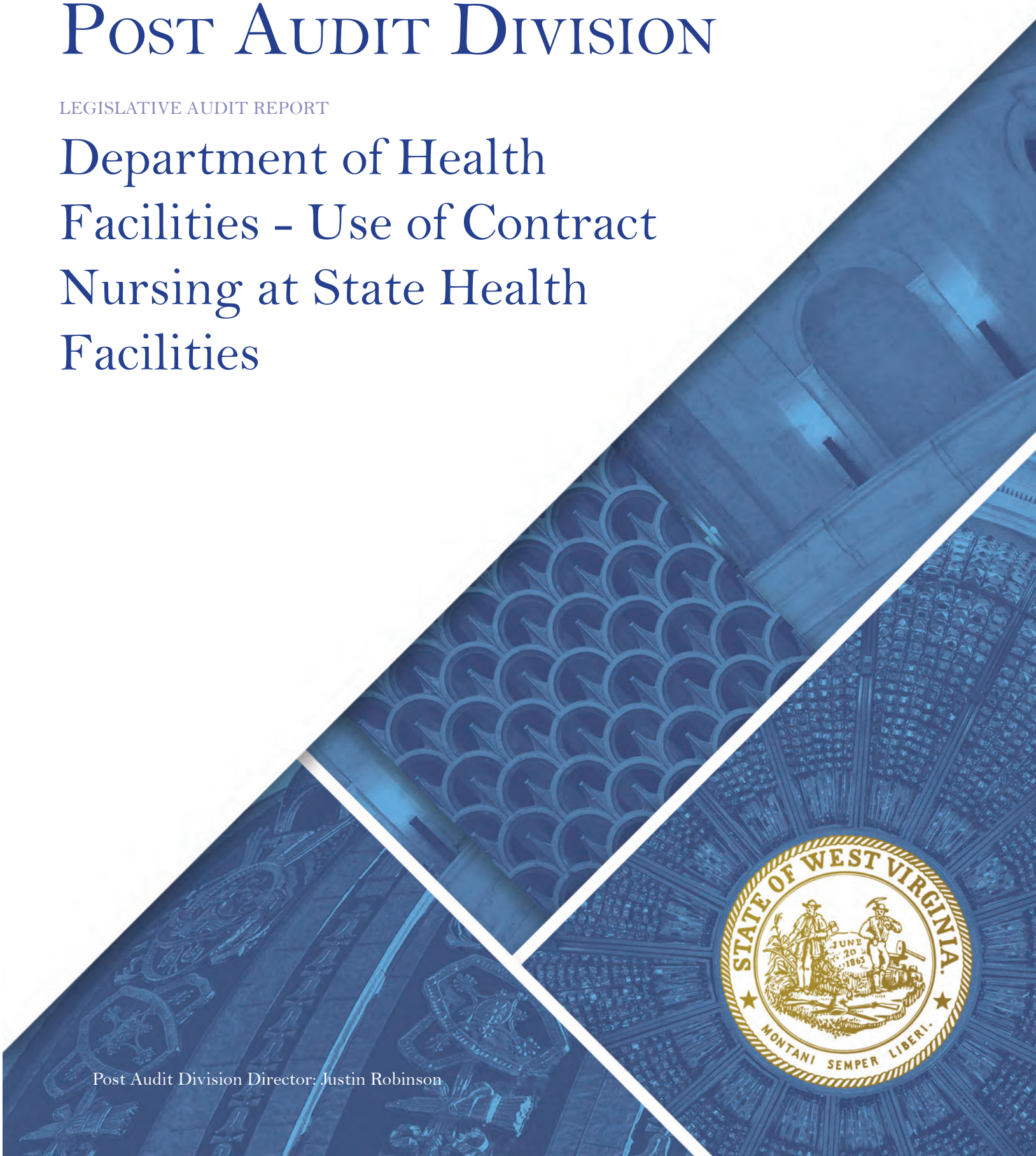
JOINT COMMITTEE ON GOVERNMENT AND FINANCE
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

Post Audit Division

LEGISLATIVE AUDIT REPORT

Department of Health Facilities - Use of Contract Nursing at State Health Facilities



Post Audit Division Director: Justin Robinson

GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS STATEMENT

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards **(GAGAS)**. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide 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.

POST AUDIT DIVISION
Justin Robinson, Director

JOINT COMMITTEE ON GOVERNMENT AND FINANCE
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

POST AUDIT DIVISION

POST AUDITS SUBCOMMITTEE
MEMBERS

SENATE MEMBERS	HOUSE MEMBERS
President, Craig Blair	Roger Hanshaw, *Speaker*
Jack Woodrum	Chris Phillips
Michael Woelfel	Kayla Young

Department of Health Facilities – Use of Contract Nursing at State Health Facilities

November 12, 2024

POST AUDIT DIVISION
STAFF CONTRIBUTORS

Justin Robinson.....Director
Mike Jones, CIA, CFE, CRMA....Audit Manager
Brianna Walker, CFE.....Senior Auditor
Ashley Edmonds.....Auditor
Nicholas Brown.....Auditor
Nathan Hamilton.....Referencer

This audit of the Department of Health and Human Resources/Department of Health Facilities (DHHR/DHF) was undertaken at the direction of the former Legislative Auditor after receiving inquiries from members of the Legislature. Many concerns were expressed concerning ambiguous information around expenditures, historical costs associated with contract nursing, budgetary information, and facility staffing. The objective of the audit was to analyze the historical trend of expenditures for contract nursing, assess the feasibility of raising salaries for nurses as a more cost-effective solution, and provide relevant information to assist members of the Legislature in making future decisions.

To address the concerns expressed this audit provides a snapshot of the current state-owned medical facilities, a brief synopsis of various state actions taken to alleviate the nursing shortage, historical expenditures associated with contract nursing, and the allocation of positions to each facility. Additionally, information obtained from other states related to contract nursing for the Legislature to consider in its decision-making process, including actions taken by other states to address their nursing shortage, are listed in **Appendix D**.

State-run medical facilities continue to rely on contracted labor to fill staffing shortages.

Background

To gain a general understanding of the state-run healthcare facilities in the state of West Virginia the Legislative Auditor obtained and analyzed the purpose of each facility, the licensed bed capacity, and fiscal year (FY) 2023 authorized full-time equivalent units (FTE). Currently, the state of West Virginia operates seven healthcare facilities: Hopemont Hospital, Lakin Hospital, John Manchin Sr. Health Care Center, Jackie Withrow Hospital, Welch Community Hospital, William R. Sharpe Jr. Hospital (Sharpe), and Mildred Mitchell-Bateman Hospital (Mitchell Bateman). Each facility is uniquely specialized to a specific patient-based need. Below is a brief summary of the general background for each hospital:

1) Hopemont Hospital is a long-term care nursing home providing non-skilled nursing care to Medicaid and private pay residents in Terra Alta, West Virginia. Hopemont has a licensed capacity of 98 beds and, as of FY2023, was authorized for 47.60 FTEs for clinical staff.
2) Lakin Hospital is a long-term care nursing home providing non-skilled nursing care to Medicaid and private pay residents in West Columbia, West Virginia. Lakin has a licensed capacity of 114 beds and, as of FY2023, was authorized for 99.30 FTEs for clinical staff.
3) John Manchin Sr. Health Care Center is a long-term care nursing home providing non-skilled nursing care to Medicaid and private pay residents in Fairmont, West Virginia. John Manchin has a licensed capacity of 41 beds and, as of FY2023, was authorized for 39.10 FTEs for clinical staff.
4) Jackie Withrow Hospital is a long-term care nursing home providing non-skilled nursing care to Medicaid and private pay residents in Beckley, West Virginia. Jackie Withrow has a licensed capacity of 199 beds (with 141 useable beds) and, as of FY2023, was authorized for 80.70 FTEs for clinical staff.
5) Welch Community Hospital is a full acute care hospital serving the general population experiencing needs ranging from intensive care to radiology to obstetrics and gynecology.

