



# **PERFORMANCE AUDIT REPORT**

**Federal Staffing Requirements For  
Registered Nurses Applicable To  
Larned State Hospital**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
December 1987**

# ***Legislative Post Audit Committee***

---

## ***Legislative Division of Post Audit***

**THE LEGISLATIVE POST** Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$6 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators or

committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

### **LEGISLATIVE POST AUDIT COMMITTEE**

Representative Robert H. Miller, Chairperson  
Representative Duane A. Goossen  
Representative Edward C. Rolfs  
Representative George Teagarden  
Representative Bill Wisdom

Senator August "Gus" Bogina, Jr., P.E.,  
Vice-Chairperson  
Senator Neil H. Arasmith  
Senator Norma L. Daniels  
Senator Ben E. Vidricksen  
Senator Joe Warren

### **LEGISLATIVE DIVISION OF POST AUDIT**

800 SW Jackson  
Suite 1200  
Topeka, Kansas 66612-2212  
Telephone (913) 296-3792  
FAX (913) 296-4482

The Legislative Division of Post Audit supports full access to the services of State government for all citizens. Upon request, Legislative Post Audit can provide its audit reports in large print, audio, or other appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach us through the Kansas Relay Center at 1-800-766-3777. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

## **PERFORMANCE AUDIT REPORT**

### **FEDERAL STAFFING REQUIREMENTS FOR REGISTERED NURSES APPLICABLE TO LARNED STATE HOSPITAL**

---

#### **OBTAINING AUDIT INFORMATION**

This audit was conducted by Trudy Racine, Senior Auditor, and Rick Riggs, Auditor, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Racine at the Division's offices.

---

## TABLE OF CONTENTS

### SUMMARY OF AUDIT FINDINGS

#### FEDERAL STAFFING REQUIREMENTS FOR REGISTERED NURSES APPLICABLE TO LARNED STATE HOSPITAL

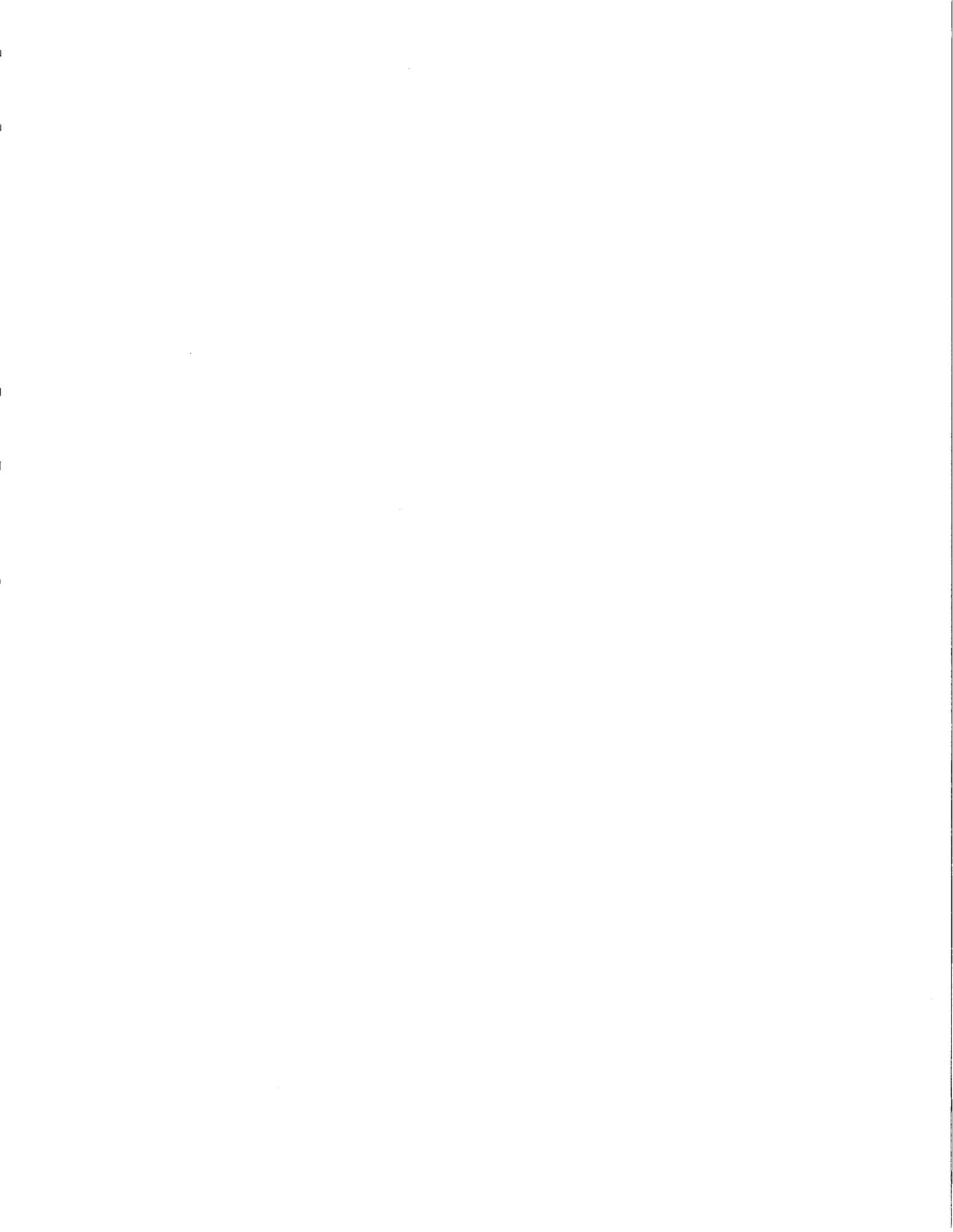
What Are the Current Federal Staffing Requirements For Registered Nurses in Mental Health Hospitals in Kansas? .....	2
What Was the Chronology of Events That Led to the Current Situation at Larned State Hospital?.....	8
Conclusion .....	15
<b>APPENDIX A:</b> Number of Registered Nursing Staff Requested and Approved for Larned State Hospital, Fiscal Years 1981-1988.....	17
<b>APPENDIX B:</b> Agency Response.....	19

## **FEDERAL STAFFING REQUIREMENTS FOR REGISTERED NURSES APPLICABLE TO LARNED STATE HOSPITAL**

### **Summary of Legislative Post Audit's Findings**

**What are the current federal staffing requirements for registered nurses in mental health hospitals in Kansas?** Federal regulations do not specify minimum staffing ratios for mental health hospitals like they do for mental retardation hospitals. Instead, federal regulations require mental health hospitals to have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate individual treatment plans, provide active treatment, and engage in discharge planning. Larned State Hospital is surveyed by federal officials each year to determine whether it is in compliance with federal regulations. In the past, the Hospital had been able to correct the staffing deficiencies it was cited for without losing its Medicare certification, but it had not obtained as many additional nurses as Hospital officials thought were needed to remain in compliance with federal standards.

**What was the chronology of events that led to the current situation at Larned State Hospital?** Following a March 1987 federal survey, the Hospital was notified that its shortage of nurses could lead to decertification within 90 days. A second survey in August concluded that the Hospital had made no significant improvements, and the Hospital was notified that it would lose its certification. Officials moved 13 nurses to bring part of the Hospital into compliance and retain certification for four units of the Hospital. By doing so, they were able to reduce the loss of federal funds to about \$674,000 for fiscal year 1988. However, if further changes are not made in the staffing of registered nurses, federal funds may be in further jeopardy. Department officials say they plan to request 13 new registered nurse positions to replace the ones moved to the certified units, and 17 additional positions. Hospital officials indicated they think it is necessary to have these new nurses hired and in place before the Joint Commission on Accreditation of Hospitals visits Larned State Hospital again in March 1988.



