

**IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA**

**J.P., a protected person unlawfully  
detained at William R. Sharpe, Jr.,  
Hospital,**

**Plaintiff,**

**vs.**

**CIVIL ACTION NO. 24-P-10  
Judge Jacob E. Reger**

**WILLIAM R. SHARPE, Jr., HOSPITAL, a  
state psychiatric hospital; PARAMJIT  
CHUMBER, M.D., in his capacity as Chief  
Medical Officer of William R. Sharpe, Jr.,  
Hospital; PATRICK W. RYAN, in his capacity  
as Administrator of William R. Sharpe, Jr.,  
Hospital; MICHAEL J. CARUSO, in his capacity  
as Secretary of the West Virginia Department  
of Health Facilities; and CYNTHIA A.  
PERSILY, in her capacity as Secretary of the  
West Virginia Department of Human Services,**

**Defendants.**

**J.P.’s MOTION FOR DEFAULT JUDGMENT AGAINST CYNTHIA A.  
PERSILY, IN HER CAPACITY AS SECRETARY OF THE WEST VIRGINIA  
DEPARTMENT OF HUMAN SERVICES**

NOW COMES J.P., a protected person with a significant developmental disability that limits his functional capacity, and hereby moves this Court for an order entering default judgment against Cynthia A. Persily, in her capacity as Secretary of the West Virginia Department of Human Services (“DHS”), pursuant to W.Va. Code §55-17-4(2) and W.Va. R.C.P. 55.

J.P. filed his Petition on May 8, 2024, at 11:17:24 AM. The U.S. Postal Service confirmed that DHS accepted service of the Petition on May 13, 2024, at 8:02 AM. Acceptance of DHS’ service of the Petition was filed by the Circuit Clerk of this Court on May 15, 2024, at 11:41:43 AM. *See* attached Notice of Filing. DHS had an obligation to file an answer or other

responsive pleading on or before July 12, 2024. *See* W.Va. Code §55-17-4(1) (“A government agency shall be allowed sixty days to serve an answer to a complaint or petition for which a summons has been issued and served upon a government agency”). Given that more than 60 days have elapsed and DHS has made no known attempt to answer or respond to the Petition regarding J.P.’s unlawful detainment at William R. Sharpe, Jr., Hospital, J.P. is entitled to entry of an order of default judgment against DHS.

#### I. Standard of Review

W.Va. Code §55-17-4(2) prohibits default judgment against a state agency “unless the court, after a hearing on a motion for default judgment, finds that the government agency clearly intends to fail to appear, plead or otherwise defend in the action.” The law generally disfavors a resolution by default. *McDaniel v. Romano*, 190 S.E.2d 8, syl. no. 2 (W.Va. 1972).

However, West Virginia law expressly recognizes that J.P. and similarly situated persons may seek relief for unlawful commitment, unlawful detainment, and a violation of constitutional rights. *Sloan v. Wachtel*, 233 S.E.2d 137, syl. no. 2 (W.Va. 1977) (“Proceedings by writ of *habeas corpus ad subjiciendum*, pursuant to provisions of the Constitution and W.Va. Code 53-4-1, and W.Va. Code 27-5-5 and 8, are available to a person involuntarily committed for mental illness on a showing that he has probable cause to believe that he is detained without lawful authority.”). Further, it is expressly recognized that “[w]rits of *habeas corpus ad testificandum* may be granted ... in the same manner and under the same conditions and provisions ... as to granting the writ of *habeas corpus ad subjiciendum*, as far as the same are applicable. *See* W.Va. Code §53-4-13. Finally, it has been settled law since before West Virginia became a state that “[t]he writ of *habeas corpus ad subjiciendum* **shall be granted forthwith** by ... any circuit court ... or any judge of either court in vacation, to any person who shall, by himself or by

someone in his behalf, apply for the same by petition, showing by affidavit or other evidence probable cause to believe that he is detained without lawful authority.” *See* W.Va. Code §53-4-1 (emphasis added).

The forthwith requirement of W.Va. Code §53-4-1 amplifies J.P.’s constitutional rights under Sections 10 and 17 of Article III of the West Virginia Constitution – “No person shall be deprived of life, liberty, or property, without due process of law.... justice shall be administered without sale, denial or **delay**. (emphasis added).