Welch has a licensed capacity of 114 beds[1] and, as of FY 2023, was authorized for 140.20 FTEs for clinical staff.

6) Sharpe Hospital is an adult care psychiatric facility serving adults and the geriatric population. William Sharpe has a licensed capacity of 200 beds and, as of FY 2023, was authorized for 229 FTEs for clinical staff.
7) Mitchell-Bateman is an in-patient acute care hospital serving primarily involuntarily hospitalized psychiatric individuals as well as those with behavioral diagnoses including substance abuse disorders. Mitchell-Bateman has a licensed capacity of 110 beds and, as of FY 2023, was authorized for 210 FTEs for clinical staff.

As of FY 2023, the seven state-run healthcare facilities have a total licensed capacity, which represents the number of total beds each facility is licensed to operate, of 876 beds and were authorized for 845.90 FTEs for clinical staff. These authorized clinical staff FTEs are allocated to three job titles at each of the facilities: Registered Nurse (RN), Licensed Practical Nurse (LPN), Health Service Worker/Certified Nurse Assistant[2] (HSW/CNA). Much like counterparts across the country, these state-run facilities have faced significant challenges in filling the authorized FTEs necessary to maintain patient care. Faced with an inability to fill all the vacant positions with employees of the hospital, these facilities have increasingly relied on contracted labor to supplement the workforce of health care facilities.

As with other services provided to the state by independent, third-party contractors, the persons performing the services are employees of the vendors, not the state. The DHF has agreements with third-party contract labor vendors for services, such as those provided by RNs, LPNs, HSWs, or CNAs. As of FY 2023 across the seven facilities, only 289 FTEs were filled with facility employees, while contracted labor accounted for 543.10 FTEs. This reliance on contracted labor to fill vacant positions cost the state approximately $59 million in FY 2023, which is a 59% increase since FY 2020. In comparison, during the same fiscal year non-contract labor was paid $20.5 million which has been relatively consistent as that is only a 5% decrease from fiscal year 2020. It should be noted that the DHF does not set the pay rates for or make payments directly to the contractor's staff. This differs from arrangements where employees are contracted directly by the state.

Actions taken to address nursing shortages

In addition to gaining an understanding of the seven facilities operated by the state, the Legislative Auditor reviewed some of the actions taken by entities within the state to address the national shortage to which West Virginia is not immune. There have been many endeavors throughout the years attempting to address the ongoing dilemma involving multiple entities including the West Virginia Legislature, West Virginia Higher Education Policy Commission (HEPC), the West Virginia Center for Nursing (Nursing Center), and the Governor's Office. While the national nursing shortage is a longstanding concern, and seemingly none of these efforts have been able to wholly solve the issue, the issue has gained heightened attention due to the impact of the COVID-19 Pandemic.

The West Virginia Legislature has taken many steps in the preceding decades to help address the ongoing nursing shortage through the passage of different bills and studies. For

[1] Due to the closure of the long-term care unit at Welch outside the audit period, the licensed capacity has been reduced to 55 beds.

[2] Long-term Care (LTC) facilities are legally required to hire only Certified Nursing Assistants (CNAs).

example, House Bill 2504 passed during the 2001 Legislative Session identified the growing shortage of qualified nursing personnel and the increasing reliance on contracted labor to supplement the workforce to maintain an adequate level of care for patients. The Legislature indicated the shortage of nurses over 20 years ago was attributable to a variety of factors including new employment options available to nurses, and budgetary pressures depressing salaries and benefits. As a result of the growing shortage of nurses the Legislature established the Nursing Shortage Study Commission.

In the most recent report from the Commission issued to the Joint Committee on Health during the 2023 Legislative Session, the Commission indicated the main issues contributing to the ever-growing nursing shortage in WV were generally related to education, recruitment, and retention. A specific example indicated in the report related to education included, if a student applies to a nursing program, at one higher education institution, and is turned down because that school's program is full, the student may not apply to another program, thus resulting in the loss of a potential nurse for the state. In addition to the education issue identified, the Commission indicated a recruitment issue due to the lack of partnership within the recruitment pipeline by both schools of nursing and inter-professional partners. For instance, 70% of public nursing schools did not have any sort of partnership with state-owned hospitals[3]. According to DHF the state facilities will partner with schools of nursing which are interested in doing clinical rotations at the facilities and that Mildred Mitchell has a partnership with Marshall University and Sharpe has a partnership with West Virginia University. Additionally, several of the facilities have interns from various colleges during the summer, as obtained through the state's summer intern program.

According to the Commission, retention of nurses is the main issue facing the nursing industry. A survey of WV licensed nurses who were planning on remaining in the industry, indicated they were only planning on staying in the state for a period of 1-5 years, and were leaving the state due to low wages. In addition to nurses leaving the state, the most recent RN licensure renewal data revealed there are about 10% (2,500) nurses, who reported travel assignments, which further depletes the available pool of available RNs, and further exacerbates the nursing shortage.

The Nursing Shortage Study Commission Report presented many recommendations for the contributing factors in the nursing shortage which include, but are not limited to:

- Funding the development and implementation of a centralized nursing program application to streamline applications to nursing programs and allow waitlists to be cleared through guiding students to other programs with available seats where the student is qualified for admission.
- Addressing the payment disparity of RNs and LPNs in comparison to the regional and national salaries.
- Creating a fund for nursing loan repayment program modeled after other successful programs.
- Appropriating funding for Junior and Senior Nurse Academies in all West Virginia counties.

[3] Partnering includes having a program in which the hospital supports faculty members salary in the nursing program, scholarships, providing a faculty member from staff to teach students, and providing students with externships that lead to employment.

In addition to the ongoing work of the Commission, in 2021 the Legislature commissioned a report titled *Supply and Demand of Health Care Professionals in West Virginia*. This report focused on the supply and demand of health care continuum industries within WV encompassing both the public and private sectors. The health care continuum industries were identified as: Offices of Mental Health Practitioners (except Physicians), Outpatient Mental Health and Substance Abuse Centers, Home Health Care Services, Ambulance Services, General Medical and Surgical Hospitals, Psychiatric and Substance Abuse Hospitals, Nursing Care Facilities (Skilled Nursing Facilities), Residential Mental Health and Substance Abuse Facilities, Continuing Care Retirement Communities and Assisted Living Facilities for the Elderly.

The supply and demand comparison of the health care continuum industries indicated that RNs, Home Health, and Personal Care Aides make up the majority of the 46 health care professions in the state identified within the report, with 16 professions not having sufficient supply to meet the job market demand. As it relates to the positions at the state facilities, RNs had a surplus at the time of the report, while conversely, LPNs, HSW/CNAs were all identified as having an insufficient supply for the market, with the biggest shortages of 6, 37, and 721, respectively. This correlates to the FY 2023 data available for the contracted labor at the state facilities, where the majority of the contracted FTEs were allocated to the HSW/CNA job title.

