

December 2019  
PE 19-05-627

## PERFORMANCE REVIEW

# WILLIAM R. SHARPE, JR. HOSPITAL

# DEPARTMENT OF HEALTH AND HUMAN RESOURCES

## AUDIT OVERVIEW

Sharpe Hospital's Loss of Certification by the Centers for Medicare and Medicaid Services Severely Impacted Its Revenue Stream.

Sharpe Hospital Is ADA Compliant After No Citations Issued by the Centers for Medicare and Medicaid Services.



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## EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted an Agency Review of the Department of Health and Human Resources (DHHR) pursuant to West Virginia Code §4-10-8. As part of this process, a Performance Review of William R. Sharpe, Jr. Hospital (Sharpe) was conducted. The objectives of this review were to determine how Sharpe was impacted after losing certification from the Centers for Medicare and Medicaid Services (CMS), and whether the facility complied with the Americans with Disabilities Act (ADA). The issues of this report are highlighted below.

### **Frequently Used Acronyms in This Report:**

PERD – Performance Evaluation and Research Division

DHHR – Department of Health and Human Resources

CMS – Centers for Medicare and Medicaid Services

ADA – Americans with Disabilities Act

OHFLAC - Office of Health Facility Licensure and Certification

OASIS - Our Advanced Solution with Integrated Systems (the system used by state agencies to upload financial information, documentation, and pay vendors)

DSH - Disproportionate Share Hospital

ROC – Recertification Oversight Committee

### **Report Highlights:**

#### **Issue 1: Sharpe Hospital’s Loss of Certification by the Centers for Medicare and Medicaid Services Severely Impacted Its Revenue Stream.**

- In September 2017, Sharpe’s CMS certification was revoked as a result of deficient patient treatment plans. The resulting consequences included a decrease in revenue, an increase in expenditures, significant changes to the patient population, and the implementation of new employment standards that led to notable turnovers within the hospital.
- Following the certification revocation, Sharpe contracted the services of a recognized national healthcare compliance consulting company to pursue treatment plan corrections and improve operational performance.
- Sharpe established a recertification committee to implement necessary changes to its infrastructure, which ultimately led to successful CMS surveys and formal recertification in August 2019.

- Sharpe has demonstrated the ability to correct internal deficiencies; however, maintaining compliance with federal hospital guidelines remains imperative to avoiding a repeat loss of CMS certification.

## **Issue 2: Sharpe Hospital Is ADA Compliant After No Citations Issued by the Centers for Medicare and Medicaid Services.**

- During a standard CMS survey of general hospitals, federal guidelines require the surveyor to check the facility for compliance with applicable federal laws related to the health and safety of patients, including the ADA since it is a federal law by definition. Based on this standard, a successful CMS survey without any noted deficiencies pertaining to the applicable federal laws is indicative of compliance with the ADA.
- CMS survey procedures for confirming compliance with the ADA-related code require surveyors to report noncompliance to the appropriate agency having jurisdiction. In the case of Sharpe Hospital, there have not been reports of noncompliance.
- The most recent CMS survey of Sharpe Hospital, dated August 14, 2019, did not find any ADA-related deficiencies.

## **PERD's Response to the Agency's Written Response**

On December 2, 2019, PERD received a written response to the report from the agency's Cabinet Secretary, which can be found in Appendix C. The agency concurred with all recommendations and will proceed to implement them.

## **Recommendations**

1. *The Legislative Auditor recommends that Sharpe Hospital continue to follow all CMS guidelines pertaining to hospital regulations, psychiatric facility rules, and LSC to maintain certification and participation in the Medicare program. Emphasis should be placed on satisfying regulations related to treatment plans.*
2. *The Legislative Auditor recommends that Sharpe Hospital continue to comply with all ADA standards applicable to its facility.*

## ISSUE 1

### **Sharpe Hospital's Loss of Certification by the Centers for Medicare and Medicaid Services Severely Impacted Its Revenue Stream.**

#### **Issue Summary**

William R. Sharpe, Jr. Hospital (Sharpe) is one of seven state-owned hospitals in West Virginia. It is a 200-bed acute inpatient psychiatric facility that treats civil and forensic patients. In September 2017, Sharpe's ability to bill or invoice for Medicare and Medicaid funding was revoked by the Centers for Medicare and Medicaid Services (CMS) due to deficiencies found in patient treatment plans. Following this event, Sharpe began transitioning its patient population to 100 percent forensic and pursued various methods to correct internal operational problems. Because Sharpe could no longer bill for Medicare or Medicaid, the hospital was forced to increase the occurrence of patient diversions, wherein civil patients were declined for admittance and ultimately transferred to other CMS-certified facilities. Aside from the spike in diversions, Sharpe's loss of certification also increased expenditures, decreased revenues, and inspired some employee turnovers.

Upon losing certification, Sharpe established a specialized recertification committee, contracted the services of a recognized national healthcare compliance consulting company, and pursued other self-corrective avenues. After a series of successful surveys, Sharpe achieved recertification from CMS in August 2019. Sharpe plans to readmit civil patients and fill the hospital to full capacity in the near future. The Legislative Auditor recommends that Sharpe should continue to follow all CMS guidelines pertaining to hospital regulations and psychiatric facility rules in order to maintain certification and participation in the Medicare program. Emphasis should be placed on satisfying regulations related to treatment plans.

#### **Sharpe Is One of Seven State-Owned Hospitals.**

Sharpe Hospital is an acute inpatient psychiatric facility located in Weston, West Virginia. Originally constructed in 1990, and opened in 1994, Sharpe replaced the aging Weston State Hospital. Pursuant to W. Va. Code §27-2-1 on Mental Health Facilities, Sharpe operates under the authority of the Department of Health and Human Resources (DHHR) as one of seven state-run hospitals (see Table 1). Effective July 2018, all state hospitals were transferred from DHHR's Bureau for Behavioral Health and Health Facilities to the newly established Office of Health Facilities. Sharpe and Mildred Mitchell-Bateman Hospital, located in Huntington, WV, are the only two psychiatric hospitals owned by the

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State. As of June 2019, Sharpe employed 350 of 456 full-time positions, leaving a vacancy of 106 open positions.