## II. **Argument**

J.P. filed his petition 77 days ago. It has been 71 days since DHS accepted service and DHS has yet to appear. J.P. remains unlawfully incarcerated and has been unlawfully detained for 679 days. As discussed below, J.P. is forced to live in a chaotic and improper hospital environment that testimony will establish is causing J.P. to decompensate. No “forthwith” action has been taken in response to J.P.’s verified petition and J.P.’s rights under Sections 10 and 17 of article III have been ignored and violated. DHS’ failure to appear or plead has stymied J.P.’s constitutional guarantee to “forthwith” action, delayed J.P.’s requested justice, and perpetuated J.P.’s unlawful incarceration.

J.P.’s verified petition establishes that J.P. was committed due to a fabricated application and clinical certification for commitment. *See* ¶15 Petition. After J.P. was unlawfully committed, Sharpe Hospital’s own internal records establish that J.P. has been ready for discharge since October 12, 2022. *See* ¶16 Petition. J.P.’s provider that prepared a fabricated application and certification for commitment has violated J.P.’s rights under the IDD Waiver Manual and Secretary Persily has failed to enforce the IDD Waiver Manual that has caused

and/or contributed to J.P.'s unlawful involuntary commitment and ongoing incarceration at Sharpe Hospital. *See* ¶28 Petition.

Additionally, J.P.'s Sharpe Hospital clinical records demonstrate the following:<sup>1</sup>

1. J.P. remains at baseline behaviors and mental ability and ready for discharge from Sharpe Hospital.
2. J.P.'s "behaviors largely stem from his dissatisfaction with the transient and overstimulating environment of an acute psychiatric setting. It is believed that transitioning J.P. to a less restrictive and more stable environment, better suited for long-term care of individuals with severe intellectual disabilities, as well as behavioral issues, would likely lead to a reduction in the intensity and frequency of his agitated and aggressive behaviors, provided that adequate support and safety measures are implemented."
3. Sharpe Hospital has created "excessive sensory overload" for J.P. and "behaviors of self-harm are unrelated to any acute treatable psychiatric illness (like depression, anxiety, psychosis, mania) and instead are related to J.P.'s frustration of being in a confined restrictive environment away from his conceptualization of a place that he considers 'home'".
4. "J.P. has no acute psychiatric symptoms or signs in the form of delusion, hallucination, mania, or depression that psychotropic medication has been designed to help." As such, the records suggest that J.P. is being administered medication with no proven therapeutic benefit which raises the issue of whether J.P. is being "chemically restrained" in violation of W.Va. C.S.R. §64-59-3.2 ("Chemical Restraint. – A drug or

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<sup>1</sup> The records will be filed under seal.

medication that is not used as a standard treatment for the patient’s medical or psychiatric condition or that is used solely as a means of coercion, discipline, convenience, or retaliation, and that results in restricting the patient’s freedom of movement.”) and the *State Operations Manual Appendix A - Survey Protocol, Regulations and Interpretive Guidelines for Hospitals*, Tag A-1566.

The verified facts in J.P.’s petition coupled with J.P.’s clinical records that show he is at baseline and ready for discharge makes DHS’ failure to appear or plead even more alarming given the testimony of Susan Given, M.S.W., L.S.W., Executive Director of Disability Rights of West Virginia (“DRWV”), in the attached Affidavit. Indeed, as Mrs. Given testifies, the issue of patient abuse and improper involuntary incarceration of persons with developmental disabilities has been a long-standing policy issue for the West Virginia Legislature, DHHR, and DHS.