In addition to the actions taken by the Legislature, HEPC, the Nursing Center, and the Governor's Office have undertaken various initiatives to address the education and recruitment of individuals into the nursing profession to address the ongoing shortage of nurses. One of these is the West Virginia Nursing Center Academy pipeline program for kids starting in the 9th grade of high school which offers dual credits to get them ahead in their education. There is also the Governor's Nursing Workforce Initiative which provided $48 million in CARES Act funds in 2022 to aid in the expansion of nursing program enrollment. Then the Legislature provided $20 million in surplus funding to continue education initiatives started in the Governor's Nursing Workforce program for FY 2024.

Since a shortage of nurses is not a unique problem to West Virginia, the Legislative Auditor reviewed actions taken by other states. While West Virginia is not alone in attempting to address the nursing shortage, the issue has only continued to grow unabated despite the various responses implemented at the state level. Government entities across the country have implemented similar programs as West Virginia in their respective jurisdictions such as scholarship programs, loan and tax credit programs, and commissioning studies. The most utilized programs are scholarships that provide financial assistance to residents who are pursing nursing degrees. While scholarship programs are the most utilized as nearly every state in the U.S. has one, there are other initiatives, such as incentive programs, that offer professional development stipends, tax credits to those working in designated shortage areas, increased compensation for nurses acting as a preceptor to students, loan repayment programs, and loan forgiveness programs. Despite all of these actions, the national nursing shortage has continued to increase.

While there have been many actions taken by various stakeholders across several years to address the ongoing nursing shortage issue in West Virginia, the shortage continues to increase year over year leading to increased contract labor costs at the seven state health facilities. As indicated by the undertakings of the various stakeholders discussed above, there are a multitude of challenges facing the nursing industry, not only in WV, but across the nation. There is no singular item or policy decision that can provide a quick fix to this issue and given the plethora of programs implemented in individual states that have not slowed the pace of the nursing shortages within

their state, there may not be a state level policy action to solve the staffing issues at the state-owned health facilities.

Impact of the ongoing national nursing shortage on state health facilities

As discussed above, the national nursing shortage continues to grow. Despite this, the state health facilities must maintain appropriate staffing levels to accommodate the 876 licensed bed capacity, which ultimately results in filling vacant FTEs with contracted labor. The Legislative Auditor reviewed transactions from wvOASIS and determined that the reliance on contracted labor at the state health facilities has been growing at an ever-increasing rate, where what was once an expense of approximately $5.61 million in FY 2015 for contracted labor, has increased to an expense of approximately $59.24 million in FY 2023. In total, the seven state-owned health facilities have spent a total of approximately $284.2 million from FY 2015 through FY 2023 to supplement the facility staffing with contracted labor.

The total expenditures for contracted labor were paid out to a combination of thirty-three different contract labor vendors over the nine years, 28 of which were out-of-state vendors. Total expenses for contracted labor for 2015 through 2023 (expressed in millions) for each of the seven facilities are indicated in Table 1.

Table 1- Annual Expenditures for Contract Employees by Facility FY 2015- FY 2023
Amounts Rounded and Depicted in Millions

	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23
Hopemont Hospital	$0.37	$2.30	$2.34	$1.77	$1.64	$3.12	$4.13	$3.76	$3.84
Jackie Withrow Hospital	$0.00	$0.00	$0.02	$0.68	$1.44	$2.32	$2.02	$1.75	$1.96
J.M. Health Care Center	$0.16	$0.72	$0.79	$0.55	$0.99	$1.84	$2.22	$1.30	$2.75
Lakin Hospital	$0.00	$0.00	$0.16	$1.04	$1.60	$3.22	$4.12	$3.42	$3.43
M.M. Bateman Hospital	$2.21	$4.77	$4.79	$5.65	$4.88	$9.50	$8.09	$13.14	$13.45
Sharpe Hospital	$2.87	$7.35	$9.56	$8.32	$8.76	$17.99	$25.20	$29.84	$30.57
Welch Hospital	$0.00	$0.00	$0.32	$0.93	$1.48	$2.90	$2.89	$3.74	$3.26
Totals	$5.61	$15.1	$18.0	$18.93	$20.78	$40.88	$48.65	$57.0	$59.24

Source: wvOASIS

An analysis of the annual expenditures indicated that during the four-year period of FY 2016 to FY 2019, the total cost for contract labor increased approximately 37.3 percent. As would be expected due to the COVID-19 pandemic, there was a significant increase in contracted labor expenses beginning in FY 2020, where expenses for contracted labor increased 97 percent over FY 2019. The yearly expenditures continued to increase in FY 2021, FY 2022, and FY 2023 when

the cost for contracted labor peaked at approximately $59.24 million. Notably, the total cost for contract labor at the seven health facilities has not returned to pre-pandemic levels. Considering the upward trajectory of the cost associated with contracted labor, the 3.4 percent rate of inflation noted by the Bureau of Labor Statistics Consumer Price Index in April of 2024, and the increasing number of vacant FTEs at the facilities, it does not appear the cost of contract labor will ever return to pre-pandemic levels, and, assuming the facilities continue to rely on contracted labor, the cost will continue to increase year over year. Without accounting for inflationary increases, if there is similar future growth in expenditures from FY 2023 to FY 2026 as was experienced prior to the pandemic, the total expenditures in FY 2026 could be $81.4 million.

While the seven facilities continue to rely on contract labor to fill vacant FTE's and maintain operations, it does not appear that even with these supplements to the workforce all of the facilities are capable to operate at the licensed bed capacity (total beds facility is authorized to operate), which differs from the set bed capacity which is determined by the number of staff, patients, and patient needs. As of August 25th, 2023, only two of the hospitals, Sharpe and Mitchell Bateman, were operating at its licensed bed capacity. The remaining five facilities were operating 309 beds short of the total licensed bed capacity, with the greatest discrepancy between licensed capacity and the set bed capacity occurring at Jackie Withrow, which has a set bed capacity 145 less than the licensed capacity. A facility operating at a set bed capacity that is lower than the licensed bed capacity reduces the number of individuals that can be served at any one time at a given facility. The licensed bed capacity, set bed capacity, and the difference for each facility is summarized in Table 2.

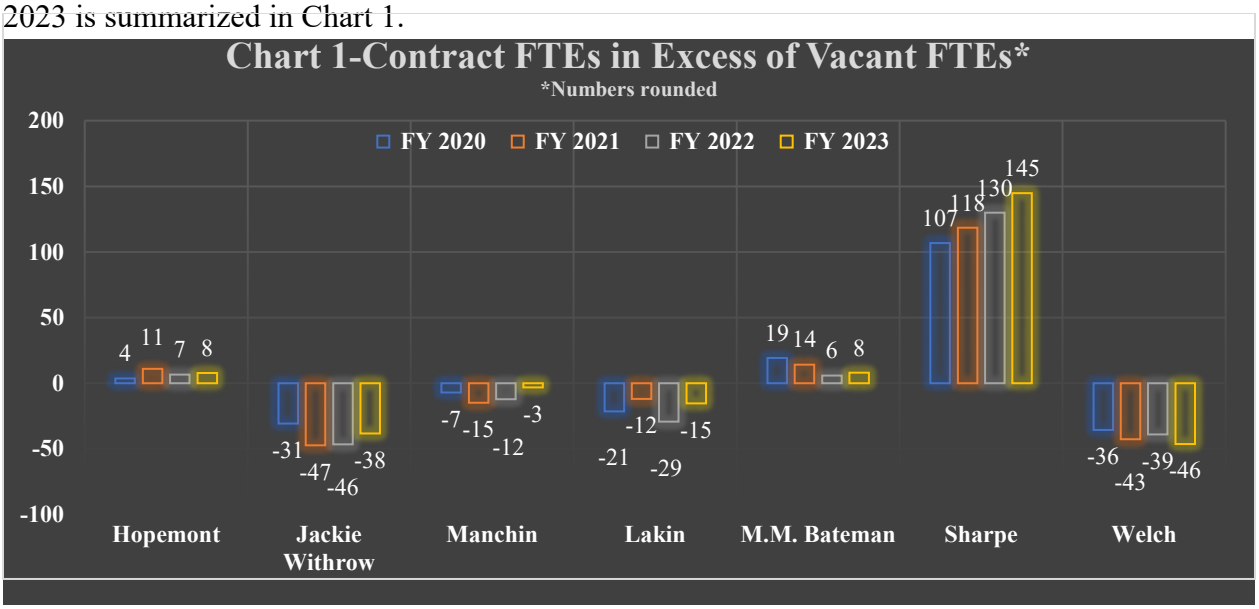
Table 2 - Bed Capacity-Licensed vs. Set by Facility*
**As of August 2023.*

