

WEST VIRGINIA DEPARTMENT OF HEALTH
PROMULGATION HISTORY ABSTRACT

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A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 3-7-84
Administrative Law Division

WEST VIRGINIA INTERPRETIVE RULES
BOARD OF HEALTH

Five Year Health Facilities Plan for
the Fiscal Years 1985-89

Chapter 16-1
Series ³⁷
(1984)

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WEST VIRGINIA INTERPRETIVE RULES
BOARD OF HEALTH

Chapter 16-1
Series 37
(1984)

FILED IN THE OFFICE OF
A. JAMES BRANCHIN
SECRETARY OF STATE

THIS DATE 3-7-84

Subject: Health Facilities Plan for the Fiscal Years 1985-89 Administrative Law Division

Section 1. General

1.1 Scope - These interpretive rules establish a five-year health facilities plan for utilization of funds from the hospital services revenue account for the purpose of improving the delivery of health and mental health services at state health and mental health facilities, for maintaining or obtaining certification for such facilities, and for development and revision of the plan.

1.2. Authority - These interpretive rules are issued under the authority of Chapter 16, Article 1, Section 15a and are related to Chapter 26, Article 11 and Chapter 27, Article 2 of the West Virginia Code.

1.3. Filing Date - These rules were promulgated on the 24th day of February, 1984 and filed on the 7th day of March, 1984 in the secretary of state's office.

1.4. Effective Date - These interpretive rules became effective on the 6th day of April, 1984.

Section 2. Definitions

2.1. Developmental Disability - A severe, chronic disability of a person which: a) is attributable to a mental or physical impairment or a combination of mental and physical impairment; b) is manifested before the person attains age twenty-two (22); c) is likely to continue indefinitely; d) results in substantial functional limitations; and e) reflects the person's need for a com-

bination and sequence of special, interdisciplinary, or generic care, treatment or other services which are individually planned and coordinated.

2.2. E. H., et al v. Khan Matin, M.D. et al - An action brought on behalf of four residents of Huntington State Hospital seeking an order to require the clinical director of Huntington State Hospital and the director of the West Virginia department of health to provide services to which they alleged they were entitled under West Virginia law (W. Va., 284 S.E.2d 232 (1981)). Short title: E. H. v. Matin; informally referred to as "Hartley." This decision was applied to the entire behavioral health service delivery system operated by or supported by the health department. (See also West Virginia Behavioral Health Care Delivery System Plan.)

2.3. Functionally Geriatric - Persons at state hospitals who are under sixty-five (65) years of age but who have disabilities requiring a degree and intensity of nursing care generally associated with the disabled over sixty-five (65) years of age.

2.4. Medically Fragile - Developmentally disabled persons who require more than skilled nursing care and the services of a physician at least weekly.

2.5. Medley et al. versus Ginsberg et al - A class action brought on behalf of mentally retarded children and young adults in United States District Court, S.D. West Virginia to redeem alleged deprivation of federal, constitutional and federal and state statutory rights arising from institutionalization of plaintiffs by the state (492 F. Supp. 1294, June 10, 1980).

2.6. West Virginia Behavioral Health Care Delivery System Plan - An extensive plan for the delivery of behavioral health services by the health department which was developed by various concerned parties pursuant to the E.H. v. Matin (supra) decision (as approved by Order entered November 15,

1983 by A. Andrew MacQueen, Chief Circuit Judge, in the circuit court of Kanawha County, West Virginia, Civil Action No. MISC-81-585. Short title: Delivery System Plan; informally referred to as the "Hartley Plan."

Section 3. The Planning Process

At the present time, the director of the department of health has chosen to commit a major portion of its planning for both physical facilities and programming to complying with two recent court decisions. These two decisions are: a) E.H., et al versus Khan Matin, M.D., etc., et al and b) Medley et al versus Ginsberg et al (supra). Of the two, E. H. v. Matin has had a greater and more immediate effect on department planning efforts, as it is extremely broad and has major implications for facility construction, alteration and renovation by the department as well as for programmatic planning. Details of the actions to be taken by the health department in response to E.H. v. Matin are set forth in the West Virginia Behavioral Health Care Delivery System Plan. The Delivery System Plan details department policies, and actions and other matters not relevant for this facility plan. Mandates of the Delivery System Plan which are relevant for this five-year plan are incorporated herein.

