



JOINT
HEALTH
COMMITTEE

DHHR & WILLIAM R. SHARPE,
JR., HOSPITAL

December 6, 2022

**DRWV's Monitoring Sharpe Hospital
and MMBH FY '22**

80

VISITS

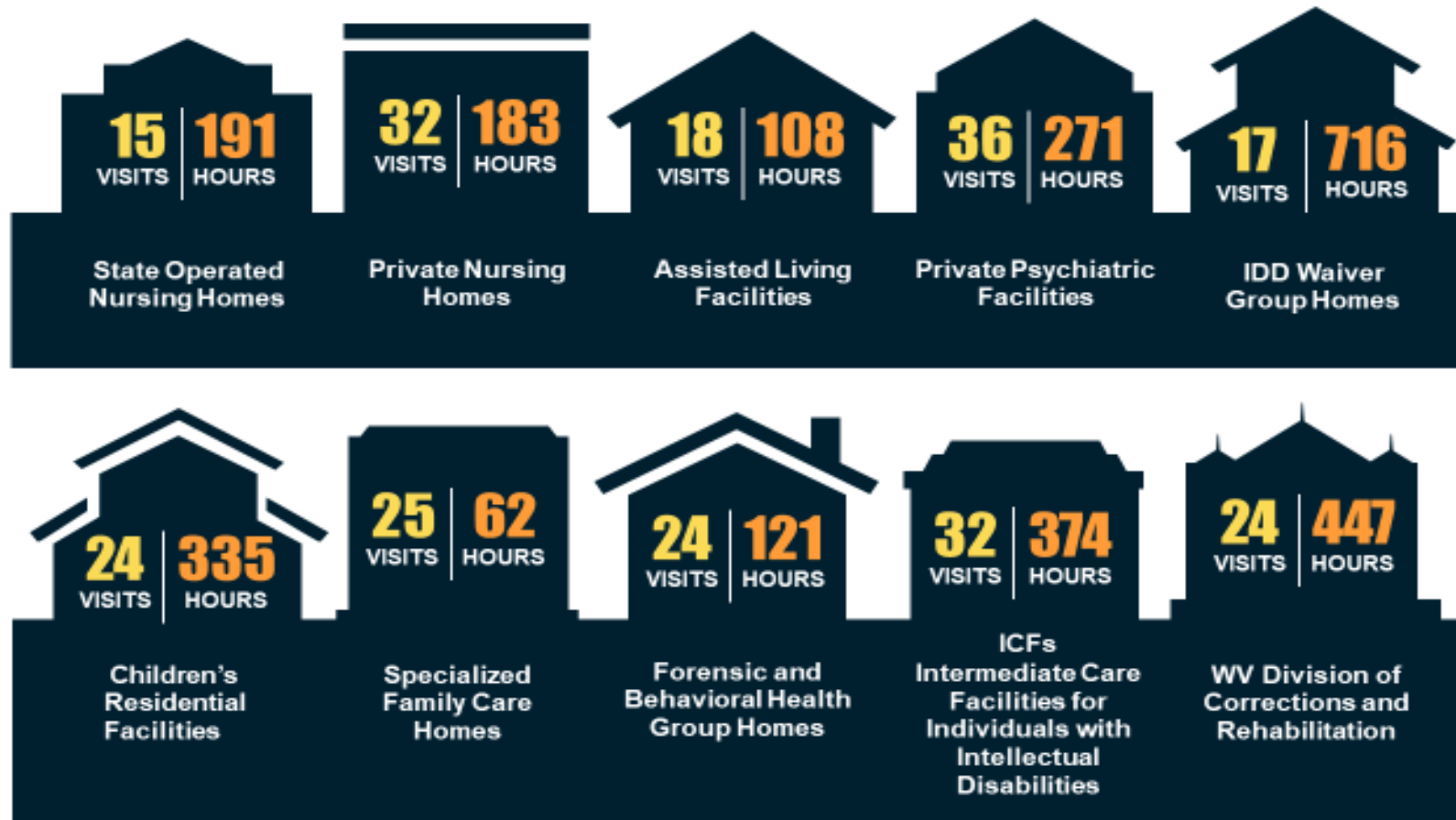
883

HOURS

State Psychiatric Hospitals

Sharpe Hospital and MMBH

Other Facilities DRWV Monitored in FY 22





Broken
Promises To
IDD Patients &
Their Families

Deinstitutionalization Of Residents At Colin Anderson (2005)

- Notwithstanding any other provisions in this code to the contrary, the secretary of the department of health and human resources shall close the Colin Anderson Center on or before the thirty-first day of December, one thousand nine hundred ninety-six [Dec. 31, 1996]: *Provided*, That prior to any transfer of any resident from Colin Anderson Center as a result of action taken pursuant to this section, the secretary must design and be able to implement a detailed plan providing for the ongoing appropriate care, placement and transfer of said resident in accordance with subsection (b) of this section. W.Va. Code §27-2-1b(a).