Facility Name	Licensed Capacity	Set Capacity	Difference	Percentage of Licensed Capacity
Hopemont Hospital	98	52	46	53%
Lakin Hospital	114	60	54	53%
J.M. Health Care Center	41	36	5	88%
Jackie Withrow Hospital	199	54	145	27%
Welch Community Hospital	114	55	59	48%
Sharpe Hospital	200	200	0	100%
Mildred Mitchell-Bateman Hospital	110	110	0	100%
Totals	**876**	**567**	**309**	**65%**

Source: Department of Health & Human Resources

As indicated in the table above, both Sharpe and Mitchell Bateman were the only two facilities with a set bed capacity that equaled the licensed capacity of the facility. While it is a positive that these facilities can serve the maximum number of individuals that the facility can accommodate at one time, an analysis of the FTEs at each facility indicated that both of these facilities did so in FY 2023 by contracting for a number of FTEs that exceeded the number of vacant FTEs authorized for each facility. Only one other facility, Hopemont, exceeded the number of vacant FTEs with contract FTEs in FY 2023. Unlike the other two facilities, Hopemont was operating at 53% of its licensed capacity.

It was noted that all three of these facilities were the only facilities to utilize a number of contract FTEs that exceeded the number of authorized vacant FTEs from FY 2020 through FY 2023. Beginning in March 2020 the COVID-19 Pandemic also placed great stress on the global workforce due to the challenges the pandemic presetned in the workplace. During this time, the facilities had to increase staffing due to the high number of infected patients and staff, who were required by the CDC to remain off work for a period of 14 days when they tested positive. The national public health emergency did not officially cease until May 2023. Also of note was Sharpe Hospital contracted for more than double the number of FTEs it had vacant each of the four fiscal years, while also increasing the number of contracted FTEs year over year. The difference between contracted FTEs and vacant FTEs at each facility for FY 2020 through FY 2023 is summarized in Chart 1.



As indicated in Chart 1, three facilities contracted for FTEs that exceeded the number of vacant FTEs. The remaining four facilities did not obtain enough contract FTEs to fulfill the vacant FTEs the facilities had available. While the Manchin Health Care Facility was within a few FTEs of filing all vacant FTEs with contract labor in FY 2023, both Jackie Withrow and Welch Hospital were at a deficit of at least 38 FTEs, which filled less than 40 percent of the vacant FTEs at each facility. As previously indicated in Table 2 both facilities had the lowest utilization of licensed bed capacity at 27 percent for Jackie Withrow, and 48 percent for Welch Hospital; therefore, it appears an inability to fill vacant FTEs had a direct impact on the number of beds available. According to DHHR/DHF, Welch Hospital's long-term care that was a part of the hospital closed in 2023 and all patients were transferred to other area facilities. Although the patients have all been transferred out, the licensed long-term care beds remain with the facility but are not being utilized at this time.

Although four of the facilities operated without a full complement of FTEs, the total costs incurred to supplement the workforce at these facilities still exceeded the total salaries for vacant FTEs at each facility. Based on the average salary of $34,974 provided by DHF for the audit period, in FY 2023, those four facilities spent approximately $3.6 million more for contract labor than the total amount that would have been spent if the vacant FTEs were filled. At the three facilities that exceeded the number of vacant FTEs, the total amount of expenditures for contract labor exceeded the amount that would have been spent if the vacant FTEs were filled by $44.3 million. Additionally, the composition of FTEs that were most populated by contract labor instead of a full-time permanent employee were primarily related to the HSW/CNA job title, which comprised

approximately 55% of all contracted FTEs at all seven facilities in FY 23. This resulted in an average cost per contract FTE from FY 2020 through FY 2023 of approximately $105,000 while the average actual salary was approximately $35,000 across all seven facilities.

This is a notable distinction as it would appear that the HSW/CNA job title would have the largest pool of potential employees as it has the lowest barriers to employment in comparison to that of the RN and LPN titles when considering the education, certification, and experience requirements. However, as it was stated previously, HSWs/CNAs have an insufficient supply for the market which only furthers the state facilities' inability to hire permanent employees for the vacancies. This suggests the average salary cost per contract FTEs and vacant FTEs is driven by the combination of the low HSW/CNA salary and the large proportion of contract FTEs this classification encompasses.

Considering the large difference between the salaries available to full-time state employees versus the salaries of contract labor whether it is a HSW or a RN this disparity hindered the state facilities ability to attract and retain full-time state employees. For all of these positions under DHHR/DHF, the State Personnel Board established a special hiring rate for the positions within each facility. These special rates became the minimum amount that could be offered for these positions and no employee could be hired at a salary less than the amount established by the special rate. The auditor found that in some cases the special hiring rate was a lower amount than the maximum in the pay range for the job listing. When the special rate was lower than the maximum amount in the pay range DHHR/DHF could not offer more than the special rate established by the State Personnel Board.

Every position the Legislative Auditor analyzed during this audit has a special hiring rate for at least one of the facilities. Based on the knowledge that a person cannot be hired into these positions at an amount less than that special hiring rate the Legislative Auditor sought to determine what the cost would be to hire every position filled with a contract FTE at the maximum special hiring rate per position. The Legislative Auditor determined hiring the 543.10 contract FTEs at their respective positions highest special rate would cost approximately $24 million. This is lower than both the $59.24 million spent on contract labor in fiscal year 2023 and the four-year average of $51.43 million spent on contract labor. If the money that was currently being spent towards contract labor was taken and used to adjust wages so that the wages would be somewhat comparable with contract wages, which have increased every year, it would be more cost effective and beneficial for the attraction and retention of permanent full-time employees. According to DHF, it has taken steps to address this issue since receiving the exemption from DOP by working with a consultant on a market study to set the pay levels and ranges for its positions. Additionally, it stated another market study would be conducted in fiscal year 2026, and at least every two years thereafter to monitor the market competitiveness of its pay scales.

Questionable historical budgeting practices

The Legislative Auditor attempted to analyze the budgeting practices related to the contract nursing expenditures; however, the Legislative Auditor found that the budgeting for state-run healthcare facilities has considerable room for improvement. During the audit period, there was not a line item in the State Budget for contract nursing expenditures. Since there was not a line item dedicated to contract nursing, dollar amounts used for contract labor was accounted for in the line item dedicated to institutional facilities and operations. This broad expenditure category

placed great discretion with DHHR/DHF as to the amount of funds to expend on contract nursing, while also reducing public transparency.