**Table 1**  
**West Virginia State Hospitals**

Hospital Name	Location	Built	Type	Bed Capacity
Hopemont	Terra Alta, Preston County	1913	Nursing Home	98 Licensed
Jackie Withrow	Beckley, Raleigh County	1927	Nursing Home	199 Licensed 144 Available
John Manchin, Sr. Health Care Center	Fairmont, Marion County	1899	Nursing Home, Outpatient Clinic	41 Nursing Home
Lakin	West Columbia, Mason County	1926	Nursing Home	114 Licensed
Mildred Mitchell-Bateman	Huntington, Cabell County	1950	Psychiatric Hospital	110 Licensed
Welch Community	Welch, McDowell County	1902	Nursing Home Acute Care Hospital	59 Nursing Home 55 Acute Care
William R. Sharpe, Jr.	Weston, Lewis County	1990	Psychiatric Hospital	200 Licensed

*Source: DHHR Budget Presentation, 2019*

## **Sharpe Hospital Is a 200-Bed Psychiatric Facility That Treats Forensic and Civil Patients.**

With the completion of an additional 50-bed unit, which began admitting patients in April 2015, Sharpe's facilities include nine different units with the potential to accommodate 200 patients when operating at full capacity. Table 2 illustrates Sharpe's units, basic organization, and licensed number of beds. Units N-1, N-2, and N-3 comprise the recent 50-bed addition.

*With the completion of an additional 50-bed unit, which began admitting patients in April 2015, Sharpe's facilities include nine different units with the potential to accommodate 200 patients when operating at full capacity.*



**Table 2  
Sharpe Hospital Bed Capacity**

<b>Unit Name</b>	<b>Description</b>	<b>Number of Beds</b>
C-1	All male unit for court-ordered patients	24
C-2	Coed unit for court-ordered patients	26
E-1	Coed unit, general psychiatrics, ages 55 years and older	23
E-2	Coed unit, general psychiatrics, ages 18-20	27
G-1	All male general psychiatric unit	24
G-2	Coed general psychiatric unit	26
N-1	Forensic	22
N-2	Civil*	20
N-3	Civil	8
<b>Total</b>		<b>200</b>

*Source: Sharpe Hospital*  
*\*Projected goal for December 2019.*

Sharpe Hospital exclusively treats civil and forensic patients, both of which are involuntarily committed by the court system. Both types of patients require treatment from staff with specialized training and are subject to unique stipulations under West Virginia State Code.

Civil patients are non-criminal patients who are deemed a danger to themselves or others. Sharpe's CEO explains, "*Civil patients are involuntary patients admitted under Chapter 27 of the State Code. The probable cause hearing is presided over by a Mental Hygiene Commissioner appointed by the Circuit Judge. Civil commitments are discharged once their treatment improves their condition to the point that they are no longer deemed a danger to themselves or others and there is a safe discharge placement. The attending psychiatrist makes the decision to discharge civilly committed patients.*"

Forensic patients are defined as psychiatric patients whose mental illness has brought them into contact with the criminal justice system. Forensic patients undergo a multi-step legal process before being court-ordered to Sharpe. According to W. Va. Code §27-6A, a forensic patient can include individuals who have been adjudicated as incompetent to stand trial-in need of restoration, incompetent to stand trial-unable to be restored, or not guilty by reason of mental illness.

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*Civil patients are non-criminal patients who are deemed a danger to themselves or others.*

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*Forensic patients are defined as psychiatric patients whose mental illness has brought them into contact with the criminal justice system.*

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## Sharpe Hospital Lost CMS Certification in September 2017 Due to Inadequate Documentation of Treatment Plans.

CMS maintains oversight for compliance with the Medicare health and safety standards for various healthcare facilities, including acute care providers such as Sharpe Hospital. In order to meet and maintain CMS regulations that permit participation in the Medicare program, Sharpe must faithfully satisfy federal guidelines for general hospitals, special conditions for psychiatric hospitals, and the Life Safety Code, which includes fire safety and aspects of the Americans with Disabilities Act (ADA). CMS has no set timeframe for surveys and can therefore audit facilities for compliance at its own discretion. As part of its enforcement policy, CMS may terminate an agreement with a provider of services if it is determined that the provider is not complying substantially with the terms of the agreement or regulations promulgated thereunder.

According to the CMS enforcement policy, the institution being surveyed will receive a Statement of Deficiencies if the completed survey finds the facility out of compliance with any regulations. The institution is then given 10 calendar days to produce a plan of correction for each cited deficiency. Beginning in early 2015, CMS launched multiple complaint investigation surveys at Sharpe Hospital as a result of Adult Protective Services complaints filed against the hospital. The results of those surveys and subsequent follow-up audits are as follows:

- **April 1, 2015 – December 30, 2015:** Three out of eight surveys conducted by the Office of Health Facility Licensure and Certification (OHFLAC) at Sharpe cited deficiencies, most frequently relating to patient rights or patient safety:
  - medication errors and misplacement of Medication Room keys,
  - inadequate number of RNs on night shift,
  - drug discrepancy for oxycodone on patient's medication records,
  - failure to properly document allegations of neglect reported by patients, and
  - patients being restrained for extended periods without a physician's documented order.
- **February 24, 2016 – November 17, 2016:** Five (5) out of 12 OHFLAC surveys completed at Sharpe cited deficiencies, most frequently relating to patient rights and nursing supervision:
  - failure to conduct safety checks in a timely manner,
  - failure to implement preventive measures, resulting in patient self-harm,
  - staff member falsified documents about routine checks, and

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*In order to meet and maintain CMS regulations that permit participation in the Medicare program, Sharpe must faithfully satisfy federal guidelines for general hospitals, psychiatric hospitals, and the Life Safety Code, which includes fire safety and aspects of the Americans with Disabilities Act (ADA).*

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*Beginning in early 2015, CMS launched multiple complaint investigation surveys at Sharpe Hospital as a result of Adult Protective Services complaints filed against the hospital.*

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- failure to file proper paperwork regarding a physical altercation between patients.
- **January 11, 2017 – August 14, 2017:** Three (3) out of three (3) CMS surveys for psychiatric hospital guideline compliance, and four (4) out of 10 OHFLAC complaint surveys completed at Sharpe cited deficiencies, most frequently relating to nursing services and special medical requirements for psychiatric hospitals:
  - patients were kept in glass-encased areas not designed as patient bedrooms,
  - RN failed to supervise and evaluate the care of a patient in restraint,
  - failure to complete patient discharge summaries in a timely manner,
  - failure by the Medical Director to monitor service quality,
  - “*immediate jeopardy complaint investigation*” found patient was not permitted to submit a grievance, and hospital staff failed to follow grievance process,
  - suspected drug diversion involving a patient and LPN, and
  - reports of sexual activity between two patients.