Deinstitutionalization Of Residents At Colin Anderson (2005)

- Each resident must have a plan of service developed to meet his or her individual medical, physical and emotional needs. The plan of service shall be developed by a team which shall include, but not be limited to, the following persons: The resident; the immediate family of the resident, if the immediate family of the resident is willing to participate; the guardian of the resident, if the guardian is willing to participate; representatives of the Colin Anderson Center; community behavioral health service providers; and such other persons as may be appointed to the team by the secretary of the department. **The plan shall not compromise the health, safety and well-being of the resident.** The plan will be implemented in a timely manner. However, no plan shall be implemented until the needed services are in place, adequate staff training has been completed and an appropriate transition has been provided. Each resident, or his or her guardian, shall have access to and be informed of the written appeal process which shall be established by the department. W.Va. Code §27-2-1b(b)



The Ghost of Colin Anderson Center

~ 88 IDD Persons
Currently
Institutionalized

(DHHR Data Oct. 7, 2022)

DHHR's Illegal Resurrection of Colin Anderson Center

**Colin Anderson
Certified Beds**

156

W.Va. Code §27-2-1b ordered the closure of Colin Anderson (“the secretary of the department of health and human resources shall close the Colin Anderson Center on or before the thirty-first day of December, one thousand nine hundred ninety-six....”). The secretary was required to develop a plan (“the secretary must design and be able to implement a detailed plan providing for the ongoing appropriate care, placement and transfer of said resident....”).

**DHHR's Institutionalized IDD
Population as of October 7, 2022**

88 IDD Patients

40

**IDD patients
committed
to Sharpe**

29

**IDD patients
at diversion
facilities**

19

**IDD patients
at MMBH**

(Mildred Mitchell-Bateman
Hospital)

Colin Anderson has closed but Secretary Crouch has resurrected the ghost of Colin Anderson in violation of state law and in dereliction of his required statutory duty.

Secretary Crouch's plan is to institutionalize IDD patients and not integrate IDD patients into the community as required by law.... The costs of Institutionalization v. Integration?



DHHR's Wasted Dollars to Warehouse IDD Patients

(as of October 7, 2022)

29 IDD Patients

Sharpe Hospital has diverted 29 IDD Patients

~\$8,688,250

DHHR has paid Highland Clarksburg alone \$8,688,250 to institutionalize just 5 IDD patients

~\$3,184,140

DHHR has paid River Park Hospital alone \$3,184,140 to institutionalize just 3 IDD patients

~\$700,327

DHHR has paid two psychiatric diversion hospitals on average \$700,327 per patient

~\$310,250

DHHR is paying an actual annual cost of \$310,250 per patient

~\$20,309,490

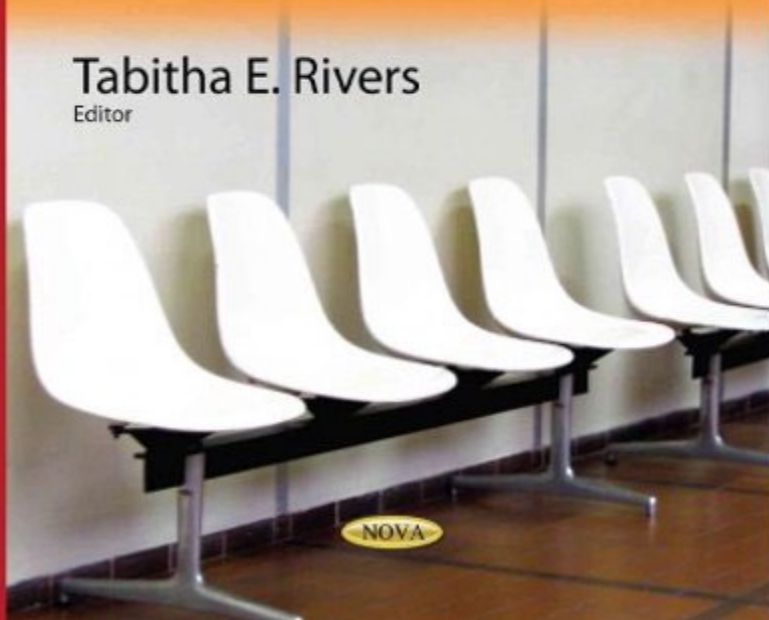
Total Amount to Institutionalize 29 Patients