The Legislature has already taken steps that it hopes will increase the accountability of expenditures and provide more transparency in the financial operations at the state-owned health facilities with passage of House Bill 2006 during the 2023 Legislative session. House Bill 2006 reorganized DHHR/DHF into three separate entities, the Department of Human Services, the Department of Health, and the Department of Health Facilities. This fundamental organizational change has already resulted in a significant change from the prior budgetary practices at DHHR to the new budgetary practices at DHF. Beginning with the FY 2024 budget the seven facilities have individual funds with line items dedicated to contract nursing, among other specific line items. It appears that this modification will lead to greater transparency and accountability of the expenditures at the state-owned health facilities.

Lengthy hiring processes

The Legislative Auditor reviewed the hiring process that was in place prior to the passage of House Bill 2006, and according to information provided by the Division of Personnel (DOP), from the time a vacancy was created to when a personnel transaction was complete an average of 688.76 days, or approximately 23 months, elapsed from start to completion. Historically, hiring an individual to fill a vacant position at the facilities occurred via a process involving the DOP, which could potentially include many steps and interagency communication dependent on the salary at which the person is to be hired. If an employee was hired at a salary in excess of $70,000 several people across multiple offices were involved in the process, including DHHR/DHF, DOP, the State Auditor's Office (SAO), the State Budget Office (SBO), and the Governor's office. While DOP has taken steps through the utilization of NEOGOV – an auto-screening program for the review of applications – to streamline the recruitment and hiring process, the overall hiring process was still seemingly complex and time-consuming. See **Appendix E** for a flow chart illustrating the entire hiring process as it was under DOP, and the current hiring process as indicated by DHF since receiving the exemption from DOP.

The DOP is statutorily required to post jobs for a minimum number of days both internally (10 days) and externally (15 days) before the posting can be closed. If an agency wants to increase the length of time a job vacancy is posted, it can be requested. Some positions such as the Nursing positions were placed on a continuous announcement because they are classified as critical need positions. This means that the DOP would consistently receive applications for Nurses 1-4, LPNs, Nurse Practitioners, and Nursing Directors 1 & 2 and would be able to regularly provide DHHR/DHHR/DOF with a register of potential new hires. Along with the passage of House Bill 2006, the Legislature also passed Senate Bill 273 during the 2023 Legislative session which, among other things, exempted DHHR/DHF from the DOP hiring process. According to DHF, the Office of Shared Administration (OSA) system, was rolled out because of Senate Bill 273 on January 1, 2024, with a temporary posting process using the "DHHR" website as well as websites such as Indeed to capture candidates. This system is separate from the DOP system and was built by the internal classification and compensation team, OHRM leadership, in conjunction with an independent consultant. The OSA accepted and reviewed applications for all job titles, including critical nursing roles, throughout the entire transition. On July 1, 2024, the transition was completed and NEOGOV was implemented. As such, DHF hosts continuous postings for critical roles, such as the nursing series. To increase the speed and efficiency of the hiring process, OSA has reduced the number of days a position must be posted from the ten days required under DOP

to seven days, as well as combining the internal and external postings so there is a "one stop shop" for both populations of applicants. Lastly, OSA has continued to offer appointment incentives for nursing roles and has expanded the classifications to include the CNA title, in an effort to attract candidates and ultimately reduce reliance on contract workers.

While the historical hiring process through the DOP proved to be lengthy, the hiring process for contract labor was quite the opposite. According to DHHR/DHF, the timeframe to fill a vacant position with a contract employee takes between 11 and 23 days as the process to obtain a contract employee occurs entirely outside of the DOP hiring process. DHHR/DHF relies upon a third-party vendor to ensure the contract staff meet the position qualifications including licensure and certification requirements. The vendor is also responsible for conducting the same verifications required of employees at the facilities including: the background check with fingerprinting through WV CARES, which is the abuse record clearance from the Bureau for Social Services, and a drug and alcohol screening. The facility for which a contract employee will be working is only involved in the hiring process when the vendor has provided an application or resumé for review to double check the employee has the relevant education, experience, and proof of licensures and certifications.

Additionally, the Legislative Auditor reviewed the job titles of the vacant FTEs that have been filled using contract labor, and the process for assigning job titles. The Legislative Auditor found that some positions were grouped together under one job title that had similar job duties, while having slightly different prerequisites. The process for grouping and assigning job classifications involves the Department of Health Facilities and DOP both making a determination on if a position can be posted, how positions are classified and grouped, and salary ranges. After that determination then the DHHR/DHF Budget Office must review the information to ensure it is accurate, complete, and that the funding is available. After this process, the Secretary must give the final approval. Only after the Secretary gives the approval are the forms submitted to the Statewide Committee consisting of the SBO, DOP, and the Governor's Office for approval. Agencies can assign duties and responsibilities for positions, but then DOP reviews those duties and responsibilities and assigns a classification and compensation rate they deem appropriate.

This process has resulted in CNAs and HSWs being grouped together under the same job posting. While the responsibilities of a CNA and HSW may have many overlapping similarities, the distinction that a CNA is required to have a certification that would be a requirement above the minimum expected for a HSW should necessitate a separate job title and posting. Intermixing a job title that only requires a high school diploma (HSW) with a job title that requires a certification (CNA), may have contributed to the HSW/CNA category having the highest reliance on contract labor in FY 2023. In addition, the intermixed job titles required a year of experience which could only be substituted with a nursing certification. It is possible these practices had a chilling effect on applicants in a job classification that would appear to have the largest available talent pool to choose from when comparing the necessary educational requirements of the four positions.

Prior to the issuance of this report, DHF identified the incongruency of these job titles and with the authority granted under Senate Bill 273, it took steps to rectify the issue. According to DHF, as a direct result of the exemption granted from DOP, the newly created Office of Resource Management (OHRM) was created. Within the OHRM, the Classification and Compensation Unit administers the classification and compensation system. This unit ensures policies are current and in compliance, pay and classification are fair and equitable, approves position description forms,

conducts audits, reviews and approves salaries, transfers, promotions, increase requests, applications, and other transactions, conducts market studies, updates the classifications, pay, and policies, provides training and guidance, analyzes compensation and classification and makes recommendations, and performs many other duties related to classification and compensation. According to DHF, due to the work of OHRM these two classifications have been separated into two classifications so that those with a CNA certification are recruited and hired into a higher pay level. Additionally, the minimum qualifications were reviewed and modified to lessen the minimum qualifications for the health service workers, in an effort to recruit from a larger population of candidates.

Conclusion & Recommendations:

While the shortage of nurses that has continued to increase is not the fault of DHHR/DHF, it has relied ever increasingly on contract labor to fill vacant FTEs at its facilities. While this is a valid short-term response, the financial implications of supplanting vacant FTEs with contract labor at a significantly higher rate of pay is not sustainable. While there are many factors that impact the ability to acquire full time nursing staff, it appears that the salary disparity between the salaries available to full time employees versus the salaries received by contract labor is the greatest hinderance to hiring permanent employees. Additionally, the continued reliance on contract labor to fill FTEs at a much higher rate of salary would most likely further exacerbate the issue as more full-time employees convert themselves to contract labor to take advantage of the significantly higher salaries available. This cycle would most likely continue to accelerate as more contract labor replaces more permanent employees and the remaining full-time employees become disgruntled with their own situations.