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*As in past instances, Sharpe devised and submitted a plan of correction to remedy some of the deficiencies, but noncompliance persisted with Code of Federal Regulations (C.F.R.) §482.61 of the CMS State Operations Manual for Psychiatric Hospitals.*

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As in past instances, Sharpe devised and submitted a plan of correction to remedy some of the deficiencies, but noncompliance persisted with Code of Federal Regulations (C.F.R.) §482.61 of the CMS State Operations Manual for Psychiatric Hospitals. This section requires: “*The medical records maintained by a psychiatric hospital must permit determination of the degree and intensity of the treatment provided to individuals who are furnished services in the institution.*” The regulation further specifies that patient records should contain information such as “*...treatment goals, changes in status of treatment and discharge planning, and follow-up and the outcomes experienced by patients.*”

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*Ultimately, the continued violation of C.F.R. §482.61 led CMS to terminate Sharpe’s Medicare agreement, effectively stopping payment for services furnished to patients admitted after September 28, 2017.*

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In Sharpe’s case, CMS’ review of medical treatment plans found that one patient “*...had no psychiatrist or nursing interventions,*” while another patient “*...was not receiving alcohol abuse treatment even though substance abuse was listed as a problem.*” Treatment plans failed to identify treatment goals, did not speak to the individual needs of the patients, did not consistently contain proper plans for follow-up care, and failed to meet standards for therapeutic care (i.e.: patients were not going to therapy and records did not address alternative treatments). Ultimately, the continued violation of C.F.R. §482.61 led CMS to terminate Sharpe’s Medicare agreement, effectively stopping payment for services furnished to patients admitted after September 28, 2017. As a result, Sharpe could no longer admit Medicare or Medicaid patients.

## Consequences of Decertification Impacted Diversions and Patient Population.

Following the termination notice from CMS, Sharpe began transferring civil patients out of the hospital and transitioning its patient population to 100 percent forensic. The act of relocating patients who would have otherwise gone to Sharpe is known as “diversion.” In Sharpe’s case, diversions generally occur when the hospital does not have a bed available, although fiscal year (FY) 2018-2019 saw a heightened number of civil patient diversions due to the facility being decertified by CMS (see Table 3). According to Sharpe’s CEO, *“In response to the decertification, the civil population was diverted to other facilities and Sharpe Hospital began accepting an increased number of forensic patients.”*

Many factors contribute to the cost of diverting patients, and the expenses associated with patients who are diverted to other facilities remains Sharpe’s responsibility even though the individual will physically receive treatment at another hospital. Sharpe’s CEO explains, *“As a rule, the diversion of a civil patient occurs at the time or shortly after the probable cause hearing. Sharpe Hospital staff are contacted by the community mental health center and Sharpe makes referrals to diversion facilities, attempting to place the patient in the facility that is closest to their home. The diversion per diem covers room and board and all psychiatric treatment. Additional expenses include medical services (professional fees, procedure fees, and emergency room fees) required by the patient for medical, vision, and dental care, over and above what is able to be provided in an inpatient psychiatric setting.”* Major consequences of diversions are two-fold:

- The cost of patient treatment at a private facility can be higher in some scenarios compared to treatment administered by a state hospital such as Sharpe. The per diem rate for treating a patient diverted from Sharpe to another facility can cost up to \$896, while the average cost to treat a patient at Sharpe for FY 2017–2018 was \$856 per day. Sharpe’s CEO, however, estimates that these costs will be lower for FY 2019 due to an increase in the patient census, which helps the hospital cover operational expenses.
- Physically transporting patients to a diversion facility can generate travel expenditures that would otherwise not occur, and the geographical distance to a diversion hospital may make it difficult for the patient’s family members to visit.

As a result, civil diversion costs significantly impacted Sharpe. Table 3 reflects the number of patients admitted and diverted from Sharpe Hospital during FY 2015-2019, as well as the trend in diversion expenses.

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<b>Fiscal Year</b>	<b>Forensic Patients Admitted</b>	<b>Forensic Patients Diverted</b>	<b>Civil Patients Admitted</b>	<b>Civil Patients Diverted</b>	<b>Cost for Diversion Patients</b>
2015	84	33	351	832	\$13,779,208
2016	96	40	421	1,030	\$17,987,344
2017	108	36	269	1,117	\$22,619,511
2018	87	8	0	1,267	\$30,843,093
2019	140	20	0	1,281	\$25,038,916

*Source: Sharpe Hospital*

Certified by  
CMS

Decertified by  
CMS

Eleven (11) different hospitals served as destinations for Sharpe’s civil diversions during FY 2015-2019 (see Figure 1). These include:

- Beckley Appalachian Regional Hospital in Beckley, WV
- The Behavioral Health Pavilion of the Virginias in Bluefield, WV
- Camden Clark Memorial Hospital in Parkersburg, WV
- Chestnut Ridge Hospital in Morgantown, WV
- Fairmont Regional Medical Center in Fairmont, WV
- Gateway Center in Martinsburg, WV
- Highland Hospital in Charleston, WV
- Highland Hospital in Clarksburg, WV
- Ohio Valley Medical Center in Wheeling, WV
- River Park Hospital in Huntington, WV
- United Hospital Center in Bridgeport, WV

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*Eleven (11) different hospitals served as destinations for Sharpe’s civil diversions during FY 2015-2019.*