Patient Dumping

Background, Protections,
and the Mentally Ill

PUBLIC HEALTH PRACTICES, METHODS AND POLICIES

Tabitha E. Rivers
Editor



An IDDW provider may not terminate services unless a viable IPP is in place that effectively transfers needed services from one IDDW provider to another provider and is agreed upon by the member and/or their legal representative and the receiving provider. Providers are prohibited from discriminating in any way against a member or legal representative wishing to transfer services to another provider agency.”

IDDW Manual, WV BMS Policy (513.27 Transfer)

Noncompliance with Hartley Order

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

E.H., et. al.,

Petitioners,

v.

Civil Action No. 81-MISC-585

MATIN, et. ai.,

Respondents.

FINAL ORDER



Having found that Respondent Matin, et al., (DHHR), is substantially in compliance with the prior orders of this case, and having determined that no further legal issues require resolution by the Court, it is ORDERED that:

(1) Respondent DHHR is obligated to continue funding the community-based services that were originally funded through the instant case, including: (1) Hartley group homes; (2) Hartley day programs; (3) Community Engagement Specialists; and (4) Supportive Residential Services. If, at any time in the future, DHHR seeks to discontinue funding any of the aforementioned services, it shall provide 30 day notice to counsel for Petitioners; in the event petitioners and DHHR agree to the proposed change, the parties may enter an agreed stipulation that shall be made part of the record of this case, without need for judicial approval. Nothing herein shall restrict, impair, or preclude DHHR from developing additional programs or providing alternative services consistent with Chapter 27 of the West Virginia Code;

(2) Respondent DHHR is obligated to continue funding independent patient advocates stationed at the state psychiatric hospitals and shall continue to request funding from the West Virginia Legislature for such advocates;

(3) Respondent DHHR shall implement the TAG Program at Sharpe and Bateman as soon as reasonably possible when clinically appropriate and safe to do so in response to the COVID 19 pandemic. The program shall be implemented with due speed and avoiding unreasonable delay; and

DRWV
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RECEIVED



Improper
Institutionalization
Of
Geriatric Patients
And
Unused LTC Beds





DHHR's Wasted Geriatric Diversion Dollars

(as of October 7, 2022)

20 Geriatric Patients

All patients are ready for discharge to nursing homes

Sharpe Hospital has diverted 20 geriatric patients to River Park Hospital

~\$9,682,000

DHHR has paid River Park Hospital \$9,682,000 alone just to institutionalize 5 geriatric patients who should be in a nursing home

~\$849,301

DHHR has paid River Park Hospital an average of \$849,301 per patient

~\$310,250

DHHR is paying an actual annual cost of \$310,250 per patient

~\$16,986,050

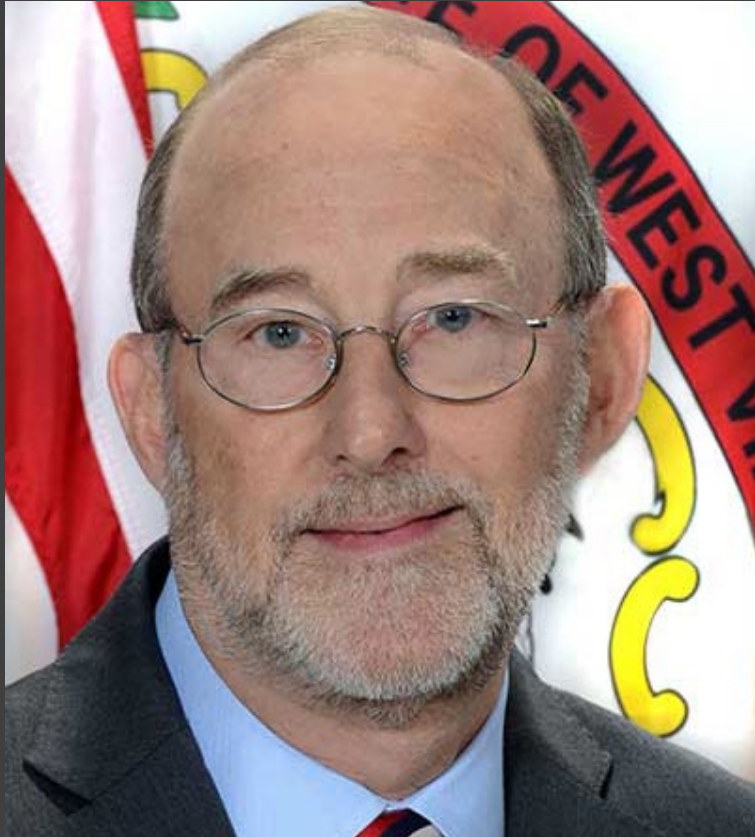
DHHR dollars wasted locking up patients in a psychiatric hospital who meet nursing home admission criteria



