

STATE OF WEST VIRGINIA
THIRTEENTH JUDICIAL CIRCUIT
OFFICE OF THE COURT MONITOR
STATE CAPITOL COMPLEX
BUILDING 6, ROOM 850
CHARLESTON, WEST VIRGINIA 25305



LOUIS H. BLOOM
JUDGE

DAVID G. SUDBECK
COURT MONITOR

MEETING OF THE PARTIES

In E.H., et al., v. Khan Matin, et al.

WEDNESDAY, JANUARY 19, 2011

MINUTES

PRESENT: Vickie Jones, Allen Campbell, Susan Perry, Kevin Stalnaker, Regenia Mayne, Teresa Brown, Cindy Beane, Jennifer Wagner, Belle Manjong, David G. Sudbeck, Sheila Kelly, dan connery

I. PLAN OF ACTION (SHARPE OVER-BEDDING)

David Sudbeck requested an update on completion of Action Plan steps from the chart of "Formal Recommendations and Plan of Action" related to the Sharpe Overbedding Report. Kevin Stalnaker addressed several of the recommendations as listed below:

Recommendation #2: A design plan for the new nursing stations is in the final stages of review and Sharpe is planning that a conclusion on the design will be reached and forwarded to David by March 31, 2011. The design will be submitted to the Monitor for approval prior to initiation of construction. If bidding on the contract for construction is needed, it may take as much as six months to complete, substantially delaying the project. The stations are expected to be permanent structures, not mobile. Additional information and specifics are available by contacting Janis Woofter or Terry Small at Sharpe Hospital.

Recommendation # 3: Changes to the WV Code have been drafted and are being proposed to the Legislature with regard to the Department's ability to replace employee belongings or costs destroyed or damaged in patient confrontations. The Bureau hopes that the bill will pass this Legislative session.

Recommendation #4: New phones for patient use have been ordered and Kevin has intervened to expedite the acquisition process.

Recommendation #5: See: II. Procedure for Meeting Staff Requirements below.

Recommendation #6: There are currently two separate Forensic units in Sharpe Hospital, however the space available in those units is insufficient and Forensic patients are usually intermingled with the population of other units once the patients are more psychiatrically stable. Because the hospital is very overcrowded, it is physically impossible to functionally isolate either the

Forensic population or other specialty populations such as individuals with Intellectual Disabilities. The Bureau has put into place additional Forensic services such as Group Homes, placement on a specialty unit at Riverpark Hospital and transfer to Bateman, but Sharpe remains very overcrowded. Jennifer Wagner raised concerns over a recent assault involving a forensic and non-forensic patient that had been placed on the same unit and the need for segregating the two populations. Vickie Jones assured all involved that patient protection is the Department's highest goal. David Sudbeck stated that it is the position of the Court Monitor's office that the Forensic and non-Forensic populations need to be separated, and that movement toward the design and completion of a free-standing forensic facility should be considered by the Parties.

II. PROCEDURE FOR MEETING STAFF REQUIREMENTS

David Sudbeck distributed the "Procedure for Meeting Staffing Requirements" policy concerning the hospital's use of mandatory overtime for health service workers and nurses. David had several questions which were addressed by Kevin Stalnaker. David suggested altering the term "will" to "could" concerning mandatory disciplinary action in section 6, allowing some flexibility in implementation of the policy. Kevin stated that he would need to investigate whether the terminology would conflict with additional existing policies. David suggested a maximum number of 16 hours continuously worked be set in section 7. Kevin and Vickie Jones raised concerns of patient care when understaffed due to an act of God such as the snowstorms occasionally encountered in Terra Alta at the site of Hopemont. David also suggested a consistent hospital wide system to apply to the rotation of staff for overtime work. Kevin replied that currently each unit devised its own system, but that employees were eligible to transfer from one unit to another when a vacancy arose. David was pleased that an Employee Council was available to staff. Kevin stated the new head of the council, Ruthie Ferrell, was likely to be a great asset to the program. Jennifer Wagner also encouraged the addition of a maximum length of time for overtime shifts. Vickie Jones suggested a compromise in that the policy would describe additional provisions for rest and meal breaks for overtime employees. In general the hospitals resist working employees more than 16 consecutive hours except in extraordinary circumstances. She will return the draft changes to the policy at the next meeting.

III. BHHF REPORT

Vickie Jones stated that the Department has completed a draft chart showing the solutions and progress for each article in the Agreed Order. This chart provides a breakdown on funding, location, independent care coordinators, as well as the status of Year 1 and Year 2 provider's programs. She also stated that the chart documents specifics of the funding allocation for each provider to show consistency. She intends to e-mail a draft version of this document to the parties with the intent of feedback and clarification by the parties.

In response to an allegation that the Department has ignored communication from the providers, Vickie stated emphatically that she has offered to meet at any time with any provider to discuss concerns or issues. She also stated that she has met individually with all provider CEOs (either in person or via telephone) since the beginning of December 2010. In a specific issue raised by Joanne Powell of the Westbrook Center, Vickie verified that she had met with Joanne on December 28, 2010 and would be contacting her office later today after this meeting to explore any problems further. (Vickie confirmed that the problems experienced by Westbrook were resolved as of 1/24/11) Vickie also stated that the Department has received several incomplete proposals from providers, which tends to delay the process until the proposals are complete and the budget materials balance correctly. The Bureau has offered assistance/training to the providers to properly complete the necessary paperwork.