## **FEDERAL STAFFING REQUIREMENTS FOR REGISTERED NURSES APPLICABLE TO LARNED STATE HOSPITAL**

On September 24, 1987, the Health Care Financing Administration, the federal agency responsible for seeing that hospitals meet Medicare standards, notified the Superintendent of Larned State Hospital that the Hospital was out of compliance with federal staffing requirements because it did not have enough registered nurses. Federal officials said that as a result of that deficiency, the Hospital's Medicare provider agreement would be terminated on October 30, 1987.

If that termination had been allowed to occur, the Hospital would have lost about \$1.4 million in federal aid during the remainder of fiscal year 1988. To avoid that loss, Hospital officials moved 13 nurses from the rest of the Hospital to the four units that generated the most federal revenue. Hospital administrators then sought and received Medicare certification for just those units. By doing so, they were able to reduce the loss of federal funds to about \$674,000.

Legislative concerns have been raised about the nature of the federal staffing requirements for State psychiatric hospitals, and about how the situation at Larned State Hospital developed. As a result, the Chairperson of the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a special 100-hour performance audit that addressed the following questions:

- 1. What are the current federal staffing requirements for registered nurses in mental health hospitals in Kansas?**
- 2. What was the chronology of events that led to the current situation at Larned State Hospital?**

To answer these questions, the auditors reviewed federal regulations, hospital reviews, and correspondence. They examined Larned State Hospital's staffing and patient records, and toured the facility. Finally, they interviewed officials of the Hospital, the Department of Social and Rehabilitation Services, the Department of Health and Environment, and the federal Health Care Financing Administration.

The auditors found that the Health Care Financing Administration requires Larned State Hospital to have adequate numbers of staff to provide and document the nursing care necessary for patients' treatment programs. The Hospital has been cited for staffing deficiencies in the past, but has always been able to correct those deficiencies without being decertified. In a March 1987 survey, Larned State Hospital was notified that its shortage of nurses could lead to decertification within 90 days, and a second survey in August 1987 concluded that no significant improvement had been made. Although reassigning 13 nursing staff enabled the Hospital to retain partial certification, it also resulted in significantly decreased staffing in the uncertified parts

of the Hospital. Federal funds may be in jeopardy again if further changes in nurse staffing are not made. These findings are presented in greater detail in the following sections of this report.

### **What Are the Current Federal Staffing Requirements for Registered Nurses in Mental Health Hospitals in Kansas?**

To answer this question, the auditors reviewed federal regulations, hospital reviews, and correspondence. They examined Larned State Hospital staffing and patient records, and toured the facility. Finally, they interviewed officials of the Hospital, the Departments of Social and Rehabilitation Services and Health and Environment, and the federal Health Care Financing Administration of the U.S. Department of Health and Human Services.

The auditors found that the Health Care Financing Administration reviews staffing at Larned State Hospital annually, as a part of the certification process for participation in the Medicare and Medicaid programs. To meet certification requirements, Larned State Hospital must have adequate numbers of staff to provide and document the nursing care necessary for patients' treatment programs. The Hospital has been cited for staffing deficiencies in the past, but has always been able to correct those deficiencies without being decertified.

### **The Health Care Financing Administration Reviews Staffing Annually at State Psychiatric Hospitals That Participate in the Medicare and Medicaid Programs**

To be certified to receive federal funds, psychiatric hospitals are required to be accredited by the Joint Commission on Accreditation of Hospitals, an independent professional organization that accredits various types of medical programs. They are also surveyed by the Health Care Financing Administration to determine that they are in compliance with Medicare requirements. If the facility satisfies both sets of requirements it is also certified as eligible to participate in the Medicaid program.

Participating in those programs entitles Larned State Hospital to apply for federal reimbursement for patients who are eligible under the requirements of Part A of the Medicare program and the Title XIX (Medicaid) program. (The Hospital also receives some funds from Part B of the Medicare program, but those funds are not contingent on certification.) Children, adolescents, and elderly patients are most frequently eligible for funding under the certified programs. Adults aged 21 through 65 are not eligible for reimbursement under the Medicaid program while they are receiving inpatient psychiatric treatment in a State hospital, and seldom qualify for Medicare. In addition, about half of the patients at Larned are corrections inmates who rarely qualify for federal reimbursement.

Because not all the Hospital's patients are covered, federal reimbursement provides a relatively small percentage of the Hospital's operating funds. As the table be-

low shows, original budget projections for fiscal year 1988 were that the Hospital would receive approximately \$1.67 million in federal Medicare and Medicaid funds. That amount is about 7.2 percent of the Hospital's total operating budget of \$23.1 million.

The Joint Commission on Accreditation of Hospitals accredited Larned State Hospital for a three-year period in 1985, and is due to conduct its next accreditation survey in the spring of 1988. The Commission reviews staffing as part of its survey.

**Larned State Hospital  
Projected Federal Reimbursement and Loss of Revenue  
For Fiscal Year 1988 (a)**

<u>Federal Reimbursement Program</u>	<u>Original Budget Projection</u>	<u>Revised Estimate</u>	<u>Loss of Revenue</u>
Medicare Part A	\$412,585	\$185,720	\$226,865
Medicare Part B(b)	68,937	92,960	(24,023)
Medicaid	<u>1,186,504</u>	<u>715,032</u>	<u>471,472</u>
Total	\$1,668,026	\$993,712	\$674,314

(a) This table shows the amount of federal reimbursement Larned State Hospital expected to obtain under full certification, the revised estimate of the amount of reimbursement expected since all but four units were decertified, and the difference. The revised estimates are based on the first four months of the fiscal year.

(b) Medicare Part B is unaffected by certification. The revised estimate is higher than the budget projection because reimbursement was higher than projected during the first four months of fiscal year 1988.

The Health Care Financing Administration surveys each hospital annually. Procedures for handling those surveys have changed substantially over the past several years. Under current procedures, the federal surveys are conducted either by staff of the Health Care Financing Administration (which has its headquarters in Baltimore) or by other individuals under contract with that office. Those surveys are then reviewed by the regional office of the Health Care Financing Administration in Kansas City, which is responsible for actually certifying the hospitals in Kansas.

The Kansas Department of Health and Environment assists federal surveyors in scheduling and conducting the surveys and receives a copy of all reports, but it no longer has responsibility for notifying the psychiatric hospitals of their deficiencies or monitoring their corrective actions. During the last calendar year, the Health Care Financing Administration transferred those responsibilities to its regional offices.

**Federal regulations require adequate numbers of qualified professional and support staff to evaluate patients, formulate written individual treatment plans, provide active treatment, and engage in discharge planning.** Federal surveyors rely on the Joint Commission's evaluation in many areas, but they conduct their own detailed review of several special regulatory provisions that apply to psychiatric hospitals. Those special provisions include medical records and staffing requirements.

The specific standards for nursing services require psychiatric hospitals to have a qualified director of psychiatric nursing services and adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide nursing care necessary under each patient's active treatment program and to maintain progress

### **Certification Process and Requirements for Mental Health Hospitals**

The Health Care Financing Administration of the federal Department of Health and Human Services is responsible for certifying mental health hospitals for participation in the Medicare and Medicaid programs. Those requirements are somewhat less specific than the Medicaid requirements that apply to the State's mental retardation hospitals, and the certification process works differently as well.

