.

AMHC has followed the Pareto Solutions model adopted by the State as the basis of mental health reform. This model states that "the responsibilities of the LME used in this model are those mandated by the State. However, there are many different ways an LME can fulfill those responsibilities."…"Another example would be an LME that elects to pay higher than average salaries because they expect to offset the additional costs through more effective and efficient performance of the staff, including lower turnover and improved morale."…"Low turnover is extremely important in rural areas where recruiting and retaining highly efficient and effective staff are more difficult. The MH/DD/SA Division expects to oversee LME operations and judge them on the basis of how well they carry out their functional responsibilities, using quantifiable performance expectations, and not on the basis of how their staffing pattern, salary, level or computer configurations conform to this particular model." Adhering to the Pareto Model is documented by Albemarle's LME fifty-six full time equivalents is lower than the State average of sixty-five LME full time equivalents. Also, the Center's local per capita county funding of $1.16 is the lowest in the State compared to Mecklenburg's per capita $63.26 for FY 06-07.

In summary, the entire State of North Carolina has a serious systemic problem with mental health reform, especially in the rural areas. The State Auditor suggests the Center is placing difficult and unreasonable demands on potential private providers or is simply not placing the required effort necessary in developing a private provider network. With regards to unreasonable demands, the Center has simply required all private providers to meet the core rules established by the State Division of MH/DD/SA services and the State Division of Medical Assistance. Many private providers have not met the core rules and, subsequently, as the State has recently experienced, many private providers are now having major pay backs when audited. The State Division of MH/DD/SA services has been too soft and lenient with private providers by allowing them to operate without meeting core rules, thereby, placing private providers susceptible to major pay backs. AMHC has been at odds with the Division of MH/DD/SA services regarding their stance to be lenient with private providers for just the "sake of developing a provider network." Our expectations of private providers has irritated the State Division of MH/DD/SA and quite frankly their lack of support for LME's enforcing core rules with private providers across the State is the major cause of private provider paybacks the State is now experiencing. Also, the State Auditor's opinion infers that the Center has not placed the required effort necessary in developing a private provider network. This too is a false misconception. The Center has annually requested bids for proposals from private providers with regards to various services the Center operates. Routinely, the end result has been private providers have found it unprofitable to try and deliver an array of MH/DD/SA services in a rural area and declined to bid. On one occasion, the Center contracted out its group home and adult day services only to be forced to terminate its contract several months later due to poor services provided by the private provider.

The AMHC has positioned itself to be the provider of last resort and refer all new patient/clients to private provider's first. In doing so, historical data shows that private providers have not wanted to deal with problematic patients or with patients that cannot pay the private providers full charges. This has become a systemic problem throughout the State. In the State Auditor's appendix regarding a review of Progress Indicators for AMHC, it reflects the Center is below state average for 18 of 32 progress indicators. Focus should be given the six Progress Indicators under Service Delivery: Timely Initiation and Engagement in Services. These six indicators reflect how quick a patient is enrolled in treatment. Due to the large geographic land and water square miles in our catchment area, delay's are caused since the Center must refer the patient to a private provider of the patient's choice first and, if the private provider refuses to accept the patient, the Center steps forward to assist the patient and acts as a "safety umbrella net" for patients. This often causes a delay of between two to four weeks in patient's receiving services solely due to private providers declining to provide services. Routinely, the private providers do not see patients in a timely manner with regards to these six indicators. Thereby, the failures of the private providers routinely skew the statistics of the Center when we are not the provider. In our catchment area, private providers "cherry pick" clientele and only offer services in the larger towns (e.g. Edenton and Elizabeth City). They do not provide services to the sparsely populated counties because they lose money when attempting to provide services. Also, our area has more of the "mom and pop" private providers and less of the large corporate private providers.

Also, since the "mom and pop" private providers are less sophisticated, processing patients for direct services and billing for reimbursement often lag and create all kinds of delays.

Regarding the seven Progress Indicators under System Management: Effective Management of Service Funds, the Center is below average in all seven because of the delay of private providers in billing and Value Options not fulfilling their requirements of approving or not approving a service plan for the patient within the required 15 day turn around time. The Center has documentation that Value Option has routinely taken between 30 to 90 days to approve whether or not a patient is approved for services. Without their approval for services, there is no reimbursement for services, thereby, impact the Center's ability to pull down funds from the State Division of MH/DD/SA services and Medicaid reimbursements. The Center has met with the State officials over this problem and the problem still has not been resolved. Once Value Options approves a plan and we submit bills to the State Division of MH/DD/SA services and/or Medicaid, it takes another 15 to 30 days to be reimbursed. We submit this is a systemic problem throughout the State as you will even find urban LMEs not meeting nineteen (19) of the thirty-two (32) indicators.

If you allow for the 13 indicators we have just addressed and discussed which the Center has no control over, you will find the Center would meet all of the indicators except for five (5) indicators.

Auditor's Comment: The Center choose to focus its response on the Division's performance measures rather than address the reasoning for the Area Program Director's excessive salary. It should be noted that the North Carolina General Assembly, per Session Law 2007-323, Section 6.20(a), passed legislation that specifically addresses the establishment of the area program director's salary and benefits and any adjustments to those amounts.

2. The Salary of the Special Assistant to the Area Program Director is Excessive

The base salary of the Special Assistant to the Area Program Director (Special Assistant) at the Albemarle Mental Health Center (Center) salary is $142,848 for the 2007 State fiscal year. Additional benefits, including longevity pay, increase the total budgeted compensation for this position to $183,434. In trying to properly evaluate the Special Assistant's salary, we attempted to understand the roles and functions of the position, the individual's qualifications, and to correlate the Special Assistant's duties and responsibilities to similar situations within the local management entity (LME) model.

The job description for this position does not coincide with any other such positions within the LME model. The Area Program Director stated that this is the only position like it in the State and that the salary amount was approved by the Office of State Personnel (OSP). We met with OSP representatives to discuss the Special Assistant position and OSP's role in overall salary administration for the LMEs. They provided evidence to indicate that this position was created by special request from the Area

Program Director. In addition, the position does not meet any of the approved salary positions on the North Carolina Local Government Salary Plan; therefore, it must be manually added by the Center to its annual reporting of salary information. In discussing the position, OSP indicated that it approved job classifications based on submitted job descriptions. It also indicated that it accumulated salary information and looked for parity among positions within a particular organization. However, OSP representatives stated that OSP had no role in salary administration. That was at the discretion of the local entity, the Center in this case, because OSP had no relevant information as to the Center's ability to pay stated salary amounts. This distinction is important as Center management continually stressed that all its salary amounts are expressedly approved by OSP.

The Special Assistant's job description requires that person to have knowledge of the principles and practices of administration, budgeting/accounting, and management. Skills should also include: being able to coordinate employees effectively; the ability to exercise judgment and discretion in establishing, applying, and interpreting policies and procedures; the ability to initiate administrative procedures and evaluate the effectiveness of the procedures; the ability to interpret obscure regulations into practical applications; and "*the ability to deal effectively with stress and a sense of humor*."

Per the job description, the Special Assistant's role appears to be that of the Assistant Program Director, able to succeed and perform the functions of the Area Program Director. That was the implication made by OSP in its response to the Area Program Director in the establishment of the position and the salary grade. The OSP letter stated, "*Clearly, this position functions at the executive management level for Albemarle Mental Health Center and serves in a key role as an assistant director with day-to-day involvement and oversight in all operational areas of the center. This is evidenced by your delegated authority to this position for the overall management of the center in your absence*." In our discussions with the Special Assistant, we did not find that the current individual was performing such a role or would be able to serve in this capacity. She also indicated that she had never had to serve in this capacity as the Area Program Director was always available. The individual filling this position was on a clerical employee track at the Center from the beginning of her career, starting as a Typist I in 1973. As per Table 4, this track continued until being moved into the newly created Special Assistant position.

Table 4: Career Track of Special Assistant to Area Program Director			
POSITION TITLE	EFFECTIVE DATE OF POSITION	YEARS IN POSITION	HIGHEST SALARY IN POSITION
Area Program Director - Special Assistant	1/01/2002	5.4	$142,848
Administrative Officer II	7/01/1996	5.5	$62,316
Administrative Assistant II	7/01/1992	4.0	$34,728
Administrative Assistant I	7/01/1984	8.0	$28,620
Administrative Secretary V	7/01/1979	5.0	$13,356
Clerk/Typist III	7/01/1976	3.0	$8,292
Typist I	9/19/1973	2.8	$5,640
	Total Time	33.7	
Source: Per Review of Special Assistant's Personnel File as of May 22, 2007			

The Special Assistant job description requires graduation from a four-year college or university, with a major in public or business administration or accounting as minimum training. Although the individual filling this position does not meet these requirements, the job description allowed for the substitution of these requirements by stating, "*Lengthy experience in these areas could be substituted for the formal education*." It is evident that the job description was written to match the known candidate based on the expressed qualifying statement. Of greater concern is that the individual has not participated in any additional formal training opportunities that might have realistically provided the necessary training to meet the position qualifications. In reviewing the table above, it is questionable how someone's career and salary track can be so significantly changed without there being some measurable event to coincide with that change. We found no such justification.

As noted per Table 3, the Special Assistant position is highly compensated in comparison to prominent positions within State and local area government entities. We also compared this position with other similar administrative positions within other LMEs. We found the Special Assistant's base salary to be 3.2 times higher than the average salaries paid to other LME administrative assistant personnel positions. In looking locally within the Albemarle region, the Special Assistant was paid 3.7 times higher than the average salaries paid to administrative assistant personnel in the surrounding counties[8] in the LME catchment area and 2.9 times higher that the average salary paid to administrative assistant personnel at the Albemarle Regional Health Services[9].

We attempted to identify similar appropriate job positions within the Office of State Personnel's established classification system. We noted that the 2007 North Carolina Local Government Salary Plan listed an Assistant Director MH/DD/SAS (T) position with an assigned State Grade of 76. The annual salary range of State Grade 76 is $45,531

[8] Camden, Chowan, Currituck, Dare, Pasquotank, and Perquimans are the surrounding counties that make up the Albemarle Local Management Entity's catchment area.

[9] Albemarle Regional Health Services is located in Elizabeth City, North Carolina. It is a public health entity servicing seven surrounding counties.

to $75,708. This position was not available at the time the Special Assistant classification was created; however, it should be noted that its educational requirements are similar to those of the Area Program Director.

The Center's Board approved the Special Assistant position and salary without full consideration of the actual functions of the position. The Board should have gathered additional information, possibly through inquiry of OSP, to make an informed decision and to ensure appropriate accountability for the use of funds. There are both short-term and long-term impacts for this decision. In the short-term, excessive salary payments are an unwise use of limited mental health resources. In the long-term, there is a disproportionate affect on the State's payment of retirement benefits. An employee retiring with an average 4-year base salary of $60,000 would receive approximately $37,000 in annual retirement benefits. The current estimate of annual retirement benefits for the Special Assistant is $74,000. If the Special Assistant receives such benefits over a 20-year period, the estimated paid retirement benefits would increase by an additional $740,000[10].