Further, in response to concerns and deficiencies related to the community placements of persons with developmental disabilities and the unlawful warehousing of persons with developmental disabilities in the state’s two psychiatric hospitals, former DHHR Secretary Dr. Jeff Coben directed current Department of Human Services (“DHS”) Deputy Secretary Christina Mullins to confer with DRWV to develop a plan to remedy such concerns and deficiencies. *See* Given Affidavit ¶6. DHS’s Deputy Secretary was not just asked to develop a plan; “Dr. Coben had charged her with his duties and oversight of the two psychiatric hospitals and that she was serving with his full authority. She advised that the only authority she did not have with the two psychiatric hospitals was to sign contracts because that’s in code. She shared that Secretary Coben had delegated his cabinet secretary authority to her for the two hospitals.” *Id.* ¶7. DHS is the agency responsible for providing and overseeing community placements for persons like J.P.

who are at risk of incarceration at the state psychiatric hospitals and who will be integrated into community placements upon discharge from a state psychiatric hospital. *See* ¶¶ 12-13 Petition.

Beginning on or about February 28, 2023, and until May 2024, DHS Deputy Secretary Christina Mullins and her representatives conferred with DRWV to attempt to remedy concerns and deficiencies related to J.P. and similarly situated persons. Deputy Secretary Mullins herself expressly acknowledged that Sharpe Hospital is not a proper placement for J.P. Deputy Secretary Mullins herself willingly shared that, among other things, “providers were wrongfully discharging clients under their care who were in the community, providers were wrongfully discharging clients with developmental disabilities under their care who were in the community, persons with developmental disabilities were being improperly involuntarily committed to the state psychiatric hospitals, persons with developmental disabilities do not belong in the state psychiatric hospitals, and the state psychiatric hospitals are the wrong place for persons with developmental disabilities.” *Id.* at 11.

DHS has known for at least 679 days that J.P. was improperly and wrongfully incarcerated at Sharpe Hospital. DHS’s failure to appear or plead reflects a deliberate indifference toward J.P.’s rights and DHS’s duties and highlights that DHS “clearly intends to fail to appear, plead or otherwise defend in the action.”

Likewise, DHS’s actions in other settings and forums illustrates DHS’s pattern of withholding information and barring staff from communicating with legislators<sup>2</sup>; concealing information that persons in DHS’ custody and control are placed in improper settings<sup>3</sup>;

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<sup>2</sup> West Virginia Senate Finance Meeting, January 31, 2022 at 16:20:40 <https://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20220131/-1/56186#agenda>

<sup>3</sup> <https://www.wowktv.com/news/west-virginia/west-virginia-housing-some-foster-kids-in-hotels-other-locations/> and [https://www.register-herald.com/news/state\\_region/foster-care-kids-describe-cps-foster-experiences--with-video/article\\_a3668e8a-77f3-11ed-8287-b313ec2d5b00.html](https://www.register-herald.com/news/state_region/foster-care-kids-describe-cps-foster-experiences--with-video/article_a3668e8a-77f3-11ed-8287-b313ec2d5b00.html)

concealing information that children were detained in unsafe and abusive placements<sup>4</sup>; stonewalling<sup>5</sup>; terminating the former DHS general counsel (and current Senate staffer) for disclosing a non-PII and non-PHI record related to the parents who locked up their two adopted children in a Sissonville barn and used them as slaves<sup>6</sup>; and DHS' failure to preserve the electronic evidence of former DHHR Secretary Bill J. Crouch and others in a pending class action suit involving West Virginia's foster care system.<sup>7</sup> DHS's habit and custom of stonewalling and concealing information underscores DHS's conduct that it can flout the rules and ignore its obligations. DHS's conduct is even more egregious because its own Deputy Secretary was charged with developing a plan to redress the improper involuntary incarceration of persons with developmental disabilities like J.P. and DHS has made no measurable progress. Given the foregoing, it is undeniable that J.P. has shown "by affidavit or other evidence probable cause to believe that he is detained without lawful authority." See W.Va. Code §53-4-1.

WHEREFORE, J.P. respectfully requests that the Court enter default judgment against DHS or, alternatively, allow J.P. to conduct discovery of DHS and its leadership related to the issues in J.P.'s petition to establish that DHS "clearly intends to fail to appear, plead or otherwise defend in the action" and that DHS has caused and contributed to J.P.'s unlawful detainment.

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<sup>4</sup> <https://mountainstatespotlight.org/2021/09/21/west-virginia-foster-care-out-of-state-homes/>

<sup>5</sup> <https://westvirginiawatch