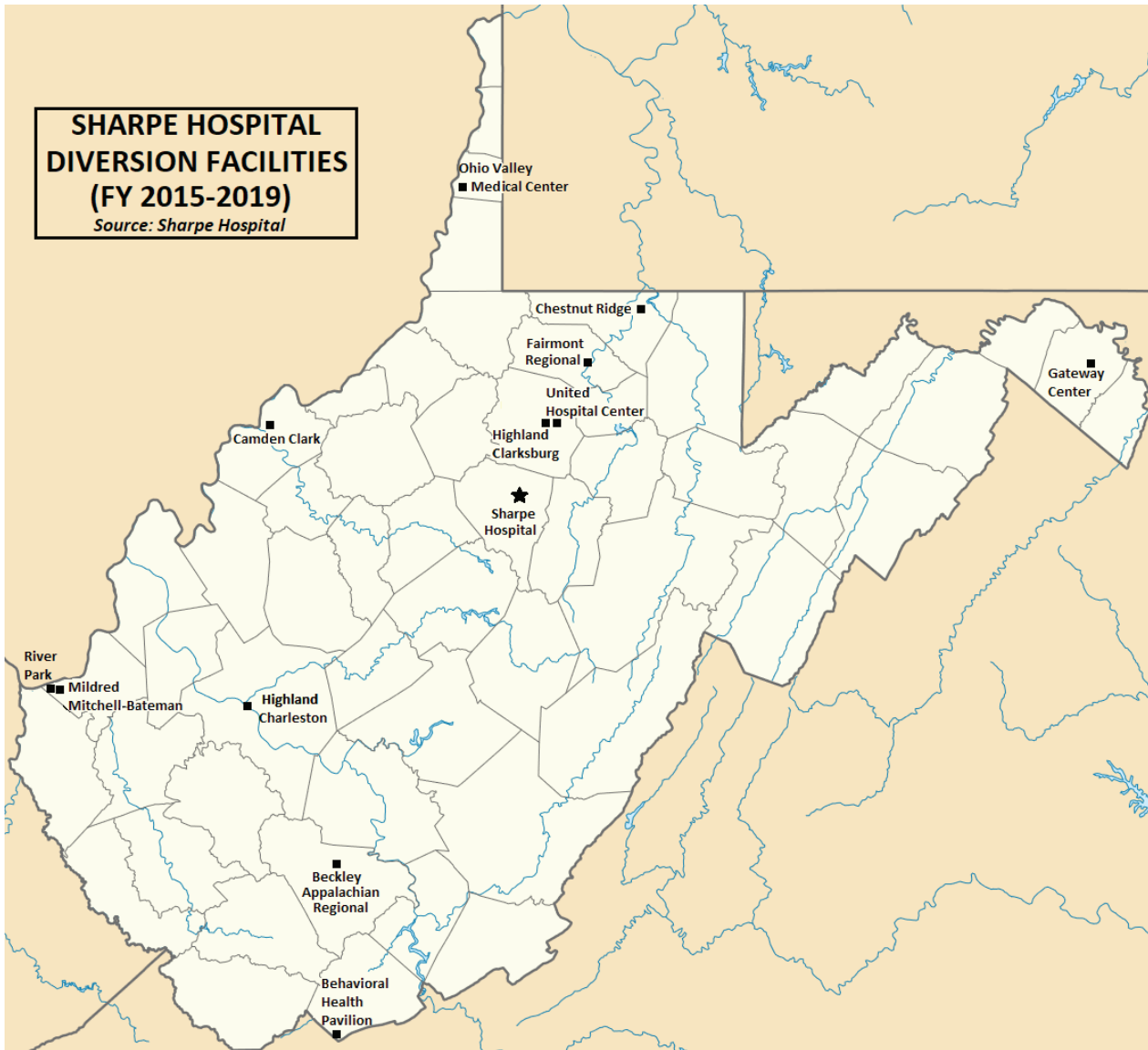
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Forensic patient diversions during FY 2015-2019 were limited to:

- Mildred Mitchell-Bateman Hospital in Huntington, WV
- River Park Hospital in Huntington, WV
- Highland-Clarksburg Hospital in Clarksburg, WV

Diversions transferred to River Park Hospital in Huntington are primarily individuals requiring specialty care, such as geriatric or high-need medical patients. The map in Figure 1 displays the location of every diversion facility used by Sharpe.

**Figure I**



The need to transfer all civil patients out of Sharpe Hospital because of the CMS decertification dramatically changed the patient population. During FY 2015–2017, civil patients outnumbered forensics; however, FY 2018-2019 saw the conversion to 100 percent forensic. Sharpe went from serving 66 civil patients in October 2017, to only one civil patient the following month. Table 4 provides a monthly breakdown of the number of patients residing at Sharpe between FY 2015-2019.

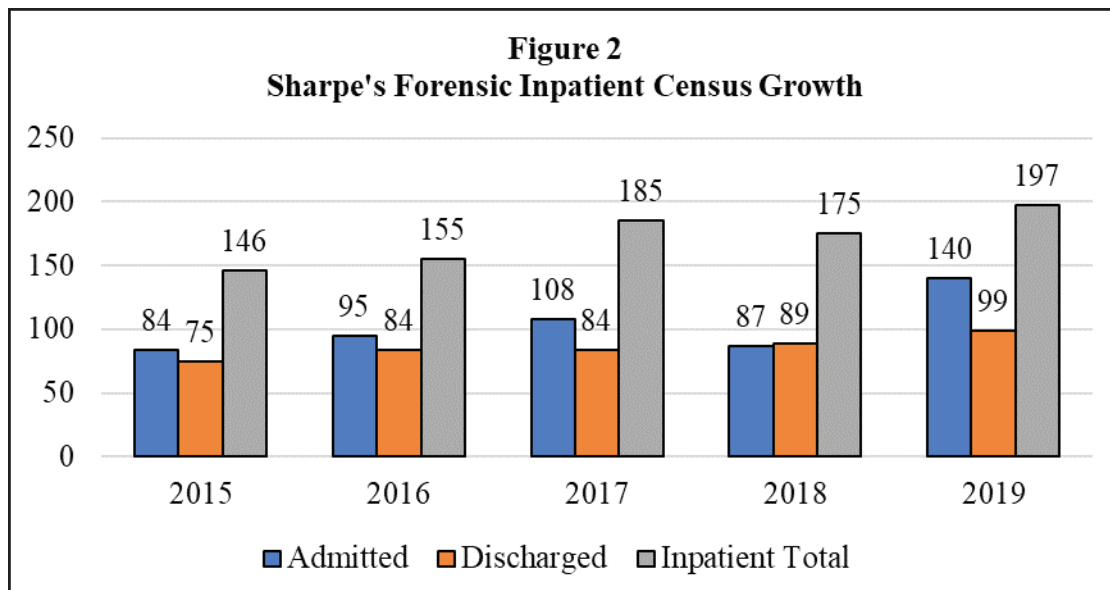
*The need to transfer all civil patients out of Sharpe Hospital because of the CMS decertification dramatically changed the patient population.*

**Table 4  
Forensic and Civil Patients Served at Sharpe Hospital  
FY 2015 – FY 2019**

Fiscal Year	Patient Type	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	AVG.
2015	Forensic	77	78	81	75	74	71	73	71	75	73	72	72	74
	Civil	97	95	100	106	98	106	98	96	106	118	101	103	102
2016	Forensic	77	79	76	78	76	77	74	67	70	68	65	70	73
	Civil	116	111	123	114	93	99	112	114	121	128	125	116	114
2017	Forensic	70	71	67	69	68	74	73	71	75	77	75	82	73
	Civil	121	126	121	128	118	106	129	107	118	105	109	106	116
2018	Forensic	77	69	70	82	99	100	104	106	98	101	102	116	94
	Civil	99	102	85	66	1	1	1	1	1	1	1	1	30
2019	Forensic	121	120	120	121	119	119	125	128	136	133	135	130	126
	Civil	1	1	1	0	0	0	0	0	0	0	0	0	0

Source: Sharpe Hospital

Figure 2, provided by Sharpe’s CEO, illustrates the forensic inpatient census at the hospital during FY 2015-2019, with comparisons between admissions and discharges.