Recommendation: The Albemarle Mental Health Center should seek appropriate guidance from Division personnel in addressing this matter. A request should be made to OSP to independently review the current job duties performed to ensure the accurate job classification and salary grade within the North Carolina Local Government Salary Plan.

Albemarle Mental Health Center's Response:

In the State Auditor's performance audit of New Vista - Mountain Laurel, Inc., Mental Health Service Provider, May 2007 (this entity is now bankrupt and closed), the State Auditor specifically notes that employee turnover and loss of key personnel (including CEO, CFO, Controller, Reimbursement Officer, and Information Technology Director) were among the major causes of the closure of NVML. The State Auditor is now arguing that Albemarle should cut pay and benefits to employees - the very things that would start a similar exodus of experienced, knowledgeable employees from Albemarle.

The State Auditor states that the Office of State Personnel "provided evidence to indicate that this position was created by special request from the Area Program Director." It is the responsibility of the Albemarle Area Program Director to ensure all positions that are created pursuant to the AMHC salary plan be reviewed/approved by the Office of State Personnel. Also, the Area Program Director is the only staff member of the Center that can request classification changes for any position(s). Classification changes are made every year as the Center reviews positions and work responsibilities on an annual basis. Additionally, the Special Assistant's salary has been set by the AMHC Board at a level they have researched and deemed appropriate. The mental health center's salary plan (which details all employees, grade assignments, and salary data), has been submitted to the NC Office of State Personnel (OSP) annually, and OSP has approved the salary plan annually. Additionally, regarding the position and salary of the Special Assistant to the

[10] Retirement calculations are based on estimated benefit calculations per guidance provided in the *Local Governmental Employees' Retirement Handbook.*

Area Program Director, the Office of State Personnel stated in their July 17, 2002, letter addressed to Mr. Charles Franklin, Area Program Director, from Ms. Donanna Bates, HR Partner with the Office of State Personnel, the following:

> "I want to thank you for your time and patience as we worked through the classification review of Pos. No. 703-16-201, Administrative Officer II. Clearly, this position functions at the executive management level for Albemarle Mental Health Center and serves in a key role as an assistant director with day-to-day involvement and oversight in all operational areas of the center. This is evidenced by your delegated authority to this position for the overall management of the center in your absence.
>
> In order to properly recognize the scope and role of this position based on the level of responsibility placed in the position, I consulted with Patrick McCoy, Local Government Team Leader, to determine the most appropriate classification. We concurred that the use of the Local Mental Health Administrator series would not capture the extent of this role and recognize the impact that the incumbent, Linda Triplett, provides in the overall administration of your agency. In addition, with the anticipated merger with Roanoke-Chowan Mental Health center, Ms. Triplett will have a major role in the consolidation of the two agencies based upon her strong programmatic knowledge of state and federal requirements.
>
> As a result, we have established a classification that is specific to this position and role for your agency. As we discussed, the classification title for the position will be Area Program Director Special Assistant, Albemarle, MHC. This position does not have a State-assigned salary grade since it is a single classification assigned to your agency. However, it will need to be added to your pay plan and assigned a salary grade as you determine to be appropriate based on the salary grade levels assigned to other executive management positions.
>
> This action will be effective January 1, 2002. Please forward a request to Janet Oldham to add this classification to your 2001-02 pay plan. I ask that you let me know when the position becomes vacant so we can discuss the continued use of this classification. Also, please submit a completed PD-118 form to my office implementing the reallocation of this position.
>
> On behalf of the Office of State Personnel, we are pleased to support your efforts and those of your employees as you continue to provide critical and needed services to your clients and community. If you have any questions or need additional information, please do not hesitate to call me at (252) 335-9024."

While Ms. Triplett's career track began on the clerical side of the Center, she has worked in all the administrative departments of the Center during her 34 years of experience, including accounting, budgeting, medical records, risk management, monitoring of all applicable rules and regulations that govern area mental health centers. Her job is complex and requires a great deal of knowledge and experience in the mental health field.

AMHC has followed the Pareto Solutions model adopted by the State as the basis of mental health reform. This model states that "the responsibilities of the LME used in this model are those mandated by the State. However, there are many different ways an LME can fulfill those responsibilities."…"Another example would be an LME that elects to pay higher than average salaries because they expect to offset the additional costs through more effective and efficient performance of the staff, including lower turnover and improved morale."…"The MH/DD/SAS Division expects to oversee LME operations and judge them on the basis of how well they carry out their functional responsibilities, using quantifiable performance expectations, and not on the basis of how their staffing pattern, salary, level or computer configurations conform to this particular model." Adhering to the Pareto Model is documented by AMHC's fifty-six LME full time equivalents, which are lower than the State average number of LME full time equivalents, plus local county funding required is the lowest in the State.

Further, the State Auditor states the "position was created by special request from the Area Program Director." That is simply a false statement. OSP established the classification for this position specific to the duties prescribed in the job description as pointed out in the July 17, 2002, letter addressed to the Area Program Director from Ms. Donanna Bates, Human Resource Partner with State Personnel, which is referenced in the aforementioned paragraphs.

The State Auditor shows a bias for an individual with only college degree in this specific position and fails to acknowledge the long standing practice OSP that two years of experience is equal to one year of college. Thereby, with the individual working in this classification would only need eight years of experience to meet the college experience issue. This individual has 34 years of experience in the essential areas needed to perform the duties in this classification. The State Auditors opinion that this individual does not perform in this area is flawed primarily due to their limited exposure and/or experience in understanding the management of mental health systems. Also, flawed is the State Auditor's comparison of this position to administrative assistant position. This position is not an administrative assistance position.

Finally, to further counter the State Auditor's opinion, the Center engaged the national accounting firm RMS McGladry to do a salary schedule study of the Center positions and their classifications. The findings of this study were the salaries/classifications were justified and were within salary ranges on a regional and national basis.

3. Albemarle Mental Health Center's (Center) Payment of Board Member Expenditures are Excessive and Not Properly Accounted for within the Accounting System

The Center incurred at least $48,900 during the 2006 fiscal year for board related expenditures consisting of per diem allowances, travel expenses including room and meals, and conference registrations. Miscellaneous charges related to catering and equipment rental services for board meetings. The significant expenditures were related to board attendance at various mental health oriented conferences around the State, including:

- the spring North Carolina Finance and Reimbursement Officers' Conference (NCFARO), held in Wilmington, NC
- the fall NCFARO, held in Asheville, NC
- and the North Carolina Council of Community Programs Conference, held in Pinehurst, NC

Each of these conferences is held annually and it appears that the Center's Board members are regular attendees per our review of current and past registration data. To understand the types of costs that were being incurred for board expenditures, we reviewed payments related to the fall NCFARO conference held September 18-21, 2005, at the Crowne Plaza Resort in Asheville. We identified payments totaling $28,347 for this event, $17,792 as board expenditures. Per review of the supporting documentation, those expenditures included:

- $12,476 in hotel costs for the board members to stay at the Inn on Biltmore Estate for the period September 18-22. It should be noted that this was not the Conference hotel location and that the Conference concluded business at noon on September 21. There was no documentation to support the extra night stay.
- $2,166 in transportation costs paid to individual board members traveling to and from Asheville.
- $2,302 in costs related to a buffet meal attended by board members and spouses, Center employees, and consultants (total of 24 persons). This invoice also included a service fee for a bartender at the event. The average cost per person in attendance was $96, with board member costs totaling $1,343.
- $150 related to extra tickets, purchased on behalf of board member spouses, to attend the NCFARO banquet.
- $290 payment for a guaranteed no show for one nights lodging.

NCGS 122C-120 identifies allowable compensation to be provided to the Center's Board members as a per diem amount of $50 and the reimbursement of "*all necessary travel expenses and registration fees in amounts fixed by the board*." Discussions with various Division officials indicated that this conference focuses on technical aspects of mental health administrative issues and the subject matters discussed would provide limited benefit to a board member. It is also questionable that the majority of the Center's Board members would need to attend. In discussing the value of board member attendance, the Area Program Director indicated that it provided the opportunity to network and that valuable insights were obtained outside the actual conference itself. This would be a key element to support board attendance. However, our discussions with other interviewees indicated that the Center's Board members were rarely seen in attendance at the conference training sessions.

As identified in the first paragraph, board member expenditures for the 2006 fiscal year were at least $48,900. The reason for this qualification is that our review of board related expenditures identified such costs distributed across several cost centers other than the

board expenditure cost center[11]. We identified $1,950 of the $48,900 (4%) in centers such as food, other supplies, and two different LME travel categories. The manner in which these costs were distributed makes it difficult to determine if all board related costs have been identified and what the true cost of a particular activity might be. Based on the definitions of the Board Expenses cost center, it would be expected that all such related costs would be captured there.

Recommendation: The Albemarle Mental Health Center Board should more critically review the purpose and nature of board related expenditures to ensure their need to the organization and the reasonableness of the activities. The perceived wasteful use of public resources can damage the Board's creditability with the community and constituents it serves and eventually result in reduced confidence in the Board's ability to effectively manage the Center.

Albemarle Mental Health Center's Response:

The Center's Board believes that it must be actively engaged and knowledgeable to deal with complex MH/DD/SA issues. Part of the Board's strategy for obtaining, retaining, educating, and insuring actively participating Board members is to provide access to high quality training in settings conducive to learning, team building, and attendance. This is codified in its Bylaws - Article III that require all members of the governing body receive training and "a member's refusal to be trained shall be grounds for removal from the area board." With these Bylaws, Albemarle has internalized the requirements of NCGS 122C-119.1. Additionally, board training is a requirement for Albemarle to retain its national accreditation standards.

Also, at Board training sessions and conferences there are handouts developed and presented by the Board's legal counsel and other presenters in afternoon or evening sessions. Specifically, Board members are advised of the legalities and responsibilities of an area board, liabilities, fiduciary responsibilities, staff compensation and benefits, education, and personal service contracts. Additionally, at the conclusion of each conference, Board members meet and discuss topics learned from the conference sessions. For the time period of review by the State Auditor, the Board discussed merger feasibility with Tideland.

As a comparison, Pasquotank County pays each of its commissioners $7,200 per year, plus sends commissioners to relevant training. Albemarle pays its Board members $300 per year and spends an average of $3,260 (the State Auditor reported $48,900 divided by 15 Board members) per Board member on training. Albemarle's position is that their approach creates, encourages, and retains more knowledgeable Board members for less cost per member. In recognition of the Board members' knowledge, one of Albemarle's Board member's has been appointed to serve on the North Carolina Commission for MH/DD/SAS.

[11] A section of a business to which costs can be assigned in an analysis of the relationship of costs and the value of benefits arising from them.

In regards to the State Auditor's comment regarding, "there was no documentation to support the extra night stay" when training sessions concluded at noon - some of Albemarle's Board members are elderly and driving from conferences that are at least eight hours away is a safety concern. Albemarle will review its Board training policies for possible improvements in documenting decisions such as overnight accommodations provided if a conference ends in the afternoon and the return trip to eastern NC is sufficient in length (for example, a six to eight hour drive) that it is deemed safer to provide overnight accommodations.