Additional planning efforts are directed toward: 1) attaining and maintaining certification for reimbursement under the federal medicare and medicaid programs; 2) complying with life-safety requirements as determined necessary by the state fire marshal; and 3) implementing various projects related to increasing the energy efficiency of the state health and behavioral health care facilities.

All improvements and projects developed under the Delivery System Plan are subject to review by the advocates for the plaintiffs in E.H. v. Matin, a

court-appointed monitor of the execution of the Delivery System Plan and an implementation team for the Delivery System Plan, which consists of health department facility administrators and central office staff. Additionally, the projects funded under this plan are subject to review under the West Virginia Certificate of Need Law, found at Chapter 16, Article 2D, Section 1 et seq. of the West Virginia Code and under Section 1122 of the Federal Social Security Act. Also included in the planning process are certain procedures required to be followed in filing this plan as an interpretive rule. A public hearing concerning the plan must be conducted and the plan must be approved by the State board of health. Expenditures made from the hospital services revenue account must be in accordance with this plan and must be approved by the State legislature.

Section 4. The Hospital Services Revenue Account - Estimated collections for fiscal year 1984 are \$6.78 million. The fiscal year 1985 collections are expected to increase by \$821,250 with the certification of Fairmont Emergency and Lakin State Hospitals. The fiscal year 1986 collections should increase by an estimated \$638,750 once Greenbrier Center and additional beds at Pinecrest State Hospital are certified.

Table 1 is an estimation of the total funds available from the hospital services revenue account for fiscal years 1985 and 1986. The accumulation of funds for the previous legislative appropriations will be completed by February 1984, resulting in an estimated carryforward of \$3,812,390.

Table 1
Hospital Service Revenue Account

| Estimated Available Funds | | |
|---------------------------|-------------------------|-------------------------|
| <u>Source of Funds</u> | <u>Fiscal Year 1985</u> | <u>Fiscal Year 1986</u> |
| Patient Fees | \$8,401,250 | \$8,596,365 |
| Carryforward | <u>3,812,390</u> | <u>-0-</u> |
| Total Available Funds | <u>\$12,213,640</u> | <u>\$8,596,365</u> |

Section 5. The State Facility System

The department of health operates six long-term care facilities--Hopemont, Denmar, Pinecrest, Lakin, Fairmont Emergency Hospital and the Andrew S. Rowan Memorial Home. Additionally, the new Welch Emergency Hospital soon to be completed in McDowell County will replace the old facility and will provide more long-term care beds than the old facility in addition to serving as a full-service hospital. The department also operates three facilities for the developmentally disabled--Colin Anderson Center, the Greenbrier Center and Spencer, as well as two mental health facilities, Weston and Huntington Hospitals. The three facilities for the developmentally disabled serve a statewide population; the mental health facilities serve distinct catchment areas. Further information on present and projected use of these facilities can be found in Table 2 on page 6 and Table 3 on page 7.

At the present time, four hundred and forty-eight (448) beds are certified for reimbursement under the federal medicare and medicaid programs. These are: at Colin Anderson Center (156 intermediate care for the mentally retarded), at Denmar (155 intermediate care), at Fairmont Emergency Hospital