The number of forensic admissions, discharges, and inpatients at Sharpe increased in 2019 in comparison to 2015, with all three categories reaching a statistical five-year high.

**The Loss of Certification Triggered an Increase in Expenditures, Significant Loss in Revenues, and the Implementation of New Standards That Caused Some Employee Turnovers.**

Sharpe’s expenditures and revenues were significantly impacted after losing CMS certification. The expenditures notably increased as the number of diversions increased. For example, in FY 2015, 31 percent of total expenditures were due to diversion costs, whereas in FY 2019, 40 percent of total expenditures were a result of diversions.

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*Sharpe’s expenditures and revenues were significantly impacted after losing CMS certification.*

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Because Sharpe was no longer eligible to bill Medicare or Medicaid after losing CMS certification, the hospital’s revenues dramatically decreased as the number of civil patients dwindled. Sharpe’s CEO explains, “Bateman and diversion facilities would be able to bill those sources for care provided, and given the structure of the diversion agreements, the state would not have to pay for days covered by the committed persons insurance. Civil patients are billed to their insurance coverage for the days that they meet medical necessity. There is no payer source for Forensic patients, they are 100% State funded.” Table 5 presents Sharpe’s complete expenditures and revenues from FY 2015–2019.

<b>Table 5 Sharpe Hospital Expenditures and Revenues</b>		
<b>Fiscal Year</b>	<b>Expenditures</b>	<b>Revenues</b>
2015	\$41,162,719	\$12,495,991
2016	\$52,003,890	\$12,712,575
2017	\$55,951,701	\$12,559,850
2018	\$67,994,767	\$3,713,113
2019	\$63,995,027	\$45,640

*Source: OASIS*

When certified by CMS, Sharpe’s revenue stream normally includes Medicaid Disproportionate Share Hospital (DSH) payments, or disbursements allotted to qualifying hospitals that serve a large number of Medicaid and uninsured individuals. During the decertification period, the DSH payments historically allocated to Sharpe were re-allocated to Bateman Hospital. The absence of these payments to Sharpe during part of FY 2018 and all of FY 2019 is an important factor when considering the reduction in revenue. Prior to decertification, Sharpe was receiving an annual average of \$10.8 million in DSH allotment.

As a central part of the recertification strategy, the Greeley Company (Greeley) consulting firm of Danvers, Massachusetts was hired to provide education, credentialing management, external peer review,



and solutions for Sharpe and its staff to correct the deficiencies cited by CMS. Greeley consultants first arrived at Sharpe Hospital on October 30, 2017. They provided services throughout FY 2018 and FY 2019, ultimately billing Sharpe for a total of \$1.5 million. While collaborating with Greeley and exploring new strategies to achieve recertification, Sharpe implemented several changes to the hospital's internal operations, which included enhancing expectations in terms of the quality of its employees. After introducing this new employee standard, several turnovers occurred, either due to resignations or changes proactively made by Sharpe's administration to improve the effectiveness of key positions within the staff. According to Sharpe's CEO, "Employment numbers were not significantly impacted by the loss of CMS certification. However, dissatisfaction with many of the changes Sharpe Hospital made in order to improve the supporting processes necessary for re-certification are thought to contribute to a large percentage of the 2017-2018 turnover."

Tables 6 and 7 detail Sharpe's employee turnovers for FY 2015-2019. Despite the contract with Greeley and issues with turnovers, Sharpe ultimately pursued a successful path to recertification over the next two years.

**Table 6**  
**Sharpe Hospital Employee Turnovers**

Fiscal Year	2015	2016	2017	2018	2019 - 8/31/2019
*Resignations	24	46	62	42	27
Retired	6	8	17	12	6
Terminations	4	14	7	12	10
Transfers	5	3	6	1	2
Deaths	0	2	0	0	0

Source: Sharpe Hospital

**Table 7**  
**Reasons Given for Resignations**

Fiscal Year	2015	2016	2017	2018	2019 - 8/31/2019
*Other Employment	11	34	28	22	15
Personal	5	4	13	12	6
No Reason Given	8	4	11	0	2
Dissatisfied	0	2	6	6	1
School	0	2	1	1	0
Relocated	0	0	3	1	3

Source: Sharpe Hospital

\* Resignations for other employment were generally for better wages or more flexible hours.

According to Sharpe's CEO, "Dissatisfaction with many of the changes Sharpe Hospital made in order to improve the supporting processes necessary for re-certification are thought to contribute to a large percentage of the 2017-2018 turnover."

Despite the contract with Greeley and issues with turnovers, Sharpe ultimately pursued a successful path to recertification over the next two years.

## **Sharpe Began Corrective Strategies Immediately After Losing Certification.**

In addition to hiring Greeley, Sharpe formed a Recertification Oversight Committee (ROC) in January 2018 that began holding regular meetings with Greeley representatives, Sharpe's CEO, and other ranking members of hospital staff. Sharpe's formal Performance Improvement Team, a complementary body to the ROC, additionally focused on identifying multiple areas for review and correction, and delegated staff to accomplish stated goals within a target timeframe. Progress was regularly monitored and documented.

Twelve (12) different designated areas of importance were identified as the main topics of concentration for Sharpe to review and revise as an approach to reacquiring CMS accreditation. These areas included leadership and oversight, environment of care, electronic medical records, patient rights, nursing, and treatment planning. By pinpointing, isolating, and identifying areas requiring correction for the hospital's most important components, the ROC introduced a specific, formulated approach for Sharpe's staff to troubleshoot potentially deficient segments of the facility.

Table 8 was adapted from a January 2018 Comprehensive Treatment Plan Performance Improvement Project template. It exemplifies how Sharpe's leadership approached the correctional phase of the recertification process. In this example, six different internal problems were identified and juxtaposed with the potential causes for why they existed within the hospital, as well as the correlating action items needed to make the changes successful.

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Identified Problem	Potential Cause	Implementation Plan
Electronic Medical Records (EMR)	Need for standardized documentation.	Update EMR technology; develop new plan template.
Timeliness	Treatment plans not being submitted on time.	Monitor timeliness of treatment plan development and documentation.
Physician	Lack of doctoral leadership.	CEO will define Core Team member roles in the treatment plan and auditing process.
Staff Efficiency	Lack of teamwork and structure.	Develop tool of observable behaviors for team monitoring.
Lack of Standardization	Treatment plans lacking uniformity.	Standardize the agenda for all treatment plans.
Education	Educate staff on CMS' special requirements for psych hospitals.	Educate staff on the content of treatment plans and audit the content of the plans.