4. The Albemarle Mental Health Center (Center) is Incurring Excessive Wage Costs Related to the Payment of Employee FICA Taxes

In addition to paying its employees' salaries, the Center also pays all social security and Medicare taxes for its workers. Social security and Medicare taxes, along with income taxes, are identified by the Internal Revenue Service as trust fund taxes. A trust fund tax is money withheld from an employee's wages by an employer and held in trust until paid to the United States Treasury. An employer has the responsibility to withhold an employee's share of FICA (social security and Medicare taxes provided for under the Federal Insurance Contributions Act) from its employees' paychecks. From this withholding, the employees are contributing their fair share toward future retirement benefits. The Federal Insurance Contributions Act provides for a federal system of old-age, survivors, disability, and hospital insurance. The old-age, survivors, and disability insurance part is financed by the social security tax. The hospital insurance part is financed by the Medicare tax.

Discussions with the Area Program Director indicated that the practice of the Center paying both the employer and employee share of FICA withholdings began in 1979, a year before the practice was halted by Congress. Organizations that already had the practice in place by 1979 were allowed to continue paying the full FICA share and the Center choose to continue this practice. The Area Program Director stated that the payment of the employee FICA was used as an incentive to retain its employees.

The Center is required to report its annual salary ranges to the Office of State Personnel (OSP) as part of its reporting for local government employees who are subject to the provisions of NCGS 126, the State Personnel Act. OSP officials were unaware of the Center's practice of paying for the employees' share of FICA; however, they agreed that the failure to report such information would have an effect on the reported salary ranges. It would appear that the maximum salary range amounts for each classification would be understated by 7.65%, the current FICA percentage.

The payment by an employer of the employee FICA tax without the deduction from employees' wages results in additional wage payments in the amount of 7.65%. The Center has paid approximately $1.5 million for such costs for the last three calendar years alone (2004 – 2006). Discussions with the North Carolina Office of the State Controller indicated that no other state agency pays the employees' share of FICA and that the State's Central Payroll System will not allow such payments. This is a cost that has been

ongoing since the 1979 fiscal year. It is also a cost that does not appear to be reasonable within the current reimbursement system for mental health services.

Recommendation: The Albemarle Mental Health Center should immediately discontinue its practice of paying the employees' share of FICA cost related to employee wages. In addition, the Center should take appropriate actions to ensure that its reporting to statewide oversight officials is reflective of actual results.

Albemarle Mental Health Center's Response:

In State Auditor's performance audit of New Vista - Mountain Laurel, Inc., Mental Health Service Provider, May 2007 (this entity is now bankrupt and closed), the State Auditor specifically notes that employee turnover and loss of key personnel (including CEO, CFO, Controller, Reimbursement Officer, and Information Technology Director) were among the major causes of the closure of NVML. The State Auditor is now arguing that Albemarle should cut pay and benefits to employees - the very things that would start a similar exodus of experienced, knowledgeable employees from Albemarle.

When originally implemented in the late 1970's, this benefit was given to staff members in lieu of a 5% pay raise. The Board of AMHC has deemed this entirely legal, grandfathered benefit to be an effective inducement to attract and retain knowledgeable, effective, efficient employees. The very rural catchment area served by AMHC makes attracting and retaining high caliber employees that specialize in mental health care very difficult to find. This is one of AMHC's most effective tools in obtaining its most important asset - good people. AMHC's lower turnover rate (10% - 15%) versus a statewide average of approximately 30% to 50% in mental health agencies is proof that this strategy works.

The statement by the State Auditor that "salary ranges would be understated" is false. This is a benefit, not salary. As such, similar to longevity pay and other benefits, it does not belong in the salary range or as a component of salary itself. Also, State Personnel staff was aware of this benefit in the past and it is somewhat baffling that this issue is being brought up 28 years after its implementation when the State Personnel Office has known about this issue since its inception.

It is our contention that nowhere in Chapter 126 of the General Statutes and specifically nowhere in 25 N.C.A.C. does it indicate that FICA is considered salary rather than a benefit. In addition, even if the auditors interpret FICA as salary rather than benefits, there are other components of salary that an employee may receive that are not included in the range schedule: 1) Performance bonuses, if provided, are certainly considered salary (additional wage payments) but they are not reflected in the base pay rates (minimum, midpoint and maximum rates for each grade); and 2) This is the case with longevity pay as well. It is certainly considered salary (additional wage payments) but agencies are specifically instructed not to include the lump sum payment to the base salary and it is not reflected in the base pay rates or ranges. So if employees receive a lump sum performance bonus or a longevity bonus, the rate for an incumbent is also

understated in these two cases. We contend, that FICA whether the auditor considers it "salary" versus our interpretation that it is a benefit, this "additional payment" cannot and should not be reflected in the base pay. The primary reason it cannot be reflected in the rates, is the FICA amount reflected in a dollar amount for each employee will vary. If employees are using pre-tax dollars to pay for benefits, their salaries are reduced before the FICA amount is calculated and therefore the salaries are going to be different for each incumbent.

The salary schedule does not reflect actual rates of pay. It reflects the range within which the employee will be paid - somewhere between the minimum and the maximum of the grade. When AMHC reports the ranges, it is not reporting the actual rates of pay for incumbents (unless there is only one employee in the range). The instructions in the Salary Plan require the average salary of the incumbents "based on computed salary schedule." In all cases, even if we were to reflect FICA as part of that "average salary," the "average" salary would not reflect actual salary because some individuals use more pre-tax dollars than others. Actual salaries also don't include overtime, so again, salaries may be "understated."

In analyzing the 2006-2007 pay plan that was submitted to the State, even if the average salaries WERE increased by 7.65%, those average salaries would still be below the maximum of the current ranges.

As quoted in the Business & Legal Reports, Inc., "In most systems, base pay is expressed as a range of rates, with a minimum and maximum prescribed for each pay grade. In general, when we talk about compensation rates, we are referring to base pay, that is, the wages or salary alone, without bonuses, commissions or other additional items of remuneration." (page I-7, Supplement to Employee Compensation, Rev. 4/04).

Auditor's Comment: Per Internal Revenue Service Publication 15-A, *Employer's Supplemental Tax Guide*, an employer's payment of its employee's social security and Medicare taxes without deducting them from the employee's pay is an "increase in the employee's wage payment." The employer amount paid for employee's social security and Medicare taxes must be included in the employee's wages for federal income tax withholding and social security, Medicare, and FUTA (Federal Unemployment Tax Act) taxes, is subject to additional employee social security and Medicare taxes, and "again increases the amount of the additional taxes you must pay."

We identified several key areas of concern during our review of the contract between the Albemarle Mental Health Center (Center) and Nugget Management Services LLC. While these issues are categorized together for reporting purposes, each area of concern is identified separately to provide explanation for the concerns raised.

5a. The Albemarle Mental Health Center's (Center) Contract with Nugget Management Services LLC Included Terms Overly Favorable to the Area Program Director

The Center's contract with Nugget Management Services LLC for the Area Program Director services was overly favorable to the Area Program Director and therefore less

favorable to the State of North Carolina given the unusual terms for a contractor. The overly favorable terms appear to be the result of negotiations between the Center's Board and the Area Program Director that were not at "arms length." An "arms length" transaction is one in which all parties are dealing from equal bargaining positions, outside the span of control and influence of each other, and conducted as if they were unrelated so that there is no question of a conflict of interest. The decision to contract with Nugget Management Services LLC to provide the services of the Area Program Director was recommended at a meeting of the Budget and Finance Committee, a subcommittee of the Center's Board. The Area Program Director (the potential contractor) was a participant at this meeting. We found no evidence in the board minutes of the discussions of the contract particulars or what role the Area Program Director played in those discussions; however, as an employee, he should not have participated directly or indirectly in the Board's decision to enter into the contract (such as influencing the decision to enter into a contract, helping to prepare the specifications, or having input in decision to whom the contract is awarded).

Furthermore, the Board's decision to use an attorney who had also provided services to Nugget Management Services LLC as well as the Board may have contributed to "less than arms length" contract negotiations between the Board and Nugget Management Services LLC. Our review of the contract noted numerous problems with terms of the contract document including:

- The contract stated that the Area Program Director shall respond to "*reasonable requests for advice and consultation on matters connected with the Albemarle Mental Health Center*…" It would be expected that the Area Program Director provide direction and management to the Center as necessary to perform its required functions. The definition of a reasonable request for advice and consultation is unclear in relation to the role the Area Program Director should be expected to serve.
- Payment for the Area Program Director's services and automobile depreciation were made the first day of the month in advance of any delivery of services.
- Provision was made to reimburse out-of-pocket costs such as mileage, meals, room, and any other reasonable expense. The expenses were required to be documented in accordance with the Center's policies; however, there was no definition as to what would be considered a reasonable expense and no linkage of those expenses to the policies of the Center.
- The contract provided vacation and sick leave benefits similar to that of an employee, highly unusual for a contractual agreement. The benefits of 25 days vacation leave and 12 days sick leave per year were at the maximum levels that would accrue to regular employees. However, the contract allowed for all leave to be carried over annually until the fifth and final year of the contract (30 days vacation leave is the maximum allowable carryover for an employee) and the contract provided that all unused vacation time be compensated to the Area Program Director at the salary per diem basis. The calculated potential liability for unused vacation leave is approximately $150,000.

- An automobile depreciation allowance of $1,000 per month was provided in addition to travel reimbursed in accordance with the applicable rates established by the Internal Revenue Service. (See Finding 5b)
- The contract term was set at an initial five-year period versus the standard practice of one-year periods with the option for annual renewals based on mutual agreement of both parties continuing the relationship, funds availability, etc.
- Termination for cause did not address or consider any possible violations of the statutory requirements established in NCGS 122C for either the Center or the Area Program Director.
- The contract provided that if the Center terminated the contract for any other reason than cause as defined by the contract, all sums under the five year contract were to be paid to the Area Program Director.

The Center's Board is accountable and responsible for the performance and affairs of the Center. In providing strategic direction to the organization, it appoints and manages the Area Program Director. It is responsible for ensuring that the organization complies with all relevant laws, regulations, and business practices. Its oversight includes addressing any conflict of interest issues relative to its board members, the Area Program Director, and other members of the management team. The terms of this contract were written for the benefit of the Area Program Director with minimal consideration as to the financial or ethical values of the Center. Had the Administrative Law Judge not identified this contract as void (see Finding 5c), the Center would be burdened by the terms of this contract for the entire five-year period. It appears that the Board will now have an opportunity to re-address the situation and possibly take corrective actions.

Subsequent Event: In July 2007, the Albemarle Mental Health Center Board approved for the Area Program Director to continue in his current capacity as an employee of the Center at an annual salary of $225,000.

Recommendation: The Albemarle Mental Health Center Board is accountable to its mission and objectives, as well as to its stakeholders which include the State of North Carolina. Steps should be taken to ensure that contract decisions are the result of arms length negotiations that ensure the transaction is treated with fairness, integrity, and legality. The Board should take a more systemic approach to accountability issues to ensure that the limited resources for mental health services are effectively put to use.