**Process** The State's mental retardation hospitals are surveyed annually by the Department of Health and Environment, under contract with the Health Care Financing Administration, to assess compliance with Medicaid staffing requirements for intermediate care facilities for the mentally retarded. The State's mental health hospitals are surveyed annually as well. Up until 1985, those surveys were performed by the National Institute of Mental Health under contract with the Health Care Financing Administration. In 1985, that contractual arrangement was terminated because of staff reductions within the Department of Health and Human Services. As a result, the Health Care Financing Administration became responsible for handling its own surveys, either with in-house or contract staff. Although the Health Care Financing Administration has continued to use many of the same consultants that were used by the National Institute, congressional concern was expressed in the U. S. Senate Report on Patient Abuse in State MH/MR Facilities in April, 1985, that the change would jeopardize the integrity of the survey process.

An additional change was made in the survey process in 1987. Up until last year, the reports prepared by Health Care Financing Administration surveyors for mental health hospitals in Kansas were sent to the Department of Health and Environment. The Department then notified the hospitals of the survey results, cited them for any resulting deficiencies, and received the plan of correction. In 1987, those responsibilities were removed from the Department and placed with the Health Care Financing Administration's regional office in Kansas City.

**Requirements** Medicaid requirements for State mental retardation hospitals provide minimum staffing ratios, but Medicare requirements for State mental health hospitals do not. The Senate report also noted underlying problems with the vagueness of the Social Security Act (Medicare) provisions determining the criteria for participation by psychiatric hospitals. Although the legislation mandates "active treatment" be provided, it does not define what constitutes "active treatment". In addition, the report states, "with no legislative or regulatory statement of the methods by which to accomplish active treatment or the goals of such treatment, assessments of whether sufficient qualified staff and adequate medical records exist to carry out active treatment become a subjective decision." Department and Hospital officials and others the auditors interviewed indicated that the Senate report appears to have contributed to stricter enforcement of the criteria for participation by psychiatric hospitals, but it has not resulted in clarification of those criteria.

notes on each patient. According to the Hospital's director of nursing, there are certain nursing requirements that are understood: primarily assessing patients' needs, planning for their care, implementing their treatment plans, recording care and progress, and evaluating services. The Hospital's staffing pattern must ensure the availability of a registered professional nurse 24 hours each day. According to the director of nursing, care planning and initial assessments do not necessarily occur during the day. When patients are admitted at night, they receive their initial assessment at night.

Department and federal officials the auditors interviewed indicated that federal Medicare evaluations of psychiatric hospitals' compliance with the staffing requirements for nurses rely heavily on the surveyors' judgment.

The Health Care Financing Administration does not provide specific ratios of staff to patients or other guidelines for computing the required numbers of staff. Surveyors are expected to evaluate the care patients are receiving and the documentation that is being provided by nursing staff to determine whether the number of staff is adequate. According to those individuals, this means that different surveyors may apply different standards, depending on their own professional judgment.

#### **Larned State Hospital Is the State's Largest Psychiatric Facility**

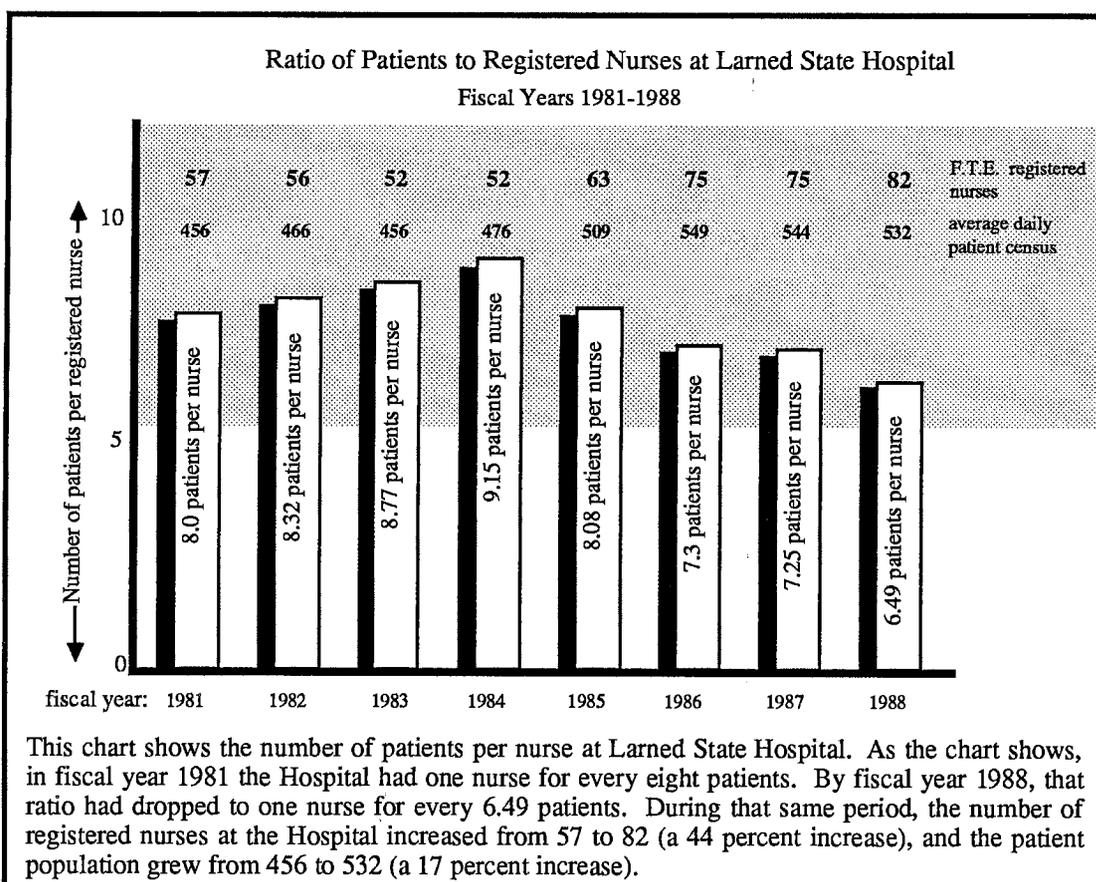
Larned State Hospital is the largest of Kansas' four State psychiatric hospitals. It provides treatment for mentally ill adults, adolescents and children, and juvenile offenders. The Hospital is located about three miles west of Larned in Pawnee County. It is the only State mental hospital in western Kansas, and accepts psychiatric admissions from 51 counties in the western part of the State. In addition, the Security Hospital (considered part of Larned State Hospital but using separate facilities and staff) accepts both patients transferred from State correctional institutions and from the courts of criminal jurisdiction. It also houses violent psychiatric patients transferred from other State hospitals who are civilly committed. The Youth Center at Larned is also associated with the Hospital, but is not generally considered to be a medical/ psychiatric facility.

Larned State Hospital, including the Security Hospital and Youth Center, has a bed capacity of 548, and its average daily census in fiscal year 1987 was 544. Of those beds, about half are located in the Security Hospital. Its total expenditures in fiscal year 1987 were \$22.8 million. According to Hospital budget documents, from fiscal years 1977 through 1986, the average daily census increased from 418 patients to 549, a 31 percent increase. In the same period, the number of authorized staff positions increased from 791.5 to 874, a 10 percent rise.