*Source: Sharpe Hospital*

As Table 8 demonstrates, Sharpe concluded that EMRs required technological updates, treatment plans were being completed too slowly, better leadership was needed from staff doctors, teamwork needed to be more prominent, insufficient standardization existed, and staff education on internal operations required expansion. Once the problematic cause and effect issues were identified, Sharpe devised implementation plans designed to make successful changes throughout the hospital. The ranking members of Sharpe's staff were generally assigned to the implementation plans and made responsible for overseeing their success.

In concert with the oversight recalibration and the implemented efforts to improve treatment plans, Sharpe pursued technological updates to its outdated records database. According to an internal Continuous Quality Improvement Report on treatment planning, Sharpe's area of focus throughout 2018 involved "...effective teamwork and improved content coupled with revisions to the electronic medical records (EMR) template." The hospital also conducted several self-evaluations and held weekly mock surveys for recertification preparation. Table 9 is an example of an internal treatment planning report from January 2019 that demonstrates how Sharpe conducted self-audits leading up to the recertification process.

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*Once the problematic cause and effect issues were identified, Sharpe devised implementation plans designed to make successful changes throughout the hospital.*

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**Table 9**  
**Treatment Planning Improvement Results (2019)**

Month	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Goal (%)	100	100	100	100	100	100	100	100	100	100	100
Percentage of Compliant Treatment Plans	95	94	97	93	96	94	91	95	92	97	94
Number Audited	364	2,934	3,626	3,239	2,440	3,564	2,183	441	363	261	19,415
Number in Compliance	344	2,761	3,498	3,015	2,346	3,342	1,994	418	334	253	18,305

*Source: Sharpe Hospital*

After reviewing the structure of its treatment plan teams, educating staff members on patient care plan content, and practicing numerous self-audits, Sharpe reached the survey readiness phase and submitted an application for re-enrollment to CMS on May 11, 2018.

### **Sharpe Hospital Regained CMS Certification in August 2019.**

CMS regulations state that an entity that has lost certification may reapply at any time. However, 42 C.F.R. §489.57 stipulates that the provider is first required to operate for a certain period of time without recurrence of the deficiencies which were the basis for the original termination, and provide reasonable assurance that these deficiencies will not recur. Participation can only resume if the provider or supplier has maintained compliance with program requirements during the reasonable assurance period.

On January 9, 2019, Sharpe passed an unannounced initial survey that determined its facility was in substantial compliance with major federal codes related to the CMS condition of participation. Following successful reasonable assurance, Sharpe was subject to three other surveys, completed on August 14, 2019, to finalize recertification. Zero deficiencies were found by surveyors during this extended series of audits:

- An initial certification survey deemed Sharpe compliant with the Medicare conditions of participation for hospitals and no deficiencies were cited.

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*After reviewing the structure of its treatment plan teams, educating staff members on patient care plan content, and practicing numerous self-audits, Sharpe reached the survey readiness phase and submitted an application for re-enrollment to CMS on May 11, 2018.*

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*On January 9, 2019, Sharpe passed an unannounced initial survey that determined its facility was in substantial compliance with major federal codes related to the CMS condition of participation.*

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- An unannounced initial survey conducted by federal and state surveyors deemed Sharpe compliant with conditions of participation, including 42 C.F.R. §482.62, Requirements for Psychiatric Hospitals, related to treatment plans.
- Based on review of facility documentation, staff interviews, observations and performance testing, Sharpe was deemed compliant with the Life Safety Code and emergency preparedness requirements.

On September 10, 2019, Sharpe received a recertification letter from CMS declaring the effective date of participation in the Medicare program to be August 14, 2019.

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*On September 10, 2019, Sharpe received a recertification letter from CMS declaring the effective date of participation in the Medicare program to be August 14, 2019.*

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### **Sharpe Hospital Plans to Reach Full Capacity in the Future.**

Now that Sharpe can begin accepting civil patients again, future plans include a change in the patient population. According to Sharpe's CEO, *"The plan underway is to open a civil unit at the hospital on December 9, (2019) with an approximate capacity of 28 patients. Efforts are currently underway to complete hiring and training of new staff for the civil unit."* The future civil unit will be located on N-2, which comprises part of the recently completed 50-bed addition. Sharpe expects to accept more civil patients beyond the initial 28 in the future. Sharpe's CEO adds, *"It is anticipated that the total number of forensic patients receiving hospital care will diminish and it is anticipated that N1 (a unit that currently serves forensics) will convert to civil commitments that will increase available capacity to 50."*

External forces may interrupt or delay Sharpe's transition goal for civil patients. Due to the nature of mentally ill patients, not every individual admitted to Sharpe can safely tolerate rooming with another patient. In these cases, the other bed, or "blocked bed," remains vacant, and Sharpe is prevented from filling 100 percent of its beds. The number of patients that cannot be housed with a roommate is traditionally inconsistent and difficult to predict. Sharpe's CEO elaborates, *"The number varies based on the unique clinical and safety concerns of various patients, including aggression/violence, inappropriate sexual behavior, and psychosis. The number of blocked beds usually runs from a low of 5 to a high of 10 or more depending on patient safety needs."* Otherwise, Sharpe plans to make a prominent effort to fulfill the reintroduction of civil patients to the hospital without major interruption.

## Conclusion

Sharpe Hospital's loss of CMS certification in September 2017 reduced its revenue stream, increased costs, impacted the overall patient population, escalated the number of diversions, inspired significant internal operational changes, and led some staff members to resign employment. Without the ability to participate in the Medicare program, Sharpe had to transition its patient population to completely serve forensics, and thus, remove and divert any civil patients from its facility. Sharpe incurred other expenses by hiring Greeley consultants to make the necessary changes for recertification. Although the resulting internal changes negated matters by causing a large percentage of the 2017-2018 employee turnover, the changes ultimately led to successful recertification and future plans to diversify the patient population. Based on the recent recertification, Sharpe has the ability to maintain its goals by continuing careful and results-driven oversight for all major hospital departments, and by extending the solutions, training, and skill sets fostered by Greeley's services.

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*Based on the recent recertification, Sharpe has the ability to maintain its goals by continuing careful and results-driven oversight for all major hospital departments, and by extending the solutions, training, and skill sets fostered by Greeley's services.*

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## Recommendation

1. *The Legislative Auditor recommends that Sharpe Hospital continue to follow all CMS guidelines pertaining to hospital regulations, psychiatric facility rules, and Life Safety Code to maintain certification and participation in the Medicare program. Emphasis should be placed on satisfying regulations related to treatment plans.*

## ISSUE 2

### **Sharpe Hospital Is ADA Compliant After No Citations Issued by the Centers for Medicare and Medicaid Services.**

#### **Issue Summary**

During a standard CMS survey of general hospitals, federal guidelines require the auditor to check the facility for compliance with applicable federal laws related to the health and safety of patients, which includes the ADA. Based on this protocol, Sharpe Hospital is determined to be in compliance with the ADA because the facility was not cited for federal law deficiencies during its most recent successful survey in August 2019. The Legislative Auditor recommends that Sharpe Hospital continue to comply with all ADA standards applicable to its facility.