Albemarle Mental Health Center's Response:

The Board has reviewed this finding and the State Auditor's associated supporting arguments and finds the State Auditor's conclusion is inaccurate. This was certainly not the first instance where a local government hired a management company to provide the local government's chief executive officer or other management function. The contract, terms and drafting were legal, covered all items negotiated by the Board and the Area Director, and were free of conflicts of interest. This has been re-affirmed through two external, independent reviews.

As specifically applied to mental health centers, there was no statutory authority prohibiting the employment of a management company to provide Area Director services. Indeed, NCGS 122C specifically states that LME functions can be outsourced. Because (1) the document has been reviewed and found to be a valid, legal document, free of any conflicts in its drafting, and appropriately containing the terms negotiated between the Board and the management company and, (2) the State Auditor's concerns appear to focus on the amount of compensation and expense reimbursement, the Board has concluded the State Auditor's focus appears to be a dislike for the terms negotiated between the Board and the management company, therefore creating a conclusion by the State Auditor that it must reflect a deficiency of some type by the Center's Board in negotiating the terms of the agreement.

Most of the points the State Auditor addresses regarding the Director's Contract between the Center and Nugget Management relate to policy matters which the Board of Directors must decide. It is important to note that the Center's attorney is not a member of the Center's Board. Thus, he does not make local government policy. Except for the limited legal provisions discussed below, the Center's Board and Nugget Management negotiated the specific contract terms. The Center's Board approved those terms based upon Mr. Franklin's experience, expertise, and years of service and the Board's desire to retain him through the complex issues of mental health reform and merger. In short, the Board believed the agreed upon terms served the best interest of the Center. The Center's attorney prepared the Director's contract to reduce the writing the terms agreed upon directly by the parties.

The provisions requiring the Director to respond to "reasonable requests for advice and consultation on matters connected with "Albemarle Mental Health Center" was a realistic and evenhanded term. Given the fact that Mr. Franklin, who would be performing the services for Nugget Management, had successfully managed the Center for more than 30 years, it was not necessary to define specifically what constituted a reasonable request for advice and consultation. The Director's duties were specified in the contract under Recitals B and C and Section Two. The Contract made clear that Nugget Management was to fulfill all responsibilities required of the Area Program Director position by the State, including those specified in NCGS 122-121, which was incorporated by reference into the Contract in section two.

With regard to the termination for cause provision in section two, the Director's contract defined "cause" to include five specific types of acts or omissions of Nugget Management which necessarily included the obligation to comply with statutory requirements of Chapter 122C incorporated by reference into the Contract, Sections Two (defining Director's responsibilities to include compliance with statutes governing and applicable to Director's position); Five B (defining "cause"); and Seven (requiring Contract to be governed by construed, and enforced in accordance with, North Carolina law). The termination for cause provision historically applies to acts of the Contractor which would be grounds for termination by the Center and, typically, does not address acts of the Center which might justify termination by the Contractor. Therefore, it was

not necessary to specify the Center's potential violations of statutory requirements that would be cause for termination.

With regards to the Area Program Director participating directly or indirectly in the Board's decision to enter into the contract, the Area Program Director only participated in negotiating the terms of the contract and never was involved in the Area Board's Decision. The State Auditor's conclusion otherwise is a stretch and misrepresentation of the facts. The negotiations by the Area Board were clearly done in an "arms length" manner regarding the Area Program Director's contract since both parties were dealing from equal bargaining positions.

Finally, the State Auditor asserts: "This contract was written for the benefit of the Area Program Director with minimal consideration as to the financial or ethical values of the Center." The contract may well be generous in its terms; however, the same was negotiated directly between the Board and the Area Program Director. All of the concerns cited by the State Auditor are within the legal authority of the Board. Moreover, the Board gave deliberate consideration to the Area Program Director's years of service, and the Board's desire to retain him throughout the complex issues of mental health reform and merger.

Auditor's Comment: The overwhelming evidence is that the contract was negotiated at 'less than arm's length' to the detriment of the citizens of North Carolina. Any reasonable review of the facts clearly supports this finding.

5b. The Area Program Director's Car Depreciation Allowance Duplicated Reimbursed Travel Costs

The contract with Nugget Management Services LLC provided the Area Program Director with a monthly automobile depreciation allowance of $1,000. These payments were made directly to the Area Program Director and not Nugget Management Services LLC at the beginning of each month. This amount was paid in addition to other reimbursed travel costs as the contract further identified that the Area Program Director would be reimbursed for gas used for business purposes at the deductible rate allowed by the Internal Revenue Service. For the fiscal year 2006, the Area Program Director was paid $12,000 for the automobile depreciation allowance and $20,677 in mileage reimbursements totaling $32,677 in travel related reimbursements.

The Internal Revenue Service determines the standard mileage rate that is to be used in computing the deductible costs of operating an automobile for business purposes. For calendar year 2006, that determination was made per Revenue Procedure 2005-78. In its definitions for business standard mileage rate, it is noted that this rate is computed annually and is "*in lieu of all operating and fixed costs of the automobile allocable to business purposes*." It further identifies that items such as depreciation, maintenance and repairs, tires, gasoline, oil, insurance, and license and registration fees are included in the rate determination.

As depreciation is already included in the mileage reimbursements to the Area Program Director, the monthly automobile depreciation allowance payments appear to be duplicative and an unnecessary expenditure of funds. In addition, this does not appear to be a cost that would be reimbursed in the normal course of the Center's operations.

Recommendation: The Albemarle Mental Health Center Board should discontinue the practice of paying a monthly automobile depreciation allowance.

Albemarle Mental Health Center's Response:

The Area Director previously proposed to provide services via an agreement with his management company, at a compensation amount negotiated with the Board. The proposed agreement was ultimately set aside as void by an administrative court for procedural reasons. After considering related concerns and potential issues, the Albemarle Board has set the Area Director's compensation as an employee at a level, plus expense reimbursements in accordance with normal AMHC policy, that has been deemed appropriate by the Albemarle Board.

However, to more directly address the issue of whether the Area Program Director's car depreciation duplicated travel reimbursement cost, the Executive Committee of the AMHC on August 25, 2004, recommended to the Area Board on September 23, 2004, "that the Area Program Director be paid an additional $1,000 per month, payable on the first of each month, for car allowance depreciation to offset the accelerated rate of car depreciation to his personal automobile caused by the high number of miles the Area Program Director travels in a year to be retroactive to July 1, 2004." The full Area Board did approve this action on September 23, 2004. The purpose of this change was to reimburse not only the cost of operation at the IRS rate, but an additional allowance for the "devaluation" of the Area Director's vehicle due to the extreme mileage (up to 50,000 miles of use in each year) because a car will typically not last for the IRS class life - i.e., would have to be replaced before depreciation is recaptured through the standard IRS rate. The policy used the term "depreciation" when it should have used the term "devaluation." There is no double reimbursement. These are two separate issues, although the wording could have been more accurately chosen. As noted above, this is no longer an issue as the Area Program Director is now covered by the standard AMHC mileage and expense reimbursement policy.

5c. The Area Program Director's Classification Has Been Determined to Be That of An Employee Versus a Contracted Service

The Area Program Director of the Albemarle Mental Health Center (Center) purported to be a contracted service rather than an employee in the performance of his Area Program Director functions. The basis for this position was that the Center contracted with Nugget Management Services LLC, a separate legal entity, to provide the services required of the Area Program Director position and that all payments were being made directly to Nugget Management Services LLC. The Area Program Director also

contended that he officially retired from service to the State of North Carolina on July 1, 2005.

The North Carolina Department of State Treasurer, Retirement Systems Division, concluded that the Area Program Director failed to meet the statutory definition of retirement and continues to meet the statutory definition of an employee. This decision was appealed on behalf of the Area Program Director and reviewed by an Administrative Law Judge who rendered a decision on May 14, 2007. The Administrative Law Judge found the following key findings of fact:

- The Center Board minutes make no reference to the Area Program Director's retirement in its 2005 meetings. The minutes also do not make reference to the hiring of Nugget Management Services LLC as the Area Director. The board minutes only note approval of the Budget and Finance Committee minutes of May 19, 2005, that recommended "*approval of a five-year contract with the Area Program Director beginning July 1…The details of the contract were discussed with the Budget and Finance Committee*."
- The minutes do not make reference to the formation of a search committee to hire a new director as required by NCGS 122C-117 (a)(7). Also, there is no evidence that the county commissioners approved the hiring of Nugget Management Services LLC as per the statutory requirements.
- The contract purports to be entered in accordance with the requirements of NCGS 122C and places the statutory requirement of a master's degree, related experience, and management experience on the corporate entity.
- There was no interruption of services being provided by the Area Program Director to the Center and all correspondence and documentation related to the position continues to refer to the person as the Area Program Director and not to Nugget Management Services LLC.

The Administrative Law Judge made two key conclusions of law that have a direct impact on many of the issues discussed in this report. The Area Program Director was found to have continued to serve the Center as an employee as defined by statute and not as an independent contractor. And the Center's Board failed to meet the mandatory requirements of NCGS 122C for the hiring of the Area Program Director. As such, the contract with Nugget Management Services LLC was void *ab initio*[12]. It should be noted that each party to this decision had an opportunity to file exceptions to the decision with the Board of Trustees of the Local Governmental Employees' Retirement System.

There are many issues that require the immediate attention of the Center's Board. If the Area Program Director continues as an employee, the Board needs to determine the appropriate rate of pay. Would that rate of pay be the same as that identified in the contract with Nugget Management Services LLC? Amounts paid to the Area Program Director since July 1, 2005, appear to now be subject to both employer and employee

[12] *ab initio* – Latin meaning from the beginning

retirement contributions and a payment plan needs to be established to meet this liability. In addition, some terms of the contract with Nugget Management Services LLC appear to be outside the normal payment processes of the Center (particularly the payment of a monthly car depreciation allowance to the Area Program Director) and these past payments may need to be recouped.

Subsequent Event: In July 2007, the Albemarle Mental Health Center Board approved for the Area Program Director to continue in his current capacity as an employee of the Center at an annual salary of $225,000.

Recommendation: The Albemarle Mental Health Center Board should take appropriate steps to ensure that the Center is compliant with the Findings and Conclusions rendered by the Administrative Law Judge. Contact should be made with appropriate State oversight agencies to ensure compliance with State retirement regulations. Consultation should occur with Division of Mental Health, Developmental Disabilities, and Substance Abuse Services staff to ensure disbursements made are in accordance with rules and regulations.

Albemarle Mental Health Center's Response:

This issue has already been resolved. Based on an administrative court judge's ruling, the Area Director was deemed to be an employee, and his salary and expense reimbursement criteria amended as deemed appropriate by the Board. All steps that need to be taken to retroactively recognize and deal with this are in process or finished.