#### **In the Past, Larned State Hospital Had Been Able To Correct the Staffing Deficiencies It Was Cited For Without Losing Its Medicaid Certification**

The auditors reviewed all the reports and related correspondence from federal and Joint Commission surveys of Larned State Hospital back to 1984 to determine what staffing deficiencies had been identified, and how they had been corrected. Their review showed that :

- In 1984 federal surveyors cited the Hospital for not meeting the staffing requirements due to a lack of professional nursing personnel.

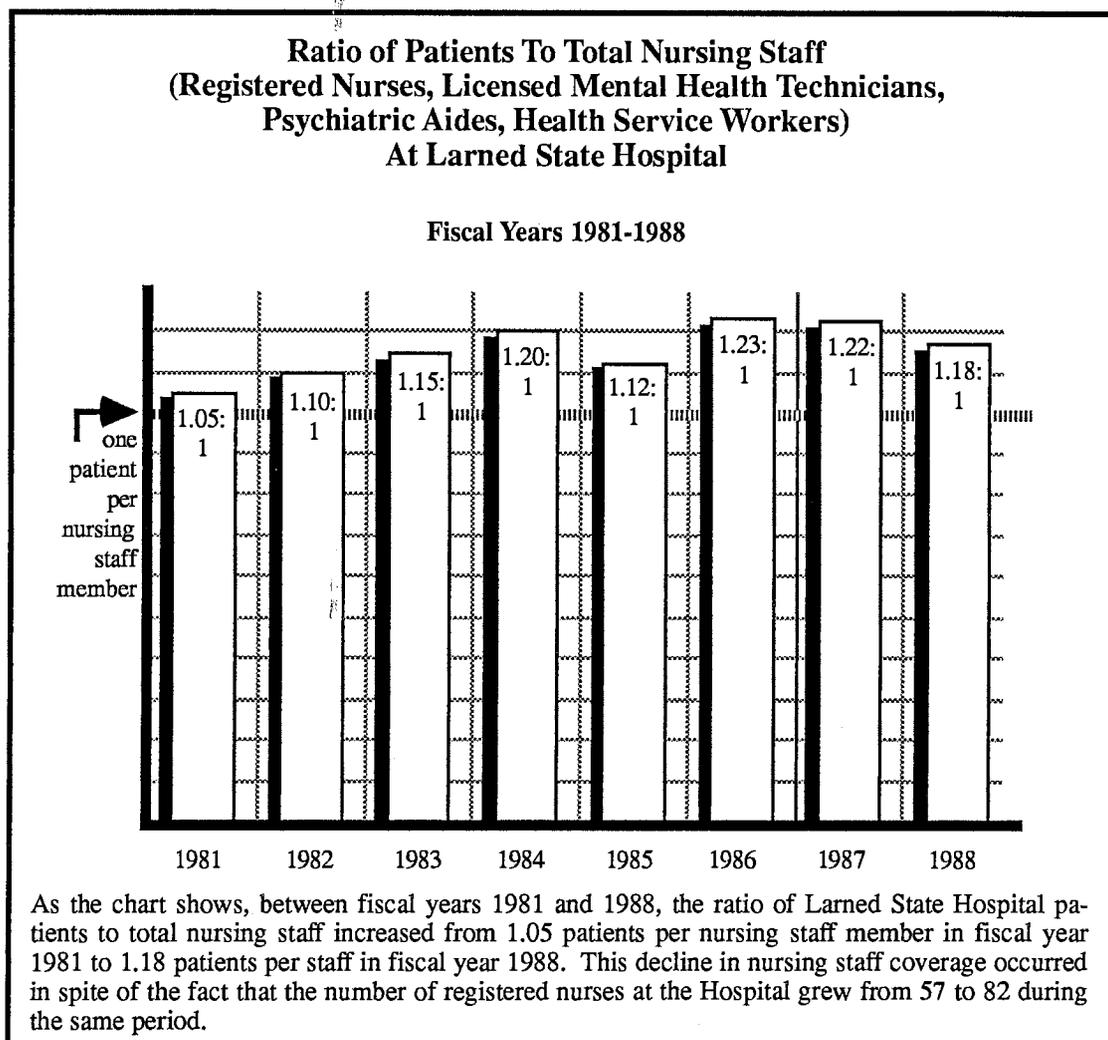


- In 1985 the Joint Commission cited the Hospital for needing additional psychiatric nurses and registered nurses.
- In 1985 federal surveyors noted that professional nurse staffing had improved to “marginally adequate” and should improve further when additional approved positions were filled.
- In 1986 federal surveyors cited the Hospital for not having sufficient psychiatric staff. They also suggested the Hospital add more supervisory registered nurse staff positions, reorganize some nursing schedules, and relieve nurses of some non-nursing duties.

Although the Hospital avoided decertification in recent years, it had not obtained as many additional nurses as Hospital officials thought were needed to remain in compliance with federal standards. The auditors’ review of budget materials and correspondence and interviews with Hospital administrative staff showed that, in response to the deficiencies noted above, the Hospital requested 13 additional registered nurses in its preliminary budget requests for the 1986 and 1987 fiscal years. All 13 positions were included in both the Department’s budget request and the Governor’s budget for each year. Larned State Hospital did not receive the requested

positions in either year, although it did receive authorization to reclassify 17 licensed mental health technician positions to provide an increase of 12 registered nurses in 1986. The Hospital had also asked for 14 additional registered nurses in its preliminary budget request for the 1988 fiscal year, and the Department had supported seven of those for the final budget.

Although it did not receive the requested number of registered nurse positions, the Hospital had been able to take sufficient corrective actions to remain certified for participation in the Medicare and Medicaid programs. Those corrective actions included adjusting schedules, reassigning staff, hiring individuals with different skills or expertise, and providing training. As the accompanying illustrations show, the Hospital's ratio of registered nurses to patients increased somewhat between fiscal years 1981 and 1988. However, that increase in registered nurse staffing was accompanied by a decrease in total nursing staff coverage. Appendix A provides more complete information about the number of registered nurses the Hospital had and requested for fiscal years 1981 through 1988.



## **What Was the Chronology of Events That Led to the Current Situation at Larned State Hospital?**

To answer this question, the auditors reviewed hospital survey reports and correspondence, and interviewed officials of the Hospital, the Department of Social and Rehabilitation Services and Health and Environment, and the federal Health Care Financing Administration. They found that following a March 1987 federal survey, Larned State Hospital was notified that its shortage of nurses could lead to decertification within 90 days. After a second survey in August 1987, Health Care Financing Administration officials concluded that no significant improvement had been made.

### **A Department Review Conducted in June 1987 Had a Different Opinion of Larned State Hospital Nursing**

In June 1987, a team from the Adult Care Home Program of the Department of Social and Rehabilitation Services conducted a federally mandated annual review of the care given to each Medicaid recipient at Larned State Hospital. The review included a check of medical records, social work, and other hospital functions, including nursing services. No general deficiencies were cited in the review. Following are quoted excerpts from the report:

- Nursing care appeared to be excellent as evidenced by observation and documentation.
- All 65 patients interviewed and reviewed were receiving active treatment.
- All patients appeared clean and were appropriately dressed...the few incontinent patients observed were kept clean and free of malodor.
- Patient records...were complete, well-organized and easy to follow. Patient information sheets were current and updated as needed. Close internal monitoring was in evidence.