Table 2
 State Health Care Facilities
 Fiscal Year 1983

| Facility | Current Capacity | Current Certified Beds | Projected Accredited* or Certified Beds | Current Staff | Fiscal 1983 Expenses | Fiscal 1983 HSRA Collections |
|-------------------------------|------------------|------------------------|---|---------------|----------------------|------------------------------|
| Colin Anderson Center | 400 | 156 | -- | 700 | \$8,614,712 | \$1,511,497 |
| Denmar Hospital | 175 | 155 | -- | 200 | 2,842,378 | 1,394,770 |
| Fairmont Emergency Hospital | 44 | 44 | -- | 63 | 1,054,712 | 147,635 |
| Greenbrier Center | 54 | -- | 50 | 95 | 1,331,490 | 1,176 |
| Hopemont Hospital | 150 | -- | -- | 237 | 3,830,119 | 291,156 |
| Huntington Hospital | 400 | -- | 250 | 545 | 5,389,110 | 351,315 |
| Lakin Hospital | 150 | -- | 136 | 224 | 2,812,666 | 164,770 |
| Pinecrest Hospital | 225 | 93 | 119 | 342 | 4,234,309 | 1,170,842 |
| Andrew S. Rowan Memorial Home | 170 | -- | -- | 98 | 1,423,346 | 155,250 |
| Spencer Hospital | 200 | -- | 65 | 356 | 4,778,550 | 383,493 |
| Welch Emergency Hospital | 30 | -- | 120 | 108 | 1,636,580 | 50,637 |
| Weston Hospital | <u>500</u> | <u>--</u> | <u>250</u> | <u>654</u> | <u>9,453,999</u> | <u>448,176</u> |
| Total Facilities | 2,498 | 448 | 990 | 3,622 | \$47,401,991 | \$6,070,717 |
| Interest Earned | | | | | | 533,938 |
| Other Collections | | | | | | 3,247 |
| Refunds | | | | | | (8,331) |
| Totals | <u>2,498</u> | <u>448</u> | <u>990</u> | <u>3,622</u> | <u>\$47,401,991</u> | <u>\$6,509,571</u> |

Section 5.

*Accredited by the Joint Commission on Accreditation of Hospitals.

TABLE 3
PRESENT AND PROJECTED USE OF
STATE HEALTH FACILITIES

| <u>FACILITY</u> | <u>PRESENT USE</u> | <u>PROJECTED USE BY 1989</u> |
|----------------------------------|---|--|
| Colin Anderson Center | Care of Develop- mentally Disabled (400 beds) | Care of Develop- mentally Disabled (200 beds) |
| Denmar Hospital | Intermediate (155 beds) and Personal Care (20 beds) | |
| Fairmont Emer- gency Hospital | Skilled and Intermediate (44 beds) | Long Term Care (44 beds) |
| Greenbrier Center | Care of Developmentally (54 beds) | Disabled (50 beds) |
| Hopemont Hosp. | Personal Care (115 beds) | Personal Care (115 beds) |
| Huntington Hosp. | Adult Psychiatric Developmentally Dis- abled and Geriatric (400 beds) | Admissions, Geriatric, and Chronic Behavior- ally Ill (250 beds) |
| Lakin Hospital | Intermediate Care (136 beds) and Child Adolescent Behavior Treatment (20 beds) | Intermediate Care (136 beds) |
| Pinecrest Hosp. | Intermediate Care (93 beds), Long-Term Care (100 beds), Tuberculosis (20 beds), | Intermediate Care (93 beds) Long-Term Care (100 beds), Tuberculosis (20 beds), Admissions (26 beds) |
| Andrew S. Rowan Memorial Home | Personal Care (170 beds) | Personal Care (170 beds) |
| Spencer Hosp. | Adult Psychiatric, Developmentally Disabled and Ger- iatric | Developmentally Disabled (decreasing from 150 beds maximum) |
| *Welch Emer- gency Hosp. | Long-Term Care, Acute Care (30 beds) | and Primary Care (120 beds) |
| Weston Hospital | Adult Psychiatric, Developmentally Dis- abled and Geriatric (500 beds) | Admissions, Geriatric, and Chronic Behavior- ally Ill (250 beds) |

*A new facility is presently under construction.

(44 skilled or intermediate care) and at Pinecrest Hospital (93 intermediate care). Lakin is expected to be certified by June, 1984 or earlier (136 intermediate care beds).

Although the Code exempts state facilities from state licensing standards, efforts are underway to meet licensing standards for all facilities. Efforts are also underway to upgrade additional long-term care facilities to medicaid standards. Additionally, there are deficiencies in life-safety and in energy efficiency. Correcting life-safety deficiencies is essential for general patient safety and for attaining and maintaining certification. Improvements related to energy efficiency will be cost-efficient eventually.