DHHR Certified Bed Capacity

State Health Facility	Certified Bed Capacity	Bed Capacity	Census
Hopemont Nursing Home	98	52	46
Jackie Withrow Nursing Home	199	75	50
John Manchin Jr. Nursing Home, Outpatient	41 Nursing Home	38	28
Lakin Nursing Home	114	70	58
Bateman Psychiatric Hospital	110		103
Sharpe Psychiatric Hospital	200		200

Source:: Bill Crouch testimony regarding bed capacity



If [DRWV has] any specific information, anything, any evidence, that Sharpe or Bateman or DHHR has done something wrong, that's inconsistent with state or federal statute, then go straight to CMS. And do it now.”

Sec. Crouch's Nov. 13, 2022, Sworn
Testimony



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office for Civil Rights

Mid-Atlantic Region • 801 Market Street
Suite 9300 • Philadelphia, PA 19107-3134
Voice - (800) 368-1019 • TDD - (800) 537-7697
Fax - (215) 861-4431 • <http://www.hhs.gov/ocr>

Case Number: [REDACTED]
Investigator: [REDACTED]
Contact Telephone: [REDACTED]

November 14, 2022

Jason Parmer, Staff Attorney
Disability Rights of West Virginia
Transmitted Via Email Only: jparmer@drowv.org

Dear Mr. Parmer:

The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) received the complaint filed by Disability Rights of West Virginia (DRWV) stating that the West Virginia Department of Health and Human Resources (DHHR), is engaging in unlawful discrimination based on disability. In the complaint, DRWV alleges that DHHR fails to administer services, programs, and activities in the most integrated setting appropriate to meet the needs of qualified individuals with disabilities. As a result, DRWV states that certain individuals found eligible for services under the Intellectual and Developmental Disabilities Waiver (IDDW) did not receive services needed to avoid the risk of institutionalization and are now needlessly segregated in state-operated hospitals. These allegations could represent a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504),¹ Title II of the Americans with Disabilities Act of 1990 (Title II or ADA),² and Section 1557 of the Patient Protection and Affordable Care Act (Section 1557).³

OCR enforces federal civil rights laws which prohibit discrimination in the delivery of health and human services based on race, color, national origin, disability, age, sex, religion, and the exercise of conscience, and also enforces the Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security and Breach Notification Rules.

After careful consideration, we have determined that we will open an investigation into the complaint filed by DRWV. Please be assured that our office is committed to resolving your complaint as expeditiously as possible. If you have any questions about this letter or the investigation process, please contact Investigator [REDACTED]