6. Payments to Non-Medical Contractors are Questionable and Conflict with the Albemarle Mental Health Center's (Center) Accounting Policies

The terms and conditions in many of the non-medical service contracts do not speak to required deliverables making it difficult to measure and monitor effective performance under the contract. Contract terms did not require the submission of an itemized invoice describing the specific service provided and time spent performing the service. In our review of contractor expenditure documentation, it was difficult to evaluate the purpose and necessity of expenditures incurred as most paid invoices did not indicate the specific service or time spent performing that service. Center management's reply to the inconsistent documentation was that services were based on the original contract terms, this information had not been requested, and that an itemized

Table 5
Non-Medical Consultant Services Reviewed
FY 2006

Consultant Service	Expenditure Amount
Lobbyist Services	$ 76,082
Board Legal Services	74,995
Potential Employee Analysis	39,621
Personnel Services	27,907
Consulting and Cost-finding Analysis	13,590
Total	$ 232,195

Source: Albemarle Mental Health Center Financial Records

list would be requested on all future contracts. Information noted in Table 5 describes the types of consultant expenditures during FY 2006 that were examined during our review.

Our review concentrated on the types of services obtained, the cost of the services being provided, and the necessity of the functions being provided to the Center. We reviewed the Center's accounting policies to determine guidelines to be used for consultant contracts. The policy guidance states that "*travel time for consultants shall not be included as time worked and paid if the consultant fee is based on an hourly rate in the contract*." It also provides that the Area Program Director can enter into contracts with consultants on behalf of the Board and pay a reasonable competitive market rate. The contracts are required to be submitted at the next scheduled board meeting for review. However, the policy also provides the following rate guidance with the qualification that it is informational only and not a requirement:

- *Medical Doctors consultant fees up to $75 per hour*
- *Other consultant contract fees up to $45 per hour*
- *Attorney's fees are up to $60 per hour while providing legal services*

The expenditures for lobbying activities do not appear to be an appropriate expenditure of State funds and is further discussed in Finding 7.

Our review of the Center's contract for legal services identified billing rates of $175 or $200 per hour dependent upon the type of service provided. The initial rate apparently is for legal services provided to the Board while in Elizabeth City. The latter rate appears to be a conference rate that was paid for the attorney to attend the various mental health training sessions around the State. The immediate concern is the justification in the payment of legal services for attending mental health training sessions around the State. Inquiries of Center management indicated that the attorney was paid by the Center to attend these conferences to provide presentations to all conference attendees and to be accessible to the Center's Board members for questions. If the lawyer's attendance was on behalf of the conference organizer, the expectation should be that the conference organizer would pay those related expenses and those arrangements would be made outside the scope of services being performed on behalf of the Center.

In addition, we noted that the legal contract allowed for the payment of the attorney's hourly rate for travel time to the conference, which appears to be in direct conflict with the Center's consultant reimbursement policies. The Center was also reimbursing the lawyer for all other travel related costs including room and meal expenses at the same exorbitant rates. Our review noted reimbursement to the attorney in excess of $9,500 for attendance at the fall and spring sessions of the North Carolina Finance and Reimbursement Officers' (NCFARO) conferences during the 2006 fiscal year.

Although outside the 2006 fiscal year that we were reviewing, it came to our attention that the Board and lawyer scheduled an additional retreat wrapped around the conclusion of the fall 2004 NCFARO conference. This retreat was held at the Grandover Resort and

Conference Center in Greensboro. For the three-day event, the lawyer was reimbursed a minimum of $1,746 for himself and spouse by the Center. Inquiries of Center management indicated that this consultant expenditure allowed for an enhancement of a presentation that the lawyer had made at the Asheville conference earlier in the week that was attended by Board members.

The Center also contracts with an individual to perform background checks for potential employees. This is a service that is also provided to State entities at a nominal charge by the State Bureau of Investigation (SBI). Our discussions with Center management indicated that the background checks performed under its consultant contract were much more thorough than those provided by the SBI and their business of dealing with mental health clients required the extra precautions in performing these background checks. It would appear that some of the function is duplicative in nature; however, it would require the examination of the review processes by the consultant and the SBI to make that determination. We did not perform that examination.

Table 6
Services Provided by Office of State Personnel
(Also Listed in Consultant's Contract)

1.	Recruitment and Selection
2.	Applicant and Employee Qualification Recommendations
3.	Position Classification
4.	Position Designs and Organizational Design
5.	Policy Interpretation
6.	Employee Relations
7.	Disciplinary Action
8.	Federal Compliance Guidance
9.	Training

Source: Office of State Personnel

We reviewed the contract for the provision of Personnel Services. As a State entity, the Center has access to the Office of State Personnel (OSP) for consultation related to a wide variety of human resources matters. We compared the services described in the personnel consultant's contract with those offered by OSP and found many of the services to be duplicative in nature. See Table 6 for a description of those services that are also provided by OSP. It should be noted that those services performed by the OSP would be without cost to the Center. In addition to the personnel consultant, the Center staffs a Personnel Technician at a salary of $56,000 to assist with personnel issues.

The last consultant contract reviewed during our process related to the provision of general consulting and cost finding analysis services. This contract is with a private CPA firm that apparently provides consultation directly to the Area Program Director. Our review of documentation related to payments under this contract did not provide any detail as to the type of services being rendered. It should be noted that this consultant was called upon several times during our review to attend meetings and provide direction to the Area Program Director. The current billing rate for this service is $265 per hour for the principal agent of the contract, an amount that far exceeds the informational but not required rate of $45 per hour. The practice of paying for consultants to attend conferences also extended to this contractor. We noted that the Center paid $833 (hotel charges only) to the Inn on Biltmore Estate for this contractor's stay during the fall NCFARO conference. Again, this is a situation where reimbursing contractors to attend

mental health trainings does not appear to be a reasonable and necessary expenditure of public resources.

Recommendation: The Albemarle Mental Health Center's Board should more critically review the purpose and nature of consultant services to ensure their need to the organization, the appropriateness of the payments for services, and compliance with established rules and regulations. The practice of paying for consultants to attend mental health training conferences is a questionable use of public resources. On a Statewide basis, more definitive guidelines may be necessary by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services as to the types of services that may be obtained and what services should be handled through the state government network.

Albemarle Mental Health Center's Response:

Response for lobbying:

Lobbying is paid for with local funds. There were sufficient local funds budgeted at the cost center level and at the entity level to ensure these expenditures, made for the benefit of the consumers in Albemarle's catchment area, were from local funds. The Board dropped out of the NC Council of Community Programs in 2003 and hired its own lobbyist because the collective lobbying efforts of the Council were considered to result in benefits for consumers in the more populous and urban counties, or there was no benefit for Albemarle Mental Health Center consumers. Only local funds were spent on this function, and these funds were budgeted and spent in conformance with *North Carolina General Statutes*.

Response related to attorneys:

As to the consultant contracts and the Center's accounting policies in regards to attorney's fees, first, the policy provides: "This schedule is provided only as information and reference and is NOT a requirement." However, the Center's policy is outdated and needs to be revised.

Concerning the Center's contract for legal services and billing rates, in Fiscal Year 05-06, the Center's attorney contract had a billing rate of $175/hour for John Morrison and partners and $125/hour for associates. These rates are the same for travel time which is specified in the contract. The policy in question provides the Area Program Director the authority to "enter into contracts with consultants on behalf of the Area Board of Directors and pay a reasonable competitive market rate for their services provided all such contracts be submitted to the Area Board of Directors at its next scheduled meeting for review." It is the opinion of the administration and the Board that $175/hour is competitive. The State Auditor should also be mindful the Board is composed in part of county commissioners who deal with the hiring of county attorneys who perform similar functions as does The Twiford Law Firm. The contract between the Center and The Twiford Law Firm explains the rates including time for travel.

Though the Center's outdated policy provides travel is not to be included as time worked, the Contract for Professional Services specifically provides for travel reimbursement. This contract is in writing and was reviewed by the Board, and the hourly rate was explained to the Board, approved by the Board, and was pre-audited.

As to the State Auditor's concerns regarding the attorney's attendance at conferences, it is important to note the attorney attends conferences ONLY at the Board's request and direction with the understanding he is to be compensated. During past Area Board meetings, Mr. Morrison passed out and reviewed information regarding the pros and cons of the Area Board attorney attending specific conferences. It was a policy decision for the Board whether to require the attorney to attend each conference. As such, the attorney acts reasonably and at the direction of the Board.

The State Auditor alleges "the attorney was paid by the Center to attend these conferences to provide presentations to all conference attendees and to be accessible to the Center's Board members for questions. If the lawyer's attendance was on behalf of the conference organizer, the expectation should be that the conference organizer would pay those related expenses." Apparently, the State Auditor is not aware of the fact that at those conferences where the attorney provided presentations, the organizer provided reimbursement to the Center. For conferences where Mr. Morrison made presentations to all attendees, the conference organizer and sponsor, NCFARO, reimbursed the Center for Mr. Morrison's hotel expense based upon the standard conference rate.

Response related to potential employee analysis (background checks):

The State Auditor has indicated the Center should use the SBI for background checks, provided by the SBI at a nominal fee, to check for problems with potential employees. This service consists of checking for criminal history on a law enforcement database. AMHC management and its Board believe that the consumers of MH/DD/SAS services are among the most vulnerable of North Carolina citizens and the Board's duty rises to a higher level to protect them. AMHC contracts with a former FBI agent (24 years with the FBI, 45 years in law enforcement) who provides services far broader in scope and execution than the SBI. His procedures include interviews, fingerprinting, personally reviewing civil and criminal records at the county seat of locations within the coverage area of AMHC where the applicant has lived or worked or attended school, checking records at NCDMV, searching multiple national and North Carolina law enforcement databases, reviewing findings with the AMHC personnel officer, and providing a written report which includes: 1) Interview of the applicant to ascertain information that might be a factor as to the suitability of the applicant for employment by AMHC. Specifically to determine if the applicant has a history of arrest and/or motor vehicle violations; incidents of domestic violence; or credit issues/judgments that could be employment concerns. The interview also ascertains from the applicant cities/counties of residence, employment, education and all names used by the applicant so that records can be reviewed in these counties for all names. In numerous incidents over the years, many significant omissions have been disclosed through the interview process. Details are furnished in report form; 2) Fingerprint the applicant two or more times for each state

where the applicant has resided as determined by the interview or directed by the Personnel Officer; 3) Personally review criminal and civil records on each name of the applicant at the county seat for all locations within the coverage area of AMHC where the applicant has lived, worked, or attended schools; 4) Obtain a copy of the North Carolina Department of Motor Vehicle driver's history for each applicant and summarize it as a part of the report; 5) Search available databases to ascertain if the applicant is a wanted person nationally, or if the applicant has had any domestic violence orders issued for him/her; 6) Search a Statewide database to ascertain if the applicant has been arrested and/or convicted of any felony, misdemeanor, or infraction; 7) Review and consult with the Personnel Officer regarding issues concerning the applicant, and interpret results of criminal or civil records that are received from the NC State Bureau of Investigation, FBI, or from other states that pertain to the applicant; 8) Provide a factual report that includes the results of the interview and detailed record checks; and 9) It is noted that there is some redundancy in the process for record checks; however each has proved beneficial in light of the fact that some databases are purged after a few years while others have been found to have unexplained omissions. There have been significant omissions by applicants on their applications regarding their criminal history, and my investigations have disclosed this in many instances. The Personnel Officer and Area Program Director have expressed their concern to me that AMHC applicants should be screened so that clients are not exposed to staff that might be abusive or have a serious criminal or motor vehicle record. The AMHC Board and management feel that cutting financial corners where the risk, and the Board's responsibility to its citizens, is so great is not warranted.