Although this review is not taken into account in the certification for Medicare, it does indicate that Department reviewers found Hospital nursing care to be generally satisfactory.

the review focused on the "outcome" of the nursing treatment. In other words, reviewers did not directly evaluate whether the Hospital had enough nurses, but rather looked to see whether the nursing function was being executed properly. Their conclusion was that it was not:

[The] ... number of professional registered nurses is insufficient to ensure that all active treatment measures concerning nursing care (assessment, development, implementation and evaluation) are available seven days a

Following notification that it would lose its certification, the Hospital shifted 13 nursing staff and obtained certification for a "distinct part" of the Hospital. Although reassigning staff enabled the Hospital to retain partial certification, it also resulted in significantly decreased staffing in the uncertified parts of the Hospital. Federal funds may be in jeopardy again if further changes in nurse staffing are not made. These findings are discussed in the following sections of this report.

### **Following a March 1987 Federal Survey, The Hospital Was Notified That Its Shortage of Nurses Could Lead To Decertification Within 90 Days**

In March 1987, federal reviewers from the Health Care Financing Administration arrived at Larned State Hospital to conduct an annual certification survey. At that time, the Hospital had 73 budgeted registered nurse positions, four of which were vacant. As described in the previous sections of this report, the nursing portion of the

week, 24 hours a day for all patients...In the two-week period [reviewed], there were 12 shifts...in which one RN (who served as both senior nurse and grounds supervisor) was responsible for two [to] three wards in at least two separate buildings. This meant that this nurse had a dual role as direct-care nurse plus grounds supervisor for 15 wards in eight different buildings.

According to Hospital officials, the federal surveyor told them at the exit conference following the review that the Hospital was out of compliance with the standard for nursing care. The surveyor said that the reason for the deficiency was that the nursing staff was not achieving the desired treatment outcomes, and that the root of the problem was too few nurses. He also said that the deficiency was substantial enough to make decertification within 90 days a real possibility if officials did not hire additional registered nurses. However, he refused to say how many new nurses were needed. Federal officials say that they resist prescribing exact numerical remedies in such cases because hospital programs, and the needs of patient populations, change from year to year. Such changes might invalidate a federally prescribed number. As a result, Hospital officials were forced to decide how many additional nurses were needed to achieve the results desired by the federal surveyor.

In Larned State Hospital's original budget request for fiscal year 1988, Hospital officials had requested 13 new registered nurses to improve staffing ratios in response to deficiencies noted in earlier federal surveys. The Division of Mental Health and Retardation Services and the Governor's budget had supported seven of those positions, noting that additional information about the Hospital's current needs would be available following the Health Care Financing Administration's survey in March 1987. Following that survey, the Hospital's director of nursing attempted to determine how many nurses were needed by using a patient assessment form to estimate how many hours of nursing time each patient required, based on his or her needs. The director decided that the Hospital required 44 new registered nurses to fully meet the Medicare requirements.

After discussions with Mental Health and Retardation Services officials in Topeka, and a review of the director's patient assessments, the Hospital administration determined that a request for 25 additional nurses would be more defensible and would still allow the Hospital to retain its certification. On March 10, Hospital officials provided Mental Health and Retardation Services with information about the cited deficiencies and the need for 25 additional registered nurses. They provided the same number to Legislative Research staff on April 14.

On April 23, the Governor requested a budget amendment to add seven registered nurses at Larned in fiscal year 1988. The report of the House Appropriations Subcommittee considering the Department's budget acknowledged the Hospital's request for 25 new nurses, but it also noted that the Governor's budget amendment had only requested seven. The Subcommittee also expressed concern over the number of professional nurses in supervisory positions, and suggested that staffing requirements for Larned might be an issue for omnibus consideration when more information was made available about possible shifts in staffing assignments and the number of new

### **Larned State Hospital Has Had Difficulty Recruiting Registered Nurses**

Larned State Hospital had managed to hire only four additional nurses by the time of its second survey in August, in spite of having received authorization to hire seven new ones, and in spite of having four existing vacancies. According to Hospital and Department officials, part of the problem is that the country in general has a shortage of nurses. A recent article in the *Wall Street Journal* reports that enrollments in registered nurse programs have declined steeply since 1981, and that for a variety of reasons no end is in sight.

Hospital officials report that it can be very difficult to persuade registered nurses to come to Larned, and to stay there. In fiscal year 1987, the Hospital had a turnover rate among nurses of 23 percent. According to the Department, many of the ones who left said that they were moving, going back to school, or changing careers.

The Hospital must compete with clinics, private hospitals, and other employers, many of whom can pay more and offer better benefits, and who recruit aggressively. For example, the *Journal* reports that Stormont-Vail Hospital in Topeka has offered a \$1,000 bonus for signing on as a registered nurse, with another \$1,000 bonus at the end of a year on the job.

The Department has investigated using private employment firms in an effort to recruit nurses. Seven firms contacted said either they were not interested in working with the Department, or that they could not guarantee that any nurses could be provided. One firm was contacted as far away as Greeley, Colorado. The service charges \$24 per hour for its nurses, plus mileage and living allowance. That service offered the Department only two nurses, one for about one week per month, and the other for a two-week placement.

In an internal memorandum, Department personnel staff said that "after learning what the agencies expect regarding housing, we believe our on-ground housing will not be satisfactory. [One of the agencies contacted] suggests that we contract with a local motel in order to provide accommodations. At this point, our office is exploring the fiscal impact involved."

nursing positions absolutely necessary for a reasonable plan of correction. The auditors found no indication that the issue was reconsidered, and no additional positions were authorized. Thus, the final result of the director of nursing's initial request for 44 additional registered nurses was that seven positions were authorized.

The Hospital submitted its plan of correction to the Health Care Financing Administration in April 1987. In that plan, Hospital officials said that they anticipated having the seven additional positions added to the agency budget effective June 18, and planned to have the new vacancies filled by July 24. In addition, officials instituted a reorganization plan that included reducing the number of unit coordinators from seven to five. The reduction allowed the assignment of two more senior registered nurses to evening and night supervisory coverage.

### **A Second Survey in August Concluded That the Hospital Had Made No Significant Improvement In Its Nursing Staff**

In August 1987, five months after the initial survey, the same federal surveyor returned to check on the Hospital's progress in correcting the deficiencies he had cited in March. At that time, the Hospital had managed to add only four new nurses to its payroll. According to Hospital officials, the surveyor was upset that the Hospital was employing only four more nurses than it had five months before. He reportedly said in effect that such a small increase did not reflect a serious effort on the part of the State to bring the Hospital into compliance with

federal standards. However, he conducted a second survey of the Hospital, reviewing patient charts, incident reports, and other records. He concluded that "[The] number of professional registered nurses (73), net gain of four since March 1987, is insufficient to assure that all active treatment measures concerning nursing care... are available seven days a week, 24 hours a day for all patients..."

The Hospital's director of nursing indicated she accompanied the federal surveyor on his revisit, watching for specific areas in which the surveyor thought the Hospital was deficient in nursing staff. During that time, the surveyor reportedly concurred with the use of the director's patient assessment system for determining the number of nurses needed. After the revisit was concluded, using that patient assessment methodology, the director revised her earlier estimate of the number of nurses needed to comply with federal standards. Instead of 44 registered nurses, she now estimated that 76.8 positions were required.