It is possible DHF is able to reduce the reliance on contract labor by utilizing the tools now available to it through the implementation of Senate Bill 273 and House Bill 2504. DHF has already taken steps to reduce the length of time it requires to fill vacant positions, better align job titles with need and responsibilities, and better align its salary scales to the actual market rates now that it is able to operate outside of the DOP hiring process. While it is anticipated that these actions will have a positive impact on its ability to fill its vacant FTEs, based on the historical trends and future projections this is not a problem that is going away, and it cannot be solved by DHF alone. The continued cooperation of all stakeholders is paramount in addressing the growing expenditures related to contract nursing at state-owned facilities.

The Legislative Auditor offers the following recommendations:

1. The Legislature should consider if the continued operation of health facilities by the state is the in the best long-term interests of the state and address the issue as it sees fit.
2. The Department of Health Facilities should review its allocation of FTEs across the facilities to better ensure the largest proportion of operational beds.

WEST VIRGINIA LEGISLATIVE AUDITOR'S OFFICE
Post Audit Division

1900 Kanawha Blvd. East, Room W-329
Charleston, WV 25305-0610
(304) 347-4880

Justin Robinson
Director

September 5, 2024

Michael Caruso, Secretary
West Virginia Department of Health Facilities
One Davis Square, Suite 100 East
Charleston, West Virginia 25301

Dear Secretary Caruso,

This correspondence is to transmit a draft copy of the Post Audit Division's report on the use of contracted nursing services in West Virginia Department of Health Facilities. The report is not yet scheduled to be presented but we anticipate its release during the October interim meetings of the Legislature. When the meeting is scheduled, and we are aware of the date and time we will contact you to let you know the time, date, and location of the meeting. Currently, the October interims are scheduled for October 6-8, 2024. It is recommended that a representative of your agency be present at the meeting to respond to the report and answer any questions the committee members may have during or after the meeting.

If you would like to schedule an exit conference to discuss this draft report prior to its release, please contact Terri Stowers at 304-347-4880 or terri.stowers@wvlegislature.gov to schedule this meeting to occur prior to the end of September. In addition, if you would like to provide a written response to the report, we ask that this be provided no later than 12:00 pm on Wednesday, October 2, 2024, for it to be included in the final report. Thank you for your cooperation.

Sincerely,

Justin Robinson

Enclosure: Post Audit Draft Report – Contract Nursing Services in WV Department of Health Facilities

C: Brian Cassis, Director of Internal Control & Policy Development, WV DH/DHF/DHS

West Virginia
DEPARTMENT OF
Health Facilities

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH FACILITIES

Michael J. Caruso
Cabinet Secretary

October 31, 2024

Justin Robinson, Director
West Virginia Legislative Auditor's Office, Post Audit Division
1900 Kanawha Blvd. East, Room W-329
Charleston, WV 25305-0610

Director Robinson:

This is to acknowledge receipt of a draft copy of the Post Audit Division's report on the use of contracted nursing services in the West Virginia Department of Health Facilities (DHF). Upon reviewing the report, the DHF agrees with the issues and recommendations set forth by the West Virginia Legislative Auditor's Office, Post Audit Division. The DHF offers the following responses to the four recommendations:

1. **Recommendation 1: The Legislature should consider if the continued operation of state-owned health facilities is in the best long-term interests of the state and address the issue as it sees fit.**

   Response

   The DHF has unveiled a comprehensive initiative aimed at bolstering the quality of care for seniors across West Virginia through a strategic capital investment plan for the state's four long-term care facilities – Jackie Withrow Hospital in Beckley, John Manchin Sr. Health Care Center in Fairmont, Hopemont Hospital in Terra Alta, and Lakin Hospital in West Columbia.

   Under this initiative, the DHF is partnering with a vendor to develop a sustainable long-term care strategy, leveraging private capital to revitalize the state's nursing facilities. The plan includes the sale and license transfer of these facilities, ensuring uninterrupted care and operational continuity throughout the transition.

   The strategic investment plan will channel millions of dollars into facility modernization, upgrades, and expansions in each community. Efforts will also focus on retaining the dedicated staff already serving these communities.

2. **Recommendation 2: The Department of Health Facilities should consider splitting the HSW/CNA job title into separate categories.**

   Response

   Under the Office of Shared Administration (OSA) Pay Plan, the HSW and CNA classifications are separate titles, and the CNA classification has been assigned to a higher pay level due to the required certification. Additionally, in an effort to broaden the pool of candidates for the HSW classification, the minimum qualifications were reviewed and modified. The OSA's Classification and Compensation Unit is dedicated to monitoring recruitment and retention rates so they can recommend the implementation of additional retention incentives in the future, if necessary.

3. **Recommendation 3: The Department of Health Facilities should review the pay rates for RN, LPN, HSW/CNA, and consider adjusting these values to more align with the cost of corresponding positions for contract employees.**

   Response

The DHF notes that the Office of Shared Administration (OSA) Pay Plan has addressed the market rates for the referenced classifications. The new pay grades went into effect in January 2024. It should be noted though that not all employees opted for the OSA Plan, so the DHF does still have some facility employees under the DOP Plan. When the OSA Plan was implemented, they partnered with a reputable consultant to complete a market study, both locally and nationwide, to set the initial pay levels and ranges for all of the DHF's positions. It was determined that, due to the market for nursing and direct care positions, a separate pay schedule needed to be established. In the rollout of the OSA system in January 2024, direct care positions (such as nursing) were placed on their own pay schedule. In addition, the OSA Classification and Compensation team conducted a market study throughout 2024 to ensure the rates were competitive. While the market study is not finalized, it is evident that our rates meet and/or exceed the market for these roles. Another study will be conducted in fiscal year 2026 to ensure the rates remain in line.

4. **Recommendation 4: The Department of Health Facilities should review its allocation of FTEs across the facilities to better ensure the largest proportion of operational beds.**

   Response

   The Department of Health Facilities has been and continues to evaluate the FTE allocations for all facilities.

I thank the associates in the Post Audit Division for their time and effort and for the conclusions and recommendations reflected within the report. The DHF looks forward to the Post Audit Division's sustained input and support as we continue to confront the growing shortage of nurses throughout the state, while also attempting to lessen our reliance on contracted personnel to maintain a high level of patient care at the seven state-run healthcare facilities.

Sincerely,

Michael J. Caruso, Cabinet Secretary
West Virginia Department of Health Facilities

cc: Shevona R. Lusk, Chief Operating Officer
Department of Health Facilities

Angela Jacobs-Ferris, Chief Human Resources Officer
Office of Shared Administration

Tara L. Buckner, Chief Financial Officer
Office of Shared Administration

Appendix C

Objective, Scope, & Methodology

The Post Audit Division of the Office of the Legislative Auditor conducted this post audit as authorized by Chapter 4, Article 2, Section 5 of the West Virginia Code, as amended. The post audit was conducted in accordance with the standards applicable to performance audits contained in the 2018 generally accepted government auditing standards (GAGAS) issued by the Government Accountability Office. Those standards require the audit to be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The Legislative Auditor believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Legislative Auditor's Office reviews the statewide single audit and the DOH financial audit annually with regards to any issues related to the wvOASIS financial system. The Legislative Auditor's Office on a quarterly basis request and reviews any external and internal audits of the wvOASIS financial system. Through its numerous audits, the Legislative Auditor's Office is constantly testing the financial information contained in the wvOASIS financial system. In addition, the Legislative Auditor's Office has sought the professional opinion of the reliability of wvOASIS from the Joint Committee on Government and Finance's Fiscal Officer who, along with her staff, uses the wvOASIS system daily. Based upon these actions, along with the audit tests conducted on the audited agency, it is our professional judgement that information in the wvOASIS system is reliable for auditing purposes under the 2018 Yellow book. However, in no manner should this statement be construed as a statement that 100 percent of the information or calculations in the wvOASIS financial system is accurate.