AMHC takes exception to the State Auditor's recommendation to utilize the far more limited scope State provided background checks. The AMHC Board feels that the State Auditor's willingness and recommendation for AMHC to put its consumers, some of the most vulnerable of North Carolina's citizens, at risk based on less thorough background checks that would save marginally (in the short run, perhaps), violates the State's guidance that "the MH/DD/SAS Division expects to oversee LME operations and judge them on the basis of how well they carry out their functional responsibilities." The AMHC Board believes that its clinical responsibilities must come first.

Response related to personnel services:

The State Auditor has indicated the Center should use the NC Office of State Personnel for HR/personnel assistance rather than the consultant (former member OSP with many years of experience). OSP has seven staff members - one supervisor and six representatives (with far less experience and knowledge) providing those services to 228 local agencies (including AMHC) with 30,000 local government employees. The reality is that response by OSP on complicated and complex personnel matters in a time-sensitive manner is beyond the staff resources of OSP and would put AMHC at risk for this reason. Many local governments use personnel consultants in addition to their internal HR staff. This is particularly true in light of the State closing regional personnel offices over the last several years. The Board and management feel that cutting financial corners isn't warranted where the risks of substantial adverse judgments are possible.

Response related to consulting and cost finding services:

Consulting and cost finding analysis are often assignment and assistance oriented as opposed to project oriented. For example, the merger of Albemarle Mental Health Center and Tideland Mental Health Center required the AMHC cost model to be updated to cover all ten counties, not just the original six counties. The consultants have industry specific knowledge and unique "hands on" experience using the State's Pareto Model software, allowing Albemarle's management and finance staff to update this model within the deadline given by the State.

Similarly, the consultants have substantial experience in helping mental health centers prepare cost finding reports, even identifying programming problems within the State's cost finding software.

These services provide broader and deeper knowledge and experience to AMHC's Board and management on an "as needed" assisting basis, rather than having the consultants perform a project, report to the Board and management, and then leave, taking the project knowledge with them.

The Board does agree that it will re-assess policies, procedures, and documentation requirements for contractor invoices and revise, clarify, and update where deemed appropriate.

7. Improper Use of State Funds by the Albemarle Mental Health Center (Center)

The Center entered into contract with Nugget Management Services LLC to serve the role of the Area Program Director. A provision of the contract stated, "*All funds described in the contract herein are to be paid out of employer's local funds. No funds acquired from the State of North Carolina or the United States of America shall be disbursed to the LME/Area Program Director*." In discussions with management for the Center, it was indicated that these expenditures were being paid from local funds. This is based solely on the definition of local funds per NCGS 122C-3 which identifies fees for services, including the federal share of Medicaid receipts, as local funds. The June 30, 2006, audit report (most recent) identifies local county funds as totaling $152,591, an amount that would not support the salary of the Area Program Director. Our review of payments to Nugget Management Services LLC identified that these expenditures are included in the all other expenditures line item on the Monthly LME Report of Expenditures submitted to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division). Other contract costs including the monthly car allowance and travel reimbursements are also being included in this line item. Division officials indicated that if costs are included on this monthly report, they are being reimbursed with State funds and are included in total costs that are subsequently identified to the federal government for reimbursement from Medicaid funds. Therefore, it appears that state and federal funds are being used in violation of the terms of the contract.

The differing interpretations of local funds are significant. The majority of revenues in the delivery of mental health services throughout the State of North Carolina are generated from State or federal sources, either through appropriations, grants, or reimbursement for services. The implication by Center management is that these receipts, defined as local, can then be used however the local management entity sees fit. This appears to contradict the principles of financial management and accountability that are required of each local management entity. NCGS 122C-115.2(b)(1)d describes a core administrative function as "*carrying out business functions in an efficient and effective manner, cost-sharing, and managing resources dedicated to the public system.*" All funds from federal, State, and local sources should be subjected to the same level of scrutiny to ensure proper accountability for the use of those funds.

We also noted that the Center has contracted with a Raleigh-based firm to provide advice and counsel on state government issues to the Center. The agreement was originally entered into on November 23, 2003, and has been extended annually (currently through December 31, 2007). The agreement calls for the firm to be paid $75,000 for each regular annual session of the North Carolina General Assembly, plus ordinary expenses estimated to be less than $500 per month. For fiscal year 2006, the firm was paid a total of $76,082. Our review of payments during the year noted that disbursements were made both in the firm's name as well as directly to the individual within the firm. However, total costs were within the terms of the contract.

NCGS 120-47.12(a) provided that "*No State department may use State funds to contract with persons who are not employed by the State to lobby the General Assembly.*" In discussions with management for the Center, it was indicated that these expenditures were being paid from local funds. However, these expenditures were also included in the all other expenditures line item on the Monthly LME Report of Expenditures submitted to the Division and are being reimbursed with State funds.

As these costs are being reimbursed from State funds, the expenditures related to the lobbyist contract would be considered an unallowable use of State funds.

Recommendation: The Albemarle Mental Health Center should contact Division officials and take appropriate action to correct current and past related disbursements. The Center should immediately discontinue the practice of paying for a lobbyist using State funds. Division management should seek to develop and/or enhance guidelines on the appropriate use of all funds to ensure proper accountability.

Albemarle Mental Health Center's Response:

No funds have been improperly spent. The Area Director previously proposed to provide services via an agreement with his management company, at a compensation amount negotiated with the Board. The proposed agreement was ultimately set aside as void by an administrative court for procedural reasons, and the Area Program Director was ruled to have been an employee for the entire period of the proposed contract. All relevant administrative changes required are in process or finished. Data provided to the State

Auditor shows that, both at the cost center level and entity level, amounts initially paid under the proposed agreement were paid from "local funds" that can be spent at the discretion of the AMHC Board. Therefore, as noted previously, while administrative corrections have been/are/will be made, no State or federal funds were improperly spent.

The State Auditor expresses concern related to "drawing down" funding from the State. The Center has followed the processes and procedures for drawn down funding as instructed by the NC Division of MH/DD/SA.

For the time period audited, lobbyist funding was paid from "local funds" that can be spent at the discretion of the Board. This includes "local county funds", patient fee revenues, interest, fund balance appropriated, and other items. The lobbyist's function is to promote the mental health interests specifically for the residents of the AMHC catchment area. Data provided to the State Auditor shows that, both at the cost center level and entity level, these amounts were paid from local funds that can be spent at the discretion of the AMHC Board. The State Auditor has incorrectly used the term "local county funds" when "local funds" is correct.

Auditor's Comment: The Center reported expenditures for the Area Program Director's contract and the lobbyist contract to the Division that were reimbursed by State and subsequently federal funds. These reimbursements were in violation of either the Area Program Director's contract provisions or State and federal guidelines.

8. The Albemarle Mental Health Center's (Center) Board Should Have Exercised More Oversight Over Some Areas of the Center's Operations

The Center's Board of Directors has not sufficiently exercised its responsibilities to ensure public funds are used in the most effective and efficient manner to fulfill the Center's mission. The Board is the focal point for local governance and is ultimately accountable and responsible for the performance and affairs of the Center. As such, board members are responsible for overseeing the proper allocation of resources, effective oversight and management of public assets, and making decisions that are in keeping with the defining mission or purpose of the organization. That requires board members to be well-informed and active participants in the oversight of the organization.

The areas that the Board should have exercised more oversight include noncompliance with the *North Carolina General Statutes* in its July 2005 selection process for the Area Program Director and the allowance of excessive expenditures for salaries, contractual services, and board related travel. In addition, our review of board minutes identified that one particular board member had not attended any board meetings between April 2004 through May 2007, missing 23 consecutive meetings. Board membership should be regularly evaluated for participation and effectiveness in the proper discharge of their duties and responsibilities.

Boards of Directors are responsible for ensuring the organization complies with all relevant laws, state and local requirements, and general codes of business conduct. The failure of the Board to prudently guard assets could adversely affect the organization, as

it could jeopardize service quality, diminish confidence of its citizens and the State, and ultimately hurt the organization's goal to provide services for treatment of mental health, developmental disabilities and substance abuse needs of its customers.

Recommendation: We recommend that the Albemarle Mental Health Center's Board obtain appropriate board training to ensure members are educated about their responsibilities and legal obligations. In its role of monitoring management, it should request and have unrestricted access to information necessary to ensure proper fiscal management, compliance with applicable rules and regulations, and achievement of the Center's strategic goals. Board members should also be cognizant as to Center's role within the current overall mental health system. Deviations from the organization's public purpose may be perceived as a breach of trust with the community and constituents it serves.

Albemarle Mental Health Center's Response:

The Board oversees the successful operation of a $23,000,000 program providing mental health, developmental disabilities, and substance abuse services to one of North Carolina's most rural and difficult to serve. The State Auditor's performance audit, performed over a four month period by a team of five auditors, assessed AMHC's $23,000,000 of operations and found substantially only 7 items: 1) a contract with a management company (as you noted in your three findings (five matters) related to different aspects of the contract, the contract has already been set aside and resolved by the Board, 2) your concern related to the salary level of an employee, 3) your opinion that AMHC provided too much training and related costs for the AMHC Board, 4) your opinion that benefits used to obtain and retain top quality staff in a rural and difficult to serve area are too generous, 5) your opinion that the Board should not use certain consultants even though they provide substantially better/broader scope services than State provided alternatives, 6) your opinion that AMHC has a potential deficiency in internal controls due to concentration of duties for its Chief Finance Officer who is also its Chief Information Officer, and 7) your opinion that, based on the preceding 6 items, the AMHC Board needs to provide more oversight over the Center's operations even though it is one of only two nationally accredited LMEs in NC, has a significantly higher than State average penetration rate into the target populations it serves, has been able to maintain the lowest county per capita local funding amount from participating counties for more than 20 years, which is $1.16 per capita from each participating county in the AMHC catchment area. By contrast, the highest per capita local funding is Mecklenburg County which is $63.26 per capita. The statewide average per capital local funding is $13.83. Additionally, AMHC is 18 of 30 mental health centers in State and federal funding.

The State Auditor implies the Board may have failed to prudently guard assets. The Board strongly disagrees with this inference for the reasons already stated and set forth under this finding and all other findings associated with this audit. In fact, the Board is of the opinion it has actually saved money in the following ways: first, the Center has a low turn-over rate due to its compensation to and investment in its employees. Also, AMHC

requires minimal local funding in lieu of getting average state funding. AMHC has a staff of approximately 225 people - this is far larger than other mental health's operating on less money from the State. The Center is also above the state average in State penetration rates. Because of its adequate training, the Board understands intricacies and complexities associated with mental health management to efficiently understand and address problems concerning program practice. Because of the technical aspects and complications of mental health reform, many individuals are failing to receive services in this State which has a failing mental health system and has been rated by NAMI Grading the States 2006 with a D+ average. It is the Board's strategic plan to go above and beyond the State's goals and serve citizens in its catchment area regardless of ability to pay.