On September 24, 1987, the Hospital received a letter from the Health Care Financing Administration that said, "During the period August 27-28, 1987, HCFA psychiatric consultants revisited the Larned State Hospital to determine if sufficient corrections had been made to consider the Special Staff Requirements for Psychiatric Hospitals to now be met. The...revisit determined that little improvement had been made and that the Special Staff Requirements...remain out of compliance....Your Medicare provider agreement will be terminated at the close of October 30, 1987."

#### **Following Notification That It Would Lose Its Certification, Officials Took Steps To Bring Part of the Hospital Into Compliance**

Department of Social and Rehabilitation Services officials stated that they considered four responses to the threatened decertification:

- **Let the October 30 termination date and 30-day grace period expire, wait the mandatory 60 days, and reapply for certification.** This option was rejected, because without making substantial changes in the staffing at the Hospital, the chance of the Health Care Financing Administration granting a new certification survey, let alone renewing certification, was almost nil.
- **Immediately seek another resurvey.** This option was also rejected for the same reason. Federal policy is to perform only one resurvey without reasonable assurance that the deficiencies have been resolved. The Department could not provide that assurance without substantially increasing the number of nurses at the Hospital.
- **File an administrative appeal.** Pursuing an appeal was possible, but would have been of little immediate benefit to the State. Unlike appeal procedures for mental retardation hospitals, federal funds do not continue to flow while the appeal is pending. Further, the State's grounds for an appeal were not compelling: Hospital and Department officials essentially agreed with the surveyors that the Hospital needed more nurses.
- **Seek certification for a distinct part of the Hospital.** If the Hospital could adequately staff that part of the Hospital that generated the most federal revenue, and persuade the Health Care Financing Administration to certify just that part, the Hospital could minimize the loss of Medicare money. That was the course officials decided to follow.

On October 5, 1987, in correspondence with Mental Health and Retardation Services, Hospital officials detailed the plan:

The distinct part of the hospital that is proposed for Medicare certification includes Children's Unit (17 beds), Adolescent Unit (26 beds), Adult Individual Modification Unit (AIM) (24 beds), and Admission Unit (15 beds). Therefore, a total of 82 beds is proposed for participation. Other parts of the Hospital will not be proposed for certification.

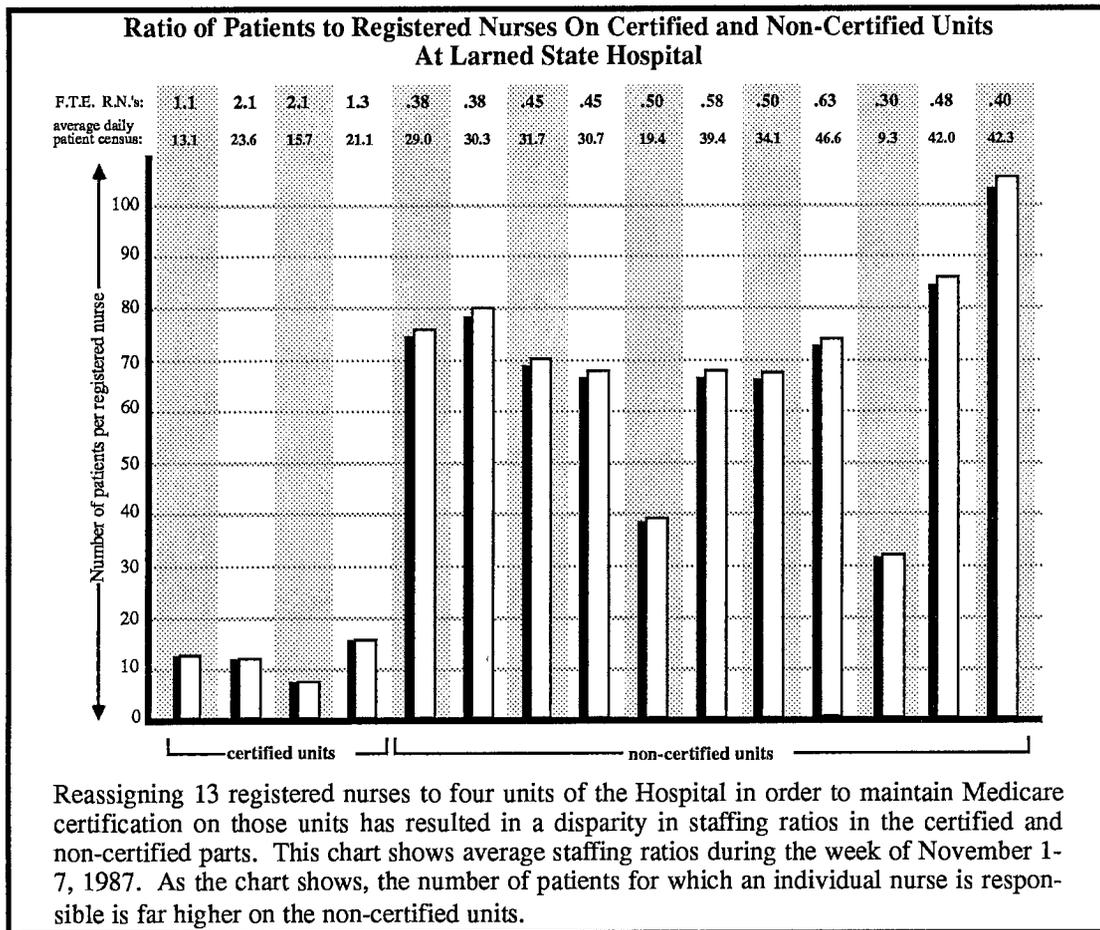
In all, 13 nurses were reassigned from other parts of the Hospital to the four units proposed for certification. Those 13 nurses, plus the other nurses already assigned to the four units, provided a nurse-to-patient ratio equivalent to adding 76.8 nurses to the Hospital as a whole.

Although usual federal policy is to grant only one revisit for a survey, a special revisit was granted after State officials proposed certification for only part of the Hospital. A different surveyor visited the institution on October 20 and made favorable comments to officials about the level of staffing in the four units. The Department was formally notified by federal officials that as of November 1, 1987, the four units would continue to be Medicare-certified.

#### **If Further Changes Are Not Made In the Staffing of Registered Nurses, Federal Funds May Be in Further Jeopardy**

Moving nurses into the certified part of the Hospital improved staffing there, but caused corresponding problems in the rest of the facility. The auditors toured two units of the Hospital with the enhanced staffing, and two units from which those extra staff were taken. The differences were readily apparent. Nurses the auditors interviewed in the certified units reported that they had more time to interact with the patients, to document their activities and chart patients' progress, and teach classes for patients in daily living skills and the like. On Pinel, one of the non-certified units, the auditors were told that no registered nurse was on duty that day, although the unit held 45 patients, seven over capacity. The auditors observed that most of the patients were sitting in the day room, watching television, sleeping, or simply staring into space. On the certified units visited, the auditors saw nurses interacting with patients and supervising activities. Far fewer patients appeared inactive.

This disparity in the level of care between the certified and non-certified parts of the Hospital may itself threaten the Hospital's eligibility for federal funds. In March 1988, the Hospital is scheduled for an accreditation review by the Joint Commission on Accreditation of Hospitals. Medicare and Medicaid regulations require that hospitals receiving federal funds have such accreditation. Larned State Hospital officials told the auditors that the Commission reviewers will not look favorably on the Hospital providing different levels of care in different units of the Hospital. They say that if those different levels of care are still present when the accreditation review is conducted in March, loss of the Hospital's accreditation is likely. Loss of accreditation, in turn, will automatically terminate the whole Hospital's participation in Medicare and Medicaid.