Objective

The objectives of this audit were to analyze the historical trend of expenditures, as well as the estimated future expenditures resulting from DHHR contracting with third parties to fill workforce shortages in state owned hospitals. As well as, to determine if raising salaries for employees in state owned facilities would be a more cost-effective long-term solution. Additionally determine if there were initiatives nationwide to address nursing staff shortages.

Scope

The scope of this audit was comprised of expenditure and employment data for staff at state owned facilities from FY 2015 – FY 2022.

Methodology

Post Audit staff obtained and analyzed several sources of evidence related to contracting labor for State-run facilities. Audit staff obtained documentary evidence in the form of expenditure data from wvOASIS and records related to expenditures and hiring directly from Department of Health Facilities. Audit staff also obtained testimonial evidence through correspondence between Post Audit and the Higher Education Policy Commission, Department of Health Facilities, and Division of Personnel.

Audit staff analyzed the expenditure data related to contracting full-time contracted staff at State facilities and compared this to the expenditures for hiring the same number of full-time equivalent staff members at the facilities. This analysis was performed to determine if hiring full-time positions rather than contracting out these positions would be more cost effective than using the third-party contracting services that were currently in use.

Audit staff conducted an examination of legislative initiatives aimed at addressing the nursing shortage in West Virginia, beginning with the 2001 Legislative session passage of House Bill 2504. This bill identified an increasing shortage of nurses and an over-reliance on contracted labor within the state, leading to the formation of the Nursing Shortage Study Commission. The Commission has since actively monitored and reported on the nursing shortage in West Virginia.

Audit staff reviewed the Commission's 2023 report, presented to the Joint Committee on Health, which highlighted persistent challenges in recruiting and retaining clinical staff. Through further review auditors found that in response to these challenges, the Legislature passed House Bill 2006 and Senate Bill 273 in the 2023 session, restructuring the former Department of Health and Human Resources (DHHR) into three separate entities: the Department of Human Services, the Department of Health, and the Department of Health Facilities. Additionally, these bills provided exemptions from the Division of Personnel's employment requirements to improve the recruitment and retention of critical healthcare staff.

Audit staff examined measures other states have implemented to combat nursing shortages. Audit staff went through official government and higher education websites for each state in the country and found that nearly all U.S. states utilize scholarship programs to provide financial assistance to residents pursuing nursing degrees and many states have various other initiatives to address the issue within their jurisdiction.

Appendix D

Nursing Program Initiatives by State

State	Type of Program
Alabama	
	Leadership Initiative
	Scholarship Program
	Military Expedited Licensure
Alaska	
	Scholarship Program
	Loan Repayment and Incentive Program
	Scholarship Program
Arizona	
	Loan Repayment Program
	Nursing Incentive Program
	Collaborative Program
Arkansas	
	Loan Forgiveness Program
	Loan Repayment Program
	Workforce Initiative
California	
	Workforce Initiative
	Investment Initiative
	Education Foundation
Colorado	
	Loan Repayment Program
	Training Program
Connecticut	
	Scholarship Program
	Fellowship Program
	Licensure Modernization
Delaware	
	Loan Forgiveness Program
	Scholarship Program
	Federal Scholarship and Loan Repayment Program
Florida	
	Loan Forgiveness Program
	Nurse Residency Program
	Reimbursement Assistance
Georgia	
	Loan Forgiveness Program
	Loan Repayment Program

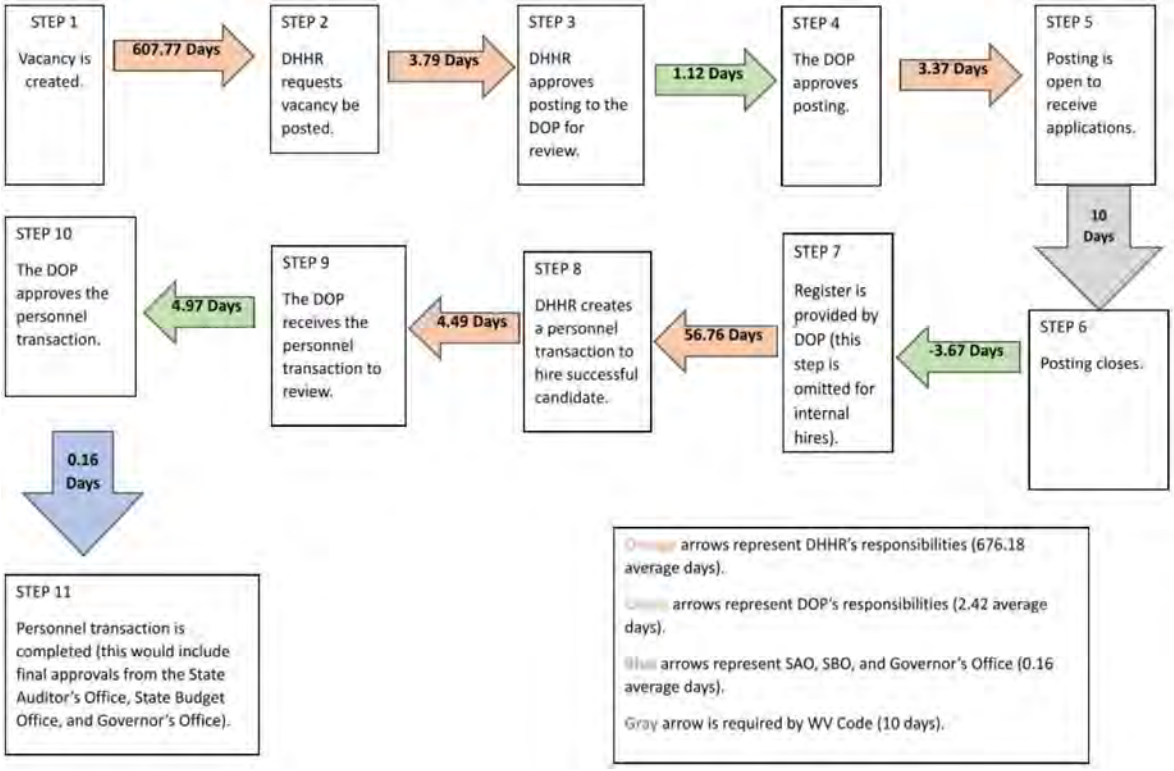
	Scholarship Program
Hawaii	
	Loan Repayment Program
	Opportunity Program
	Scholarship Program
Idaho	
	Loan Repayment Program
	Workforce Development Program
	Scholarship Program
Illinois	
	Loan Repayment Program
	Scholarship Program
	Workforce Development Program
Indiana	
	Loan Repayment Program
	Statewide Resource Center
	Scholarship Program
Iowa	
	Loan Forgiveness Program
	Nursing Education Grant
	Mental Health Assistance Program
Kansas	
	Loan Repayment Program
	Opportunity Zones Program
	Scholarship Program
Kentucky	
	Faculty Loan Program
	Loan Repayment Program
	Scholarship Program
Louisiana	
	Faculty Loan Program
	Loan Forgiveness Program
	Loan Repayment Program
Maine	
	Loan Repayment Program
	Loan Program
	Education Partnership
Maryland	
	Loan Repayment Program
	Grant Program