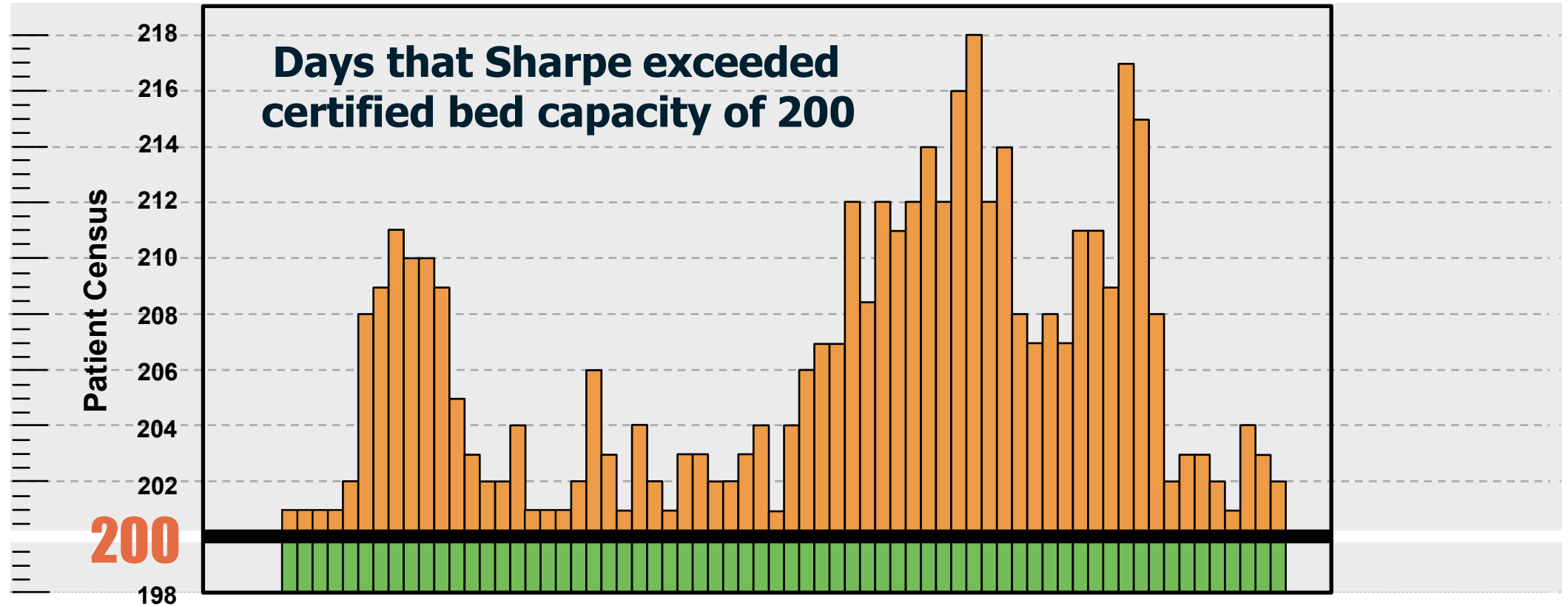
¹ 29 U.S.C. § 794; 45 C.F.R. Part 84

² 42 U.S.C. § 12131-12134; 28 C.F.R. Part 35

³ 42 U.S.C. § 18116; 45 C.F.R. Part 92

William R. Sharpe, Jr. Hospital Census

Review Period: 5/4/2022 through 10/6/2022



Dates that capacity was exceeded: 5/4/2022, 5/5/2022, 5/6/2022, 5/9/2022, 5/11/2022, 5/16/2022, 5/17/2022, 5/18/2022, 5/19/2022, 5/20/2022, 5/24/2022, 5/25/2022, 5/31/2022, 6/1/2022, 6/2/2022, 6/3/2022, 6/6/2022, 6/7/2022, 6/8/2022, 6/9/2022, 6/13/2022, 6/14/2022, 6/15/2022, 6/21/2022, 6/22/2022, 6/23/2022, 6/24/2022, 6/27/2022, 6/28/2022, 6/29/2022, 6/30/2022, 7/11/2022, 7/12/2022, 7/18/2022, 7/19/2022, 8/8/2022, 8/9/2022, 8/10/2022, 8/11/2022, 8/12/2022, 8/15/2022, 8/16/2022, 8/17/2022, 8/18/2022, 8/19/2022, 8/22/2022, 8/23/2022, 8/24/2022, 8/25/2022, 8/26/2022, 8/29/2022, 8/30/2022, 8/31/2022, 9/1/2022, 9/2/2022, 9/6/2022, 9/7/2022, 9/8/2022, 9/9/2022, 9/19/2022, 9/20/2022, 9/21/2022, 9/26/2022, 10/4/2022, 10/5/2022, 10/6/2022

Sharpe exceeded its certified bed capacity roughly **42%** of the time during the Review Period.

CONFIDENTIAL INFORMANTS

[C]onfidentiality is essential and that the P&A system must be able to assure clients and **informants** that they will not reveal information about their cases or identities of clients.

The P&A systems often receive complaints from individuals who fear reprisal if they come forward. If the P&A systems are required to disclose the names or other identifying information of those individuals who contacted the P&A with complaints about abuse and neglect, it is likely that far fewer people will come forward. This will severely impair the ability of the P&A systems to carry out statutorily mandated functions.

42 C.F.R. § 51.45(a)(1)(iii) 62 FR 53548-01, 1997
WL 630749(F.R.) (October 15, 1977)



What's The Plan?

Senate Finance Committee Jan. 31,
2022

303+ Days And
No Plan

SEN. NELSON: “What is the current plan as it relates to the state hospitals and where we move going forward?”

CROUCH: “The two psychiatric facilities again we take individuals who come through the court system ... we have that responsibility under the statute and that's working well although we are working on a plan to reduce the number of individuals to the extent possible in our psychiatric hospitals. I keep saying that no one should live in a psychiatric hospital unless that's the last resort.”