Several concerns must be addressed in determining what actions to take in order to correct the current situation. Those concerns include determining the actual amount and composition of staff that needs to be added, determining what standards the federal and Joint Commission surveyors will apply, and balancing the cost of adding staff with the additional reimbursement that can be obtained.

- **Determining the amount of nursing staff needed to meet the actual care needs of the patients.** If the patient assessment system that is in use at the Hospital is accurate, 77 additional nurses are needed to meet patients' needs. Based on the Health Care Financing Administration's certification of the four units that are staffed at the ratio that would result from adding 77 nurses facility-wide, officials assume that if they added that many nurses, surveyors would consider staffing to be adequate facility-wide, and the Hospital would be able to obtain total recertification. There may be some number between zero and 77 that surveyors would find sufficient, but there is no good way to determine what that number is.
- **Determining what qualifications are needed for the additional nursing staff.** Surveyors' demands for more registered nurses reflect a recent nationwide trend for registered nurses to perform more direct patient care. Hospital officials indicate federal surveyors will not accept licensed personnel as a sub-

stitute for registered nurses, and, in fact, some tasks, such as treatment team planning for patients and recording progress notes, are specifically required to be performed by registered staff. However, there is a nationwide nursing shortage and the Hospital is having difficulty in recruiting. As discussed in the box on page 10, it will be difficult and perhaps impossible for the Hospital to hire 77 additional registered nurses. Hospital officials indicated that many nursing tasks in a psychiatric hospital can be performed quite well by licensed mental health technicians and other support personnel under the supervision of a registered nurse. The Hospital does not currently use licensed practical nurses, who are more readily available than registered nurses. There may be some composition of additional staff other than 100 percent registered nurses that federal surveyors would accept, but again there is no good way to determine what that staffing composition would be.

- **Determining whether the Joint Commission on Accreditation will insist on viewing the Hospital as a whole.** Since most federal reimbursement is received for non-Security patients, one option may be to increase staffing and attempt to regain certification for only those parts of the Hospital. However, according to Hospital officials, the Joint Commission may not be willing to accredit distinct portions of the Hospital. The Joint Commission's policy is to review all of the programs within an accredited hospital that it has guidelines for; hospital administrators cannot pick and choose which programs to have accredited. Hospital officials indicated the Commission might be willing to consider the Hospital as two separate facilities if the Security and non-Security Hospitals were "administratively separate." The Security Hospital does have separate staff and facilities; it does not have its own superintendent and a separate budget, which the Commission would probably require. If the Commission requires the entire facility to meet the same staffing requirements, it may be necessary to significantly enhance staffing in the entire Hospital to retain its accreditation. If the Hospital is not accredited, it will not be certified for receipt of federal funds, either.
- **Balancing the cost of compliance with the amount of federal reimbursement that is recovered.** According to Hospital officials, the average annual compensation (salary and benefits) for a registered nurse is \$25,000. The auditors determined that adding 77 nurses would cost approximately \$1.9 million for fiscal year 1989. Federal reimbursement for the entire facility (assuming the same levels of reimbursement as in 1986) would offset that cost, yielding about \$1.7 million, plus an estimated \$380,000 in new reimbursements associated with the increase in nursing salaries. This option appears to be the maximum adjustment that would be required. Taking this option would generate about \$180,000 more in federal revenue than the new positions would cost. It would generate \$1.07 in revenue for every additional dollar spent for nursing salaries.

Other options could provide better cost-benefit ratios. For instance, if all of the non-Security units could be certified after adding 30 nurses, the Hospital

could probably recover about \$2.20 in reimbursement for every additional dollar spent for nursing salaries.

**Department officials say they plan to request 13 new registered nurse positions to replace the ones moved to the certified units, and 17 additional positions.** Adding these positions will enable the Hospital to restore staffing facility-wide to the level that was present before the 1987 Medicaid review, and to enrich staffing on all of the non-Security units to the level that is currently present on the certified units. Funding for the positions would need to be provided as a supplemental to Larned State Hospital's fiscal year 1988 budget. Hospital officials indicated they think it is necessary to have these new nurses hired and in place before the accreditation review in March because, although Commission reviewers have not examined levels of nurse staffing as critically as the federal reviewers have in the past, officials believe they may this time in light of the Hospital's Medicare decertification problems. Depending on how surveyors view the Hospital during their revisits during 1988, it may not be necessary to add additional staff — or as many registered nurses — to the Security Hospital.

### Conclusion

Federal regulations require adequate numbers of qualified professional and support staff to evaluate patients, formulate individual treatment plans, provide active treatment, and engage in discharge planning. Larned State Hospital has been cited for deficiencies in registered nurse staffing repeatedly. In the past, Larned had been able to correct the staffing deficiencies it was cited for without losing its Medicare certification, but it had not obtained as many additional nurses as Hospital officials thought were needed to remain in compliance with federal standards.

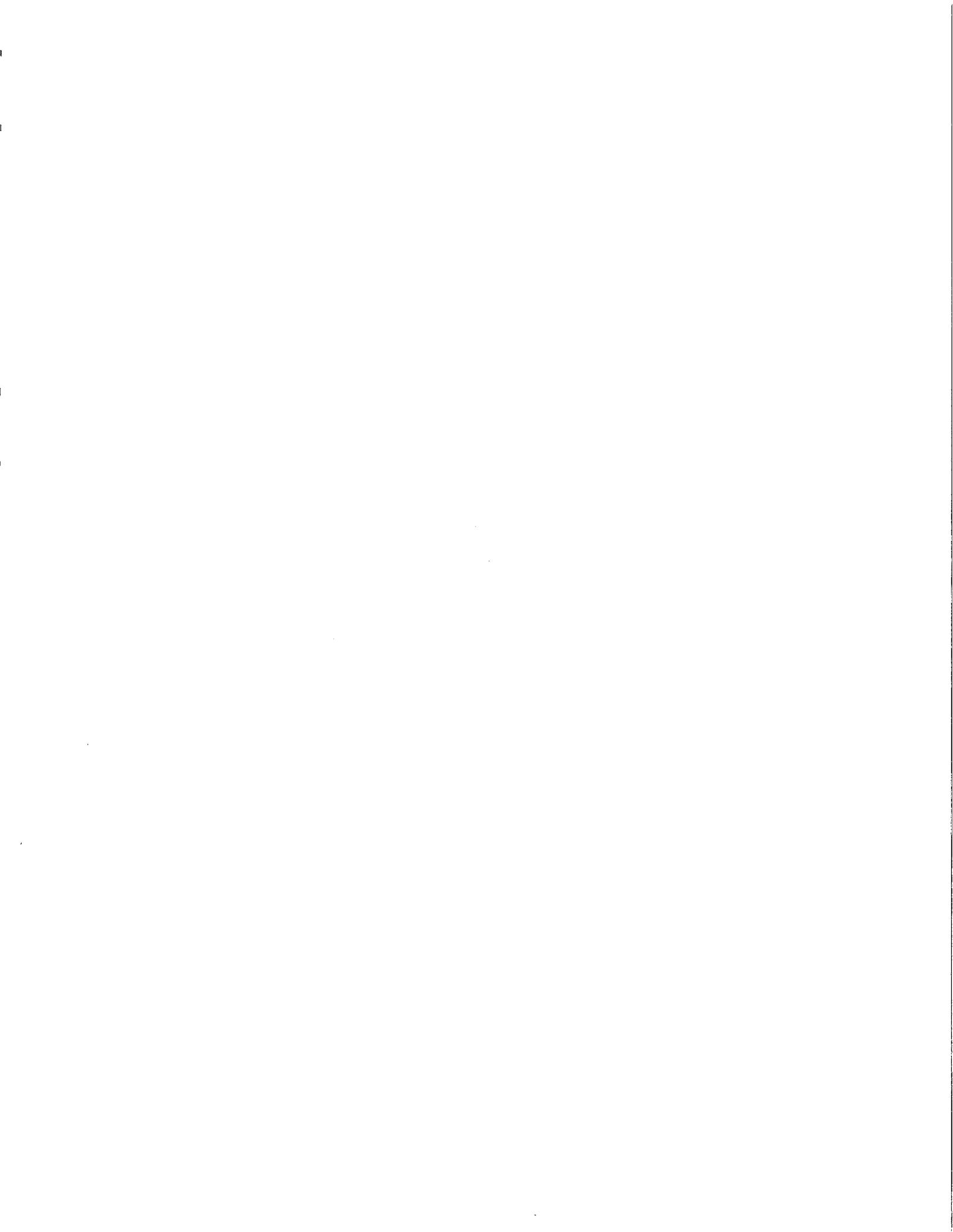
Following negative reviews in 1987, Hospital officials moved 13 nurses to bring four units of the Hospital into compliance and retain certification. By doing so, they were able to reduce the loss of federal funds to about \$674,000 for fiscal year 1988. If further changes are not made in the staffing of registered nurses, federal funds may be in further jeopardy. Health Care Financing Administration officials are unwilling to state how many registered nurses Larned State Hospital will need to add in order to meet their certification requirements, because those requirements are based on patient care outcomes. Although it is difficult to comply with such seemingly vague requirements, there appears to be no basis for contending that a deficiency in nursing staff does not exist. Department officials say they plan to request 13 new registered nurse positions to replace the ones moved to the certified units, and 17 additional positions.