Section 6. Administrative - An administrative budget will provide funding for the personal services and current expenses related to the management and control of the hospital services revenues account. It will enable the department to prepare and complete projects more quickly, and will reduce the administrative cost burden placed upon state general revenue funds. Staff projected include a financial manager, and a construction supervisor.

Section 7. Delivery System Plan Capital Outlays and Renovations

7.1. General - The majority of the capital outlay and renovation projects mandated by the Delivery System Plan shall be funded by the hospital services revenue account. The development and implementation of these projects will allow the department to meet or exceed the minimum standards and timetables as set forth by the Delivery System Plan. All the projects shall be completed by June 30, 1989 at the latest unless otherwise indicated.

7.2. State Hospital Renovations - The development and implementation of these projects will allow the department to meet the environmental and phy-

sical plant standards for medicaid and medicare certification, and Accreditation by the Joint Commission on the Accreditation of Hospitals, or by the Accreditation Council for the Mentally Retarded and Developmentally Disabled.

7.2.1. Huntington State Hospital - Shall be renovated as a two hundred fifty (250) bed psychiatric and psychogeriatric facility. The renovations shall be completed in several phases allowing staff to shift patients and service from buildings under renovation to other buildings. The specialized facilities to be developed are for acute care psychiatric admissions, chronically mentally ill, and psychogeriatric. The renovation shall be completed by June 30, 1986.

7.2.2. Pinecrest State Hospital - A twenty-six (26) bed acute care psychiatric admission unit shall be developed at Pinecrest. The unit shall serve the southeastern part of the state, reducing admissions at Huntington State Hospital. The renovations shall be completed by June 30, 1985.

7.2.3. Spencer State Hospital - shall be operated as an interim intermediate care facility for the developmentally disabled who are currently residents at Huntington, Weston and Spencer. Renovations shall be made to certify sixty-five (65) beds by June 30, 1985. By June 30, 1989 all the patients shall be placed into the community or specialized residential training facilities.

7.2.4. Weston State Hospital - shall be renovated as a two hundred fifty (250) bed psychiatric and psychogeriatric facility. As at Huntington State Hospital, the renovations shall be completed in several phases allowing staff to shift patients and services from buildings under renovation to other buildings. The specialized facilities to be developed are for acute care psychiatric admissions, chronically mentally ill, and psychogeriatric patients. The renovations shall be completed by January 1, 1988.

7.3. Group Homes - The group homes mandated by the Delivery System Plan shall be a part of the behavioral health continuum of care system. These homes shall provide a less restrictive, more appropriate level of care for the developmentally disabled, the developmentally disabled behaviorally disturbed, and the behaviorally handicapped or chronically mentally ill.

7.3.1. Developmentally Disabled Group Homes - Thirty (30) group homes of eight (8) beds each shall be developed for the developmentally disabled. Six (6) of these group homes shall be developed during fiscal year 1985, and six (6) each year thereafter until all thirty (30) group homes are developed.

7.3.2. Developmentally Disabled Behaviorally Disturbed Group Homes - Seventeen (17) group homes of six (6) beds each shall be developed for the developmentally disabled, behaviorally disturbed, autistic or autistic-like. Seven (7) of these group homes shall be developed by June 30, 1986, and the remaining ten (10) by June 30, 1989.

7.3.3. Behaviorally Handicapped Group Homes - Fifteen (15) group homes of six (6) beds each shall be developed for the behaviorally handicapped or chronically mentally ill.

7.4. Regional Diagnostic Training and Habilitation Facilities - The department shall develop two 20-25 bed facilities for the developmentally disabled. These facilities shall provide for transitional habilitation and programming for developmentally disabled residents with severe institutionalized or other problematic behaviors. These facilities shall also provide respite care, crisis stabilization, and diagnostic evaluations for persons who would likely be institutionalized if these services were not made available. At least one of these facilities will be located to facilitate the provision of services to individuals in the southern half of the state.