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*During a standard CMS survey of general hospitals, federal guidelines require the auditor to check the facility for compliance with applicable federal laws related to the health and safety of patients, which includes the ADA.*

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#### **CMS Reviews for Compliance With the Americans With Disabilities Act During Its Surveys.**

According to 42 C.F.R. §482.11(a) from the CMS survey manual for hospital guidelines, *“The hospital must be in compliance with applicable Federal laws related to the health and safety of patients.”* Because the ADA is a federal law by definition, this qualifies it as an *“applicable Federal law related to the health and safety of patients,”* as subject to CMS requirements. CMS survey procedures for confirming compliance with this code include:

- Interview the CEO, or appropriate individual designated by the hospital, to determine whether the hospital is in compliance with federal laws related to patient health and safety.
- Refer or report noted noncompliance with federal laws and regulations to the appropriate agency having jurisdiction (e.g., hazardous chemical/waste issues to EPA, etc.).

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*The survey results stating, “This facility is in compliance with the Medicare Conditions of Participation for Hospitals and no deficiencies were cited as a result of the initial certification survey,” is the equivalent to declaring Sharpe to be ADA compliant.*

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#### **Sharpe Has Not Been Cited for Non-Compliance By CMS.**

Sharpe’s ADA compliance can be confirmed by the most recent successful CMS surveys, completed on August 14, 2019. CMS guidelines require the hospital to meet all applicable Federal law requirements, and surveyors are tasked with reporting violations of this code in the event of noncompliance. By this standard, the absence of a citation for ADA non-compliance indicates Sharpe is in full compliance. The survey results stating, *“This facility is in compliance with the Medicare Conditions of Participation for Hospitals and no deficiencies were cited as a result of the initial certification survey,”* is the equivalent to declaring Sharpe to be ADA compliant.

## Conclusion

CMS auditors check for ADA compliance as a component of the hospital survey protocol. Sharpe Hospital is compliant with the ADA based on its ability to successfully pass a recent CMS survey that required the facility to comply with applicable federal laws related to the health and safety of patients. Sharpe would have been cited for violations and reported to the appropriate agency had CMS surveyors found ADA noncompliance deficiencies. Sharpe should also continue to maintain ADA compliance in the event of future renovation or construction projects within its existing units.

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*Sharpe would have been cited for violations and reported to the appropriate agency had CMS surveyors found ADA noncompliance deficiencies.*

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## Recommendation

2. *The Legislative Auditor recommends that Sharpe Hospital continue to comply with all ADA standards applicable to its facility.*



# Appendix A Transmittal Letter

## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

June 28, 2019

Patrick Ryan, CEO  
William R Sharpe Jr. Hospital  
936 Sharpe Hospital Road  
Weston, WV 26452

Dear Mr. Ryan:

Pursuant to *West Virginia Code* §4-10-8, the Performance Evaluation and Research Division (PERD), within the Office of the Legislative Auditor, is required to conduct an Agency Review of the Department of Health and Human Resources (DHHR). As part of this process, a performance review of Sharpe Hospital will be conducted. An entrance conference has been scheduled for Thursday, July 11, 2019 to discuss the evaluation process. Additionally, we are requesting the information below be provided to us either at the entrance conference or shortly after.

1. Please identify the number of full-time and part-time employees that were on staff at Sharpe Hospital each year during FY 2015-2019.
2. Please identify the number of contracted full-time and part-time employees that were utilized at Sharpe Hospital each year during FY 2015-2019.
3. Please provide the number of forensic and non-forensic patients that were admitted to Sharpe Hospital each year for FY 2015-2019.
4. Please provide the number of patients who were diverted from Sharpe Hospital during FY 2015-2019. Further, if possible please identify the facilities these patients were ultimately admitted to.
5. Please identify the total bed capacity for Sharpe Hospital, as well a breakdown of the types of units and their individual capacity?
6. Is there currently a waiting list for patients to be treated at Sharpe Hospital? If so, can you please provide this number?

7. What policies and or procedural changes have been implemented to correct the issues with treatment plans that were identified during compliance/certification surveys?
8. Is Sharpe Hospital in ADA compliance? If so, can you supply documentation or a report which identifies compliance?
9. Can you please report the total expenditures and revenues at Sharpe Hospital, in a dollar amount, during FY 2015-2019?

You may forward the requested information via email at [Lukas.griffith@wvlegislature.gov](mailto:Lukas.griffith@wvlegislature.gov). If you have any questions regarding the performance review, please contact Brandon Burton, Research Manager, or me at 304-347-4890. Thank you for cooperation in responding to this request.

Sincerely,



Lukas Griffith  
Research Analyst

c: Bill Crouch, Department of Health and Human Resources, Cabinet Secretary  
Brian Cassis, Office of Internal Control and Policy Development, Director

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# Appendix B

## Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Performance Review of William R. Sharpe, Jr. Hospital (Sharpe) as part of the Agency Review of the Department of Health and Human Resources (DHHR) as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code (WVC)*, as amended. The purpose of Sharpe Hospital is to provide quality treatment and healthcare to patients either committed to the hospital through civil commitment or, in the case of forensic patients, ordered through the judicial system.

### Objectives

The objectives of this review are to determine how Sharpe was impacted after losing certification from the Centers for Medicare and Medicaid Services (CMS), and whether the hospital complies with the Americans with Disabilities Act (ADA).

### Scope

The performance review included an assessment of Sharpe Hospital's major internal operational components such as expenditures, revenues, employment trends, patient populations, patient diversions, and the facility's timeline with relation to CMS between FY 2015 and FY 2019. For the second objective, evidence was collected and assessed to confirm Sharpe's current compliance with the ADA, including 42 C.F.R. §482.11(a) from the CMS survey manual for hospital guidelines and other pertinent regulations involving physical accessibility.

### Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence was gathered for this review through interviews with the Chief Executive Officer (CEO) of Sharpe Hospital and confirmed by written statements. PERD staff visited Sharpe on July 11, 2019 to view the facility, obtain information provided by the CEO, and meet with relevant hospital staff. PERD collected and analyzed Sharpe's meeting minutes, internal committee templates, budgetary information, annual reports, staff training procedures, a written description of the different facility units, and correspondence with CMS including a key re-enrollment application. Revenue and expenditure amounts were retrieved from the OASIS application, including the total expenses Sharpe allotted to an outside healthcare solutions firm. Other documentation related to basic details regarding Sharpe and other state hospitals was obtained from the official WVDHHR website.