Sheila Kelly raised the issue of the use of funding for Crisis Stabilization (as described in Item 3(b) of the Agreed Order). She has had questions from individuals about this and believes that consensus needs to be reached on the issue among the Parties. Vickie stated that, "If Crisis Care was paid outside of the Charity Care formula, there would be no need for Charity Care" as the majority of Charity Care dollars pay for CSU. Her position is that the Bureau has limited (albeit recently expanded) dollars and that each dollar is allocated to pay for a program, therefore she cannot have an open-ended financial obligation. The Parties generally agreed that this was a valid concern. Jennifer stated that since the issue was related to Mountain Health Choices and that program no longer posed a problem in obtaining CSU admission funded by Medicaid, the point may be moot. It was believed that consensus had been achieved although a meeting on a subsequent day proved that this was not the case and that there had been some misunderstanding among the parties. The issue was remanded to a CSU workgroup with the agreement of Jennifer and Regenia at the subsequent meeting of the CSU providers.

David Sudbeck suggested the scheduling of a Year 3 Provider meeting for late February/early March 2011 for Southern Highland, United Summit, and Logan Mingo. (Please note that a meeting with Year 3 providers has been scheduled for February 22, 2011). He also asked if any additional agenda items should be added to the Provider meeting regarding CSU scheduled for January 20, 2011.

Vickie suggested a unified definition of a "Crisis Stabilization Unit" by which all involved would abide. David suggested that this would be better arrived at in a separate meeting by a small work group and at the subsequent meeting, this was done.

IV. PETITIONER REPORT

Jennifer Wagner inquired as to the re-introduction of the TBI bill in the current Legislature. Susan Perry replied that Nancy Tyler notified her yesterday that the Legislation is expected to be reintroduced in the next week or so, similar to last year's bill but without the language eliminating the TBI and Spinal Cord Injury Board. Susan also stated that separate TBI legislation with a separate funding source was being introduced by the Veteran's community, and that the Department would be supporting both pieces of legislation.

Jennifer also inquired as to the status of the Clinical Service Management report. David Sudbeck reported that he had just received a draft copy for the Court Monitor's review, and that a draft copy for the Parties would be available in three to four weeks.

V. BMS REPORT (TBI)

Cindy Beane stated that CMS had "stopped the clock" on the TBI Waiver application, requesting additional information. Though most of the questions were small, the definition of "Environmental Adaptability" was the main concern to BMS, as resolution of this issue could negatively impact the functioning of the MR/DD Waiver. She stated that negotiations regarding technical issues were being addressed, and that the training and certification of those working with individuals with TBI were being clarified. She expected BMS to have a formal response to CMS within the next month. Cindy said she would inform the Court Monitor's Office of any subsequent issues with CMS. She also stated that TBI services were being included in a Money Follows the Person grant recently received by BMS.

In addition, the "clock" was also stopped on the State Plan Amendments to ACT (Assertive Community Treatment) due to some relatively minor questions from CMS. Cindy hopes to have those questions resolved in the near future.

VI. REQUEST FOR RESOLUTION PROCESS

It was agreed by both Parties that until new counsel was hired by the Department, an explanation of the Request for Resolution Process should be postponed.

VII. SPECIAL ASSISTANT REPORT

The Report of the Special Assistant was recently released. The report indicates that the Office believes that a free standing forensic program is very necessary. Additionally, the report emphasizes the importance of Acute Care Psychiatric Hospital in a community-based system of behavioral health care. Sheila reviewed the appendixes concerning Sharpe and Bateman and the population of the diversion facilities. She also stated that Medical Clearance was a major national issue not specific to West Virginia alone but remained an issue that needed to be addressed.

The report is available on the Office's web site at www.courtmonitor.wv.gov.

Jennifer Wagner asked if the recommendations made in the report would be pursued by any specific party. The group agreed that the Department would respond to those recommendations concerning that organization at the next Meeting of the Parties.

VIII. Request For Resolution-Legal Aid

David Sudbeck stated that he would be visiting Sharpe next week to investigate issues raised by the Request for Resolution filed by Mountain State Justice with regard to advocacy services provided to patients at Sharpe Hospital. On Tuesday, January 25 he will be interviewing mid-management and will follow up by interviewing advocates on the next week. He hopes to have a report concerning these issues released by late February.

IX. OTHER

Regenia Mayne raised concerns over the recent boiler fire at Sharpe. Kevin Stalnaker stated that a trailer housing the boilers, not the boilers themselves, caught fire and that the heating issue was quickly resolved by repairing the existing boilers. Additionally, an architect has been hired to evaluate and design a new boiler system and that the pipe system, as well as the trailer and current boilers, will all be replaced.

Next Meeting: Wednesday, March 2, 2011
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301