7.5. Forensic Services - A special facility shall be developed for the provision of mental health services for persons charged with or convicted of crimes. A task force has been formed and is working on the development of a forensic services plan.

7.6. Medically Fragile - A specialized center for medically fragile persons shall be developed to serve fifty (50) developmentally disabled persons with severe, rare, and complicated medical, psychological, educational, and physical needs. The facility shall be developed near a major medical and research center and shall provide a variety of sophisticated resources to appropriately evaluate, diagnose, and prescribe appropriate treatment for the medically fragile and multihandicapped.

7.7. Admissions Units - shall be developed at Weston, Huntington and Pinecrest State Hospitals. The admissions units shall provide acute care psychiatric services to help the residents reach stabilization and be placed back in the community within thirty (30) days.

7.8. Transitional Living Units - which provide a simulated home environment for chronic psychiatric patients shall be developed. The department shall develop at least four units to house no more than six (6) patients each. The services provided by these units will prepare patients for placement into the community.

Section 8. Certification, Life Safety and Energy Conservation - The court-ordered renovation projects at Huntington, Weston, Spencer and Pinecrest state hospitals will achieve the original intent of the legislation establishing the hospital services revenue account. However, the facilities not under court ordered renovations will need funding to achieve or maintain these goals.

8.1. Certification Projects - shall be developed to achieve or maintain medicaid and medicare certification for all the department's facilities.

8.2. Life Safety Projects - shall be developed to provide a safe environment for the patients and staff at all the departments facilities. These projects shall address the life safety code deficiencies identified by the state fire marshal for each type of facility.

8.3. Energy Conservation Projects - shall be developed to reduce the consumption of energy by the department's facilities. Only those projects for which net savings will equal or exceed the renovation cost shall be considered for funding.

Section 9. Mental Health and Substance Abuse Services for Youth - The health department recognizes the need for more programs and greater service coordination in delivering mental health, including substance abuse, services to youth. Plans call for a combination of community-based programs (Scattered Site Program) and at least two central residential facilities, one for mental health services and one for substance abuse programming. Funding for the community-based programs will be derived from both the general revenue and the hospital services revenue account.

An earlier plan, Interim Health Facilities Plan for the Fiscal Years 1982-84, West Virginia Board of Health Interpretive Rules, Chapter 16-1, Series 1 (1983), projected the construction of a residential adolescent unit to provide mental health services at Huntington Hospital using funds from the hospital services revenue account. Because it has since been determined that this type of unit should not be on the grounds of an adult psychiatric facility, construction is now planned at a site in Barboursville. Additionally, the change in site has created a need for additional support service facilities which in the earlier plan were anticipated as being provided by Huntington Hospital. Plans for the substance abuse unit are not complete at this time. It will be necessary to continue operation of the adolescent unit at Lakin

Hospital at least until completion of the facility at Barboursville. Long-range plans for this unit are uncertain at this time.

Section 10. Contingency for Repairs and Alterations, Equipment, Emergency Services and Miscellaneous

The department's repairs and alterations, and equipment budgets have suffered heavy losses because of the recent state budget reductions. Therefore, it is proposed that a contingency budget be established to provide funding for the following:

1) Emergency repairs or replacement of equipment which would exhaust a facility's state repairs and alterations or equipment funds, for example, repairing or replacing a boiler or blown out steam line.

2) Expenditures to correct deficiencies reported by the state fire marshal (who is planning to inspect all the department's facilities) which would exhaust a facility's state repair and alterations or equipment funds.

3) Expenditures for miscellaneous projects not anticipated by the department or its facilities, for example, energy audits, engineering projects, or matching funds for federal grants.

4) Replacement of repair and alteration and equipment funds which are not included in the department's fiscal 1985 general budget request due to budgeting guidelines and reductions.

Section 11. Administrative Due Process - Those persons adversely affected by the enforcement of these interpretive rules desiring a contested case hearing shall do so in a manner prescribed in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Board of Health Procedural Rules, Chapter 16-1, Series I, 1983.

Section 12. Severability - If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.