	Support Program
Massachusetts	
	Loan Repayment Program
	Workforce Development Program
Michigan	
	Loan Repayment Program
	Pipeline Initiative
	Scholarship Program
Minnesota	
	Loan Forgiveness Program
	Scholarship Program
	Collaborative Program
Mississippi	
	Forgivable Education Loans for Service
	Loan Forgiveness Program
	Loan Repayment Program
Missouri	
	Incentive Program
	Loan Repayment Program
	Student Loan Program
Montana	
	Incentive Program
	Workforce Development Program
	Nurse Education Grant
Nebraska	
	Loan Repayment Program
	Scholarship Program
	Scholarship Program
Nevada	
	Nurse Apprenticeship Program
	Federal Scholarship and Loan Repayment Program
	Loan Program
New Hampshire	
	State Loan Repayment Program
	Workforce Development Program
New Jersey	
	Collaborative Program
	Loan Redemption Program
New Mexico	
	Loan Repayment Program

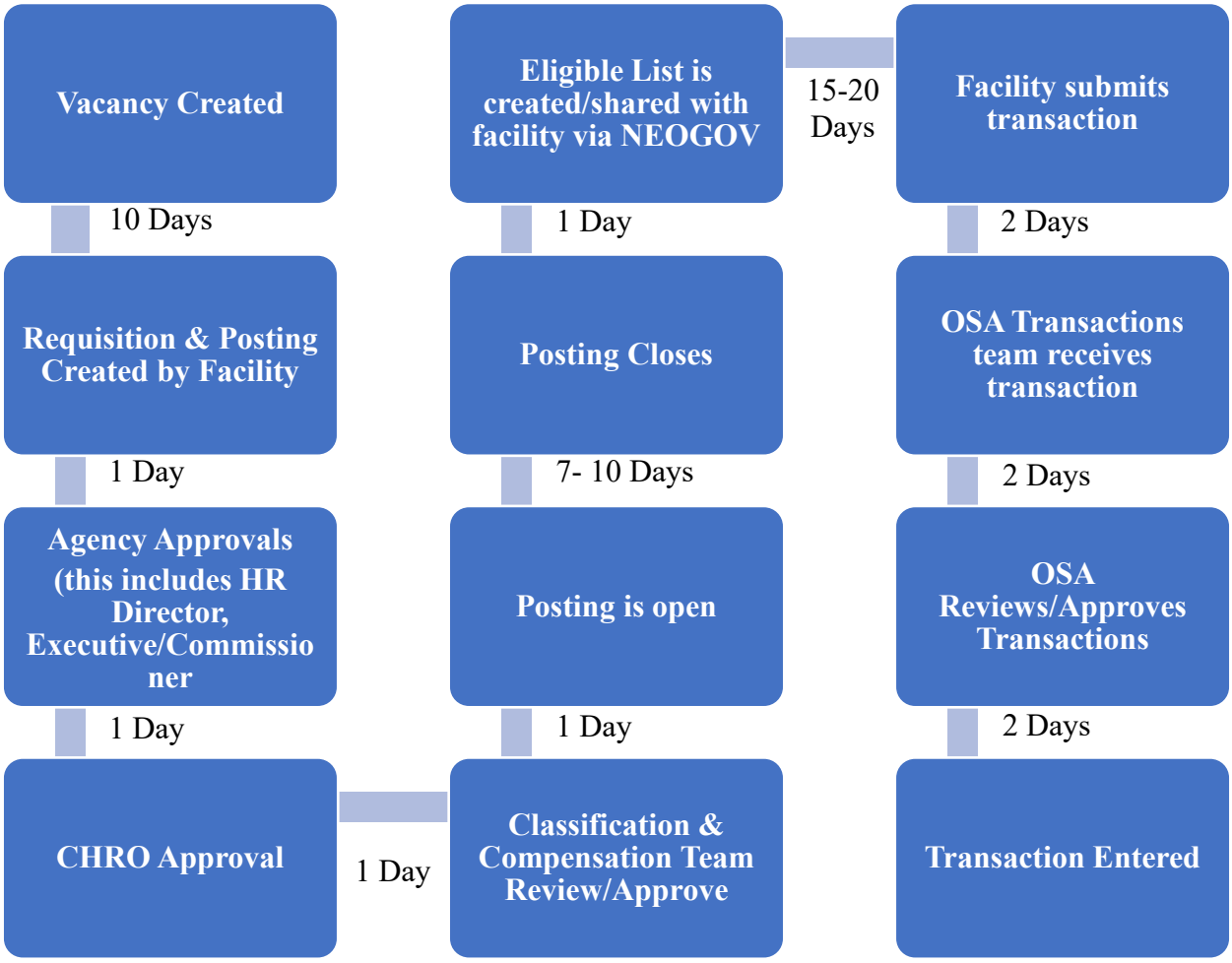
	Loan-For-Service Program
	Scholarship Program
New York	
	Loan Forgiveness Program
	Loan Repayment Program
	Scholarship Program
North Carolina	
	Loan Forgiveness Program
	Loan-For-Service Program
	Faculty Loan Forgiveness Program
North Dakota	
	Pipeline Initiative
	Loan Program
	Certificate Program for Underserved Students
Ohio	
	Scholarship Program
	Scholarship Program
	Loan Program
Oklahoma	
	Nurse Licensure Compact
	Scholarship Program
	Loan Program
Oregon	
	Scholarship Program
	State Loan Repayment Program
	Collaborative Program
Pennsylvania	
	State Loan Repayment Program
	Scholarship Program
	Loan Program
Rhode Island	
	Loan Repayment Program
	Scholarship Program
	Loan Program
South Carolina	
	Loan Forgiveness Program
	Federal Scholarship and Loan Repayment Program
	Nursing Faculty Benefits
South Dakota	
	Nurse Licensure Compact

	State Loan Repayment Program
	Scholarship Program
Tennessee	
	Loan Forgiveness Program
	Workforce Development Program
	Collaborative Program
Texas	
	Loan Repayment Program
	Nursing Shortage Reduction Program
	Training Institution
Utah	
	Loan Program
	Nursing Consortium
	Federal Scholarship and Loan Repayment Program
Vermont	
	Internship Project
	Nurse Preceptor Incentive Program
	State Loan Repayment Program
Virginia	
	Nurse Preceptor Incentive Program
	State Loan Repayment Program
	Scholarship Program
Washington	
	Loan Repayment Program
	Federal Scholarship and Loan Repayment Program
Wisconsin	
	Scholarship Program
	Workforce Development Program
	Educational Costs Offset Program
Wyoming	
	Loan-For-Service Program
	Workforce Development Program
	Shared Nursing Curriculum

Division of Personnel & DH/DHF/DHS Hiring Flowchart



DHF Hiring Flowchart Post DOP Exemption (unaudited)



POST AUDITS SUBCOMMITTEE
MEMBERS

SENATE MEMBERS
President, Craig Blair
Jack Woodrum
Michael Woelfel

HOUSE MEMBERS
Roger Hanshaw*, Speaker*
Chris Phillips
Kayla Young

JOINT COMMITTEE ON GOVERNMENT AND FINANCE
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR
- POST AUDIT DIVISION -

Room 329 W, Building 1
1900 Kanawha Boulevard East
Charleston, West Virginia 25305
Phone: (304) 347-4880