PERD also collected documentation from the CMS regional office in Philadelphia, Pennsylvania, including a series of surveys conducted at Sharpe Hospital between FY 2015 and FY 2019, survey manuals, the written CMS auditing standards, and official correspondence between Sharpe and CMS. Written correspondence between PERD and the regional CMS contact was also used to document and confirm timelines. Additionally, PERD collected evidence to achieve the second objective by obtaining ADA-related testimonials from CMS archives and the Federal Register of the U.S. National Archives to corroborate the interpretive federal guidelines that were used to confirm Sharpe's compliance with the ADA.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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.

# Appendix C Agency Response



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**Bill J. Crouch  
Cabinet Secretary**

December 2, 2019

**PERFORMANCE EVALUATION**

**DEC 2 2019**

**AND RESEARCH DIVISION**

John Sylvia, Director  
Performance Evaluation and Research Division  
West Virginia Legislative Auditor's Office  
1900 Kanawha Boulevard East, Room W-314  
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

The West Virginia Department of Health and Human Resources (DHHR) has reviewed the Performance Review report of William R. Sharpe, Jr. Hospital, as conducted by the West Virginia Legislative Auditor's Office, Performance Evaluation and Research Division (PERD). The DHHR concurs with the recommendations reflected within the report. Sharpe Hospital will continue to comply with all standards related to the Americans with Disabilities Act and will continue to follow all guidelines from the Centers for Medicare and Medicaid Services (CMS) pertaining to hospital regulations, psychiatric facility rules, and the Life Safety Code, with emphasis placed on satisfying regulations related to treatment plans.

The DHHR also concurs with the central conclusion within the report. Sharpe Hospital is indeed able to maintain its goals by continuing with careful and results-driven oversight for all major hospital departments. However, it is important to note herein that Sharpe Hospital faces perpetual challenges with managing the growing forensic patient population, which does indeed affect its ability to maintain organizational goals and oversee major hospital departments in an efficient and effective manner. As the report indicates, forensic patients are psychiatric patients whose mental illness has brought them into contact with the criminal justice system; are court-ordered to Sharpe Hospital; and can include individuals who have been adjudicated as incompetent to stand trial-in need of restoration (IST-R), incompetent to stand trial-unable to be restored (IST-NR), or not guilty by reason of mental illness (NGRMI).

As additional information that is not indicated in the report, please note that unlike civilly committed psychiatric patients that are treated and discharged back into the community over a period of weeks, the hospitalization period (i.e., the length of stay) for forensic patients lasts months or, more often, years. In fact, the length of stay for forensic patients can extend well beyond the time needed to treat their mental illness, which severely taxes the acute psychiatric treatment model required for CMS certification. Furthermore, due to the current structure and application of West Virginia Code §27-6A-1 *et seq.* (*Competency and Criminal Responsibility of Persons Charged or Convicted of a Crime*), forensic patients experience long lengths of stay in a hospital setting, which creates the need to rely on diversions which increases overall costs.

One Davis Square, Suite 100, East • Charleston, West Virginia 25301 • 304 558-0684 • 304-558-1130 (fax) • dhhr.wv.gov

With the goal of reducing forensic diversions, and assuring that individuals are placed in the least restrictive setting possible, DHHR is identifying and working towards methodical changes to create a Forensic System of Care that emulates the best practices adopted by other states who have struggled with this same problem. Our approach to these changes will be consistent with the clinical standards of psychiatric care, protects patients' rights of due process, and is fiscally responsible. In fact, our approach to this issue should result in significant savings to the state. Such efforts will include but will not be limited to the following:

1. Recommend that West Virginia Code §27-6A-1 *et seq.* be revised in an effort to reduce reliance on the most expensive level of care (inpatient hospitalization) within the forensic system by:

- Developing Outpatient Competency Restoration for misdemeanors and non-violent felonies. From January to June 2019, as an example, the length of stay for IST-R (individuals who have been adjudicated as incompetent to stand trial-in need of restoration) was 87 days, with a cost of \$896 per day and 29 such admissions, which is a total cost of \$2,260,608 for January to June 2019 (87 x \$896 x 29).
- Creating stronger clinical decision-making related to the need for inpatient treatment. Currently West Virginia Code §27-6A-1 *et seq.* allows for the Chief Medical Officer to petition the court to discharge patients to a lower level of care if they are no longer a danger to themselves or others; however, doing so does not often result in being able to discharge the patient. Adhering to clinical criteria (i.e., stronger clinical decision-making) for discharge would ensure treatment of the appropriate intensity for the acuity of a patient's illness and reduce reliance on unnecessary inpatient care.
- Requiring community mental health centers to treat forensic patients in the community pursuant to the Community Placement Plan developed by the treatment team and approved by the courts. In other words, solidify and codify the requirements applied to community mental health centers to address the fact that some forensic patients have been refused for treatment due to nonclinical reasons.
- Utilizing the civil treatment system for individuals found to be non-restorable. Transitioning a non-restorable patient to the civil commitment treatment system would ensure that the patient receives necessary treatment and would enable the care to be paid by the patient's commercial or governmental payor source. Once stable, the patient could be placed in the community to receive care at the least restrictive level.

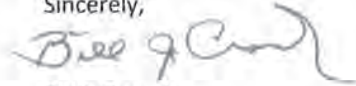
2. Create additional forensic group home beds and explore partnering opportunities for supportive housing (e.g., HUD options), as one of the primary barriers to discharge is suitable housing. The creation of group home beds would provide supervised placements and transitional services.

3. Expand the ability to supervise forensic patients placed in the community by using "Forensic Navigators." Forensic Navigators could assist in the creation of discharges that are consistent with Community Placement Plans and provide ongoing supervision of a patient's compliance with the plan. Forensic Navigators should be housed in the community mental health center that is serving the area for which the forensic patient is discharged.

Sharpe Hospital Performance Review  
December 2, 2019  
Page 3

On behalf of the DHHR, I thank the staff members at the PERD for their time and effort and for the conclusions and recommendations reflected within the Performance Review report of William R. Sharpe, Jr. Hospital. The DHHR looks forward to the PERD's continued input as we work towards ensuring that Sharpe Hospital not only continues to comply with all applicable CMS guidelines, but also continues to improve upon the overall quality of services and operational efficiency in general.

Sincerely,



Bill J. Crouch,  
Cabinet Secretary







WEST VIRGINIA LEGISLATIVE AUDITOR

## PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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