9. The Albemarle Mental Health Center (Center) Had Control Deficiencies that were Noted During our Review

During our review of the Center's salary and travel expenditures, we identified control deficiencies that should be addressed by Center management.

- The Center's Business Officer holds the responsibilities of Chief Financial Officer and Chief Information Officer, placing him in charge of two critical functions that should be segregated. As the Chief Financial Officer, he is responsible for the overall administrative management and coordination of a variety of administrative functions including finance, budget, business/computer department personnel, space and facilities planning. As the Chief Information Officer, he is responsible for coordinating, designing, and implementing internal financial reporting systems, financial controls, and management information systems in coordination with the automated financial reporting systems of the organization. This provides the opportunity to initiate transactions, modify data, or modify output files. Proper segregation of duties would help to reduce this risk. At a minimum, compensating controls need to be implemented to mitigate the risks associated with the performance of the dual roles.
- We noted that significant expenditures were incurred and paid using credit cards. We asked the Center to provide us a listing of credit cards, the responsible party, and the identified credit limit for each card. We also noted that the Center does not have a policy to address credit card purchase activity. Inquiry of the Business Officer indicated that such purchases were processed similarly to other purchase transactions. However, credit card purchases are generally point-of-purchase activities that do not require the same level of scrutiny as those requiring pre-purchase approval (by way of purchase orders). Center management should consider the development of a credit card policy to identify types of purchases for which a credit card would be appropriate.
- We also noted deficiencies with the Center's accounting policies and procedures. For example, the policies appear to require a purchase order, which was not always evident in our review (see credit card purchases above as example). The policy for bidding is unclear and appears to be outdated (refers to $90,000 limitation that now appears to be $30,000). The requirement for completing a timesheet for various levels

of employees is unclear in the payroll policy. The travel policies provide for per day limitations; however, we routinely saw these rates far exceeded in our review of travel expenditures. The policy on consultant fees also speaks to possible maximum hourly limitations based on the type of consultant engaged; however, our review of consultant contracts indicated the rates being paid far exceeded the policy suggested limitations. In general, many of the policies are outdated and need revision. Policies and procedures provide guidance to staff as to how the daily operations of the organization are to occur and the expectations of Center management as to the performance of those functions.

Center management is responsible for ensuring adequate controls exist within the organization and communicating that expectation. One method of communication that is particularly effective for controls over accounting and financial reporting is the formal documentation of accounting policies and procedures. A well-designed and properly maintained system of documenting accounting policies and procedures enhances both accountability and consistency.

Recommendation: The Albemarle Mental Health Center should take appropriate action to review the identified areas to ensure that proper control procedures are designed and implemented. Accounting policies and procedures should be evaluated annually and updated periodically. Procedures should be described as they are actually intended to be performed. Also, the documentation of accounting policies and procedures should explain the design and purpose of control-related procedures to increase employee understanding of and support for controls.

Albemarle Mental Health Center's Response:

The State Auditor noted that the same person is both Chief Financial Officer (CFO) and Chief Information Officer (CIO). It is very efficient and effective from an operational standpoint to have a person with both "knowledge sets" in one position. Additionally, because so much of the Center's operations and clinical data are electronic, it is very beneficial to have a CFO who can recognize information system (IS) implications of financial decisions, and can also recognize the financial implications of IS decisions. The Center has mitigating strengths it believes helps it achieve adequate internal control. Bank statements are picked up by employees other than the CFO/CIO and go directly to an accounting staff person who prepares bank reconciliations monthly on all bank accounts and investment accounts. Additionally, a separate accounting staff person prepares a weekly cash flow report. Part of the weekly cash flow report preparation includes comparing checks clearing the bank account to checks on previously prepared check registers. Also, a separate accounting staff person is responsible for preparing payroll from appropriate, approved payroll data, and another separate accounting staff person prepares nonpayroll checks from appropriate supporting documentation. Payroll is further reviewed by another management staff person as the Board Chairperson's designee. The CFO/CIO does not prepare checks and both the payroll accounting staff person and the nonpayroll accounting staff person track separate check number sequences to identify lost checks or checks charged improperly to an AMHC bank account. New

vendors are added by an accounting staff person. Further, the CFO/CIO does not have the password needed in order to effect a purely electronic transfer of funds, which leaves no "paper trail." While virtually all of these employees' work is reviewed by the CFO/CIO to catch errors, the State Auditor's finding is targeted at improprieties due to the CFO/CIO having the "opportunity" to misappropriate Center assets. The people noted above, along with certain other employees, insure that typically 3 or more employees are involved in each "transaction cycle" where Center assets could be misappropriated. Every system of internal control has many costs versus benefit assessments where management and the Board weigh the risk of exposure to errors or irregularities against possible operational efficiencies achieved through concentration of duties and/or functions. The Center believes the offsetting control built into its current accounting systems mitigates its risk of improprieties in the combined CFO/CIO position to an appropriately low level. However, management will re-assess the functions and responsibilities of the CFO/CIO for potential problems.

Credit card purchases are restricted to small purchases and supporting documentation must be submitted to the Center's accounting department. Credit cards are used by many local governments in North Carolina and across the United States. Effective 7/1/07, the Albemarle Mental Health Center catchment area covers 10 counties and 3,200 square miles, with multiple facilities located throughout the catchment area. Management and the Board have deemed the use of credit cards to be an effective tool for efficient operation in this setting. Further, the State Auditor's recommendation regarding updating the Center's credit card policy has already been completed and approved by the Area Board.

AMHC concedes that some of its policies and procedures are out of date due to constant changing policies and procedures on a monthly basis by the State with mental health reform and need revision. The Center will review its policies and procedures and revise or change where it is deemed appropriate by management and the Board. Policies and procedures will be reviewed annually for possible revisions. With regards to the reference that the Center's policies for bidding being unclear and outdated because it references to $90,000 limitation instead of a $30,000, our legal consultants have reviewed this item and confirmed that our bidding policy referencing to a $90,000 limitation is correct. The State Auditor's Office may want to revisit the law on this matter since the entire section needs to be reviewed to come to a conclusion on this matter.

[This Page Left Blank Intentionally]

OTHER ISSUES RELATED TO MENTAL HEALTH REFORM

During our review of the Center, we identified two other issues that appear to be challenges to the success of reform efforts. We have identified those issues below along with appropriate responses from the Division.

10. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) Needs to Establish Standardized Fiscal Management Procedures for Local Management Entities (LMEs)

    Our review of the Albemarle Mental Health Center further identified the independency that is enjoyed by each of the local management entities. LMEs have established financial management systems that first meet their local requirements and secondly provide Statewide data necessary to Divisional reporting requirements. However, as noted in Finding 13, those requirements are minimal. Management of mental health resources requires that there be a method for making sound decisions on the allocation of resources and a comprehensive financial management system to achieve effective cost controls.

    Our understanding of the operational requirements of the LMEs is that all are in the business of providing oversight of the provision of mental health services to clients. While the primary types of services provided may vary between LMEs, the method for accounting for those activities should be similar. A comprehensive financial management system encompasses personnel, software, hardware, processes (both manual and automated), procedures, controls and data necessary to carry-out financial management functions, manage financial operations, and to report financial results to internal and external parties. There should be standard processes in place that would allow for the compilation of consistent and measurable data. That begins by establishing common data element definitions, standardized chart of accounts, standardized processing for similar transactions, Statewide policies and procedures which incorporate basic elements of internal controls, and standardized information systems for collecting, processing, maintaining, transmitting, and reporting financial data.

    In reviewing applicable legislation, we identified three key references that appear to provide the Division with the necessary authority to establish and require adherence to a Statewide financial management system:

    - **NCGS 122C-112.1. Powers and duties of the Secretary** provides under (a)(12) that the Division shall "*Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.*"
    - **NCGS 122C-115.2. LME business plan required; content, process, certification** provides under (b)(1)(d) that one of the core administrative functions of the LME is financial management and accountability which requires the LME to carry-out its "*business functions in an efficient and effective manner while managing the resources dedicated to the public system.*"

- **NCGS 122C-115.4. Functions of local management entities** identifies as a primary function, "*Financial management and accountability for the use of State and local funds and information management for the delivery of publicly funded services*."

The development of standardized financial management systems should result in more accurate and useful information on the LMEs fiscal status, financial results of operations, and the cost of performance of various core functions assigned to LMEs that can be used by both internal and external users.

Recommendation: We recommend that the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services take appropriate action to enhance its financial management systems for the local management entities. The process should incorporate as much standardization as feasible to allow for objective evaluation of financial results. Immediate consideration should be given to items such as a standardized chart of accounts[13], Statewide accounting policies and procedures, and identification of financial transactions that may require some level of State approval and oversight. Additional resources should be requested from the General Assembly, as necessary, to ensure these tasks are addressed in a timely manner.

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' Response:

The Division is committed to exercising its authority to mandate standardized fiscal management procedures to the fullest extent possible under the law. However, we have been advised by the Office of the Attorney General that the current statutes do not provide the legal authority to impose and enforce standardized fiscal management procedures at the level envisioned by the Auditor.

Within existing statutory authority, the Division has standardized fiscal reporting by all LMEs via the Quarterly Fiscal Monitoring Report related to all revenues and expenditures flowing through the LME, and a Monthly LME Report of Expenditures for LME systems management expenditures. In addition, the Division and the DHHS Controller's Office review the annual audit reports of LMEs prepared by independent Certified Public Accountants and follow up on all findings and questioned costs. In addition to these standardized reporting requirements, the Division has promulgated rules and standardized criteria regarding such fiscal activities as allowable use of funds, purchasing and contracting requirements, a standardized provider services contract, standardized Local Business Plan template, and a Statewide standard for a clean claim for payment of services.

Having said this, we agree that standardized fiscal management systems are needed. Indeed, beyond standardization, actual consolidation of a number of business functions at

[13] The Division may need to work with the State and Local Government Finance Division within the North Carolina Department of State Treasurer in establishing statewide guidelines for single county LMEs as a single county area authority is considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.

the State or regional level would provide substantial cost savings and organizational efficiencies. The Division is currently undertaking a process to determine which business functions should be consolidated and will work toward effecting that consolidation in the coming months. To the extent legislation is needed to accomplish this consolidation, we will recommend such legislation to the General Assembly.

11. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division) Needs to Strengthen its Financial Monitoring Efforts over Local Management Entities (LMEs)

In our review of the disbursements for the Albemarle Mental Health Center (Center), we noted that Division staff was unaware of the details related to most of the noted questionable transactions. From our discussions with Division personnel, it appears that the Division obtains financial information from the LMEs from four primary sources: the LME Local Business Plan, the Monthly LME Report of Expenditures, the Quarterly LME Fiscal Monitoring Reports, and from obtaining a copy of the LMEs' annual audited financial statements. The LME Local Business Plan is presented as a strategic planning document that focuses the organization on its missions and goals in overseeing local mental health services; however, it includes a financial management plan as a core element in the presentation. The Monthly LME Report of Expenditures supports the State reimbursed administrative costs to the LME. The Quarterly LME Fiscal Monitoring Reports accumulate budgeted and actual revenue and expenditure amounts. The annual audited financial statements provide a financial picture for the LME as of June 30th of each fiscal year. None of the above documents provide the financial information at a level of detail that would allow for appropriate review by Division personnel as to the reasonableness and necessity of an expenditure transaction.