## APPENDIX A

### Number of Registered Nursing Staff Requested and Approved For Larned State Hospital, Fiscal Years 1981-1988

For this fiscal year..	Larned's preliminary budget request asked for this many more RNs..	The final C-level budget request asked for this many more RNs....	A supplemental request was made for this many more RNs...	This is how many RNs Larned received that fiscal year..	This is how many RNs it then had, & the avg. # of patients to RNs..
1981	6	6	0	0	57 8.0 patients per RN
	<i>Reason for request: JCAH cited Larned as lacking sufficient nursing staff coverage.</i>				
1982	3	3	0	0	56 8.3 patients per RN
	<i>Reason for request: To correct deficiencies in nursing staff coverage cited by JCAH and HEW.</i>				<b>BUT</b> , Larned lost one budgeted RN position
1983	0	0	0	0	52 8.8 patients per RN
	<i>Reason for request: None requested.</i>				<b>BUT</b> , Larned lost 4 RN positions that year
1984	4	4	0	0	52 9.2 patients per RN
	<i>Reason for request: To enrich the adult psychiatric programs.</i>				
1985	6	6	0	4	63 8.1 patients per RN
	<i>Reason for request: 1982 accreditation approval contingent on adding nurses to the adult psychiatric unit to provide 24-hour supervision.</i>				<b>AND</b> , 7 more RN positions were added to staff the 80 new Correctional beds added at Larned
1986	13	13	0	0	75 7.3 patients per RN
	<i>Reason for request: To improve staff/patient ratios and address JCAH deficiency regarding lack of 24-hour nursing coverage.</i>				<b>BUT</b> , 12 RN positions were created when 17 LMHT positions were reclassified
1987	13	14	0	0	75 7.3 patients per RN
	<i>Reason for request: To address JCAH and HCFA deficiencies regarding lack of direct nursing care staff.</i>				
1988	14	7	25	7	82 6.5 patients per RN
	<i>Reason for request: HCFA review in March 1986 cited staffing deficiencies and made recommendations to add nurses to provide night, weekend, and holiday supervision, and a "float pool" for vacation and sick relief. MH&amp;RS supported 7 positions for the final budget. Following a HCFA survey in March 1987, Larned requested 25 positions to correct cited deficiencies. MH&amp;RS supported 7 of these positions.</i>				

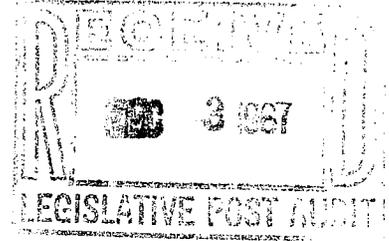


## **APPENDIX B**

### **Agency Response**

On November 23, 1987, a copy of the draft audit report was sent to the Department of Social and Rehabilitation Services for review and comment. The Department's written response is included in this appendix.





STATE OF KANSAS

MIKE HAYDEN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

December 2, 1987

MENTAL HEALTH AND  
RETARDATION SERVICES

DOCKING STATE OFFICE BUILDING  
TOPEKA, KANSAS 66612-1570  
(913) 296-3774  
KANS-A-N 561-3774

Mr. Meredith C. Williams  
Legislative Post Auditor  
Legislative Division of Post Audit  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285

Dear Mr. Williams:

I appreciate this opportunity to respond to the Legislative Post Audit Report entitled "Federal Staffing Requirements for Registered Nurses Applicable to Larned State Hospital".

The auditors found that decisions made with regard to the adequate number of nurses at Larned State Hospital were often based on vague federal standards and unspecific survey reports. In addition, while the Department of Social and Rehabilitation Services agrees that more nurses are needed at Larned State Hospital, the additional issue of the availability of nurses in the Larned area compounds the problems we face in providing adequate resources for a good care and treatment program.

The Department of SRS is committed to providing a good program of patient care. The report well explains the Department's pursuit of 30 additional nurse positions at Larned State Hospital in order to maintain accreditation from the Joint Commission on Accreditation of Hospitals (JCAH). The Department is stepping up its efforts to recruit nurses at all eight of the institutions for the mentally ill and mentally retarded, but certainly for Larned State Hospital which anticipates an inspection by JCAH in March of 1988. A number of other critical policy decisions must be reviewed; including such issues as dividing administration of Larned State Hospital and State Security Hospital, the value of maintaining JCAH accreditation and Medicare/Medicaid certification for the Larned program, as well as issues involving the availability of qualified employees.

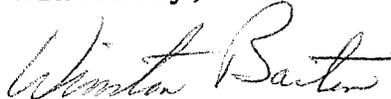
Vague federal standards and subjective surveys will continue to force decision making to be somewhat guess work. These conditions, coupled with an unwritten state policy that provides human resources sparingly and only to meet minimum standards, is problematic and makes every survey unreasonably critical. These conditions cause a flirtation with decertification that can be avoided only by either making the standards more specific or by a state policy that furnishes enough resources so that the programs are of a high enough quality to meet reasonable standards.

Mr. Williams  
Page Two  
December 2, 1987

The Kansas Department of Social and Rehabilitation Services is committed to providing a high quality of patient care, and will work with the Legislature and Governor to continue to establish long range plans to provide qualified staff and other resources necessary to provide the mental health services Kansas citizens deserve.

We greatly appreciate the work that you and your staff have done in reviewing the situation at Larned State Hospital.

Sincerely,



Winston Barton  
Secretary

WB:GDV:ees

cc: Dr. Gerald T. Hannah  
Dr. George Getz