When discussing financial monitoring procedures, Division officials have stated that legislation is ambiguous when it comes to the Division's power to force LMEs to comply with mental health law. Much of this comes from the language presented in NCGS 122C and the roles and duties that are provided to local counties. There is concern at the Division level as to political realities of telling local governmental organizations how those organizations should spend their money. In addition, the Division has indicated that it does not currently have staffing necessary to adequately monitor the financial activities of all 30 LMEs.

In reviewing applicable legislation, we identified two references that appear to provide the Division with the necessary authority to perform whatever monitoring activities that it sees as necessary in the oversight of the LMEs. NCGS 122C-112.1, Powers and Duties of the Secretary provides under (a)(7) that the Division shall "*Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services…*" Section (a)(20) of the same statute provides the Division with the authority to "*Monitor the fiscal and administrative practices of area authorities and county programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services*." Based on these two criteria

alone, it appears that the Division has the overriding ability to monitor and hold LMEs accountable for the expenditure of mental health funds.

Recommendation: We recommend that the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services take appropriate action to enhance its financial monitoring efforts of the local management entities. In conjunction with the development of more standardized financial management systems, the Division should also formalize its monitoring plans to ensure that LMEs are accountable to the State for the use of federal and State funds allocated for mental health. Additional resources should be requested from the General Assembly, as necessary, to ensure adequate staffing is available to properly carryout these very important functions.

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services' Response:

The Division agrees with this finding and as noted above, is taking a number of steps to enhance financial monitoring efforts of local management entities. The Governor's budget for SFYs 2007-2009 sought ten (10) additional positions for DMH/DD/SAS for this purpose, all of which were to be directly related to monitoring at the local level. The General Assembly provided funding for seven (7) of those requested positions, effective October 1, 2007. These additional positions and the areas of responsibility include:

- Three (3) positions for the Division's LME Systems Performance Team. Activities of this Team focus on (i) Monitoring of LMEs specific to the DHHS/LME Performance Contract functions, (ii) Monitoring outcome performance measures as documented in the quarterly DMH/DD/SAS Community System Progress Indicator Report, and (iii) providing assistance to LMEs in response to the outcomes resulting from this monitoring. The addition of three new Team members will allow the Team to monitor each LME function in each LME at least once annually.

- Two (2) positions for the Division's Budget and Finance Team to increase that Team's full-time field staffing for monitoring and financial technical assistance from one (1) to three (3). The two additional positions will monitor the overall operations of LMEs and as needed, providers as well as providing budget and fiscal technical assistance to LMEs and providers to help ensure efficient and effective fiscal operations and accountability. These positions will coordinate activities with the Division's LME Systems Performance Team and Accountability Team

- Two (2) positions for the Division's Accountability Team to increase staff for the Compliance and Regulatory Units from twelve (12) positions to fourteen (14). The additional positions will be field based for work with LMEs and providers, with the primary responsibilities including scheduled and unannounced audits and investigations of LMEs and providers. These audits address both programmatic and documentation issues, reviewing providers against records requirements and fidelity to program requirements, and are complementary but not duplicative of audits performed by the Division of Medical Assistance Audit Section.

These positions will be filled as soon as qualified employees can be hired.

The Division and Department of Health and Human Services will undertake activities to clarify responsibilities and improve management practices throughout the public mental health, developmental disabilities and substance abuse services system. We will also continue to work jointly with DHHS and the General Assembly to secure any additional resources and authority necessary in order to strengthen and enhance accountability at all levels of the system.

[This Page Left Blank Intentionally]

Table A-1: Review of Progress Indicators for Albemarle Mental Health Center (AMHC)				
Progress Indicators	**State Average**	**AMHC Average**	**AMHC Rank in State**	**Total LMEs Reviewed**
1. SERVICE DELIVERY: Services to Persons in Need				
• Adult Mental Health	38%	44%	10	29[14]
• Adult Developmental Disabilities	35%	35%	18	29
• Adult Substance Abuse	8%	10%	8	29
• Child/Adolescent Mental Health	37%	39%	16	29
• Child/Adolescent Developmental Disability	18%	18%	14	29
• Adolescent Substance Abuse	7%	4%	27	29
2. SERVICE DELIVERY: Timely Initiation & Engagement in Service				
• Mental Health: 2 Visits within 14 Days	33%	31%	19	29
• Mental Health: 2 Additional Visits within Next 30 Days	20%	13%	26	29
• Developmental Disabilities: 2 Visits within 14 Days	59%	40%	26	29
• Developmental Disabilities: 2 Additional Visits within Next 30 Days	45%	20%	29	29
• Substance Abuse: 2 Visits within 14 Days	56%	40%	28	29
• Substance Abuse: 2 Additional Visits within Next 30 Days	37%	22%	26	29
3. SERVICE DELIVERY: Effective Use of State Psychiatric Hospitals				
• 1-7 Days of Care	56%	64%	26	30
• 8-30 Days of Care	32%	25%	3	30
4. SERVICE DELIVERY: Timely Follow-up After Inpatient Care				
• ADATCs[15]: Seen in 1-7 Days	21%	33%	4	29
• ADATCs: Seen in 8-30 Days	11%	11%	16	29
• State Psychiatric Hospitals: Seen in 1-7 Days	30%	33%	13	29
• State Psychiatric Hospitals: Seen in 8-30 Days	15%	14%	17	29
5. SERVICE QUALITY: Consumer Choice of Service Providers				
• LME provided list of choices	71%	80%	7	30
• Consumer contacted provider directly	22%	16%	20	30
6. SERVICE QUALITY: Use of Evidence-Based/Best Practices				
• Number of Services With Endorsed Providers	5	4	20	29
• Number of Services That Were Billed	4	1	28	29
7. SYSTEM MANAGEMENT: Consumer/Family Involvement in System				
• Consumer/Family Involvement in System	50%	83%	2[16]	27[17]
8. SYSTEM MANAGEMENT: Effective Management of Service Funds				
• All Disability Groups	39%	27%	23	28[18]
• Adult Mental Health	27%	31%	16	28
• Child Mental Health	27%	11%	21	28
• Adult Developmental Disability	49%	35%	22	28
• Child Developmental Disability	34%	2%	27	28
• Adult Substance Abuse	31%	6%	25	28
• Child Substance Abuse	10%	0%	23	28
9. SYSTEM MANAGEMENT: Effective Management of Information				
• Consumer Admissions	93%	98%	9	28
• Consumer Outcomes	67%	92%	6	30
Source: Appendix for MD/DD/SAS Community Systems Progress Indicators Report for Second Quarter SFY 2006-2007, issued February 28, 2007				

[14] If 29, service claims data for Piedmont were not available for this report.
[15] ADATCs are Alcohol and Drug Abuse Treatment Centers.
[16] Consumer and Family Advisory Committees (CFACs) in 16 LMEs met monthly during the quarter. CFACs in eleven LMEs met two times during the quarter. Albemarle and Smoky Mountain met once.
[17] Mecklenburg and Wake were not included in this report because the number of CFAC positions were not clearly identified. Also, Wilson-Greene was reported with Edgecombe-Nash.
[18] If 28, service claims data for Piedmont and Smoky Mountain were not available for this report.

[This Page Left Blank Intentionally]

Table A-2 is presented to provide explanation of the progress indicators used in Table A-1 above. It should be noted that these are the evaluation criteria established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the information presented in these tables has not been reviewed or evaluated by the Office of the State Auditor as part of this examination of the Albemarle Mental Health Center.

Table A-2: Rationale for Progress Indicators by MH/DD/SAS[19]

Indicator	Rationale
1. Services to persons in need	NC has designed its public system to serve those persons who have the highest need for ongoing care and limited access to privately-funded services. Increasing delivery of services to these persons is a nationally accepted measure of system performance.
2. Timely initiation and engagement in service	Best Practice for initiating and continuing care require an individual to receive two visits within the first 14 days of care and an additional 2 visits within the next 30 days (a total of 4 visits within the first 45 days of service). These timelines provide the best opportunity for an individual to become fully engaged in services that can promote recovery and stability.
3. Effective use of state psychiatric hospitals	State psychiatric hospitals provide a safety net for the community service system. An adequate community system can and should provide their residents with crisis services and short-term inpatient care close to home. This helps families stay in touch and reserves high-cost state facility beds for consumers with long-term care needs. Reducing the short-term use of state psychiatric hospitals is a goal that also allows more effective and efficient use of funds for community services.
4. Timely follow-up after inpatient care	Living successfully in one's community after discharge from a state-operated facility depends on smooth and timely transition to community supports. A community-based service within 7 days of discharge is a nationally accepted standard of care that also indicates the local system's community service capacity and coordination across levels of care.
5. Consumer choice of service providers	A system that offers consumers an array of providers supports the development of successful practitioner-consumer relationships which, in turn, foster recovery and stability. Consumer choice can also improve the quality of the entire service system, as providers strive to satisfy consumers.
6. Use of evidence-based service models and best practices	Quality care is care that makes a real difference in an individual's life. Service models and practices that have been tested for effectiveness provide the greatest opportunity for individuals to attain stability in their lives. NC is promoting adoption of evidence-based practices in community service systems.
7. Involvement of consumers and family members in the local system	The vibrancy of the local Consumer and Family Advisory Committees (CFACs) provides an indication of the responsiveness of the local system and its effectiveness in meeting the needs of residents and consumers. An engaged CFAC membership, with balanced representation across disabilities, is necessary for the LME to hear and respond to the needs of its community.
8. Effective management of service funds	Stretching limited resources to serve the ongoing MH/DD/SAS needs of the community is a challenge for every LME. Planning for the use of funding across the entire year, while reaching the intended recipients of those funds, provides an indication of an LME's fiscal management performance and its activities to reach underserved groups.
9. Effective management of information	Efficient flow of information is vital for effective decision making and oversight of a complex service system. Timely submission of consumer information is a gauge of the management and coordination capacity of the local system and the technological resources available to support it.
Source: MD/DD/SAS Community Systems Progress Indicators Report for Second Quarter SFY 2006-2007, issued February 28, 2007	

[19] MD/DD/SAS is the North Carolina Department of Health and Human Services - Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

[This Page Left Blank Intentionally]

ORDERING INFORMATION

Audit reports issued by the Office of the State Auditor can be obtained from the web site at www.ncauditor.net. Also, parties may register on the web site to receive automatic email notification whenever reports of interest are issued. Otherwise, copies of audit reports may be obtained by contacting the:

Office of the State Auditor
State of North Carolina
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0601

Telephone: 919/807-7500

Facsimile: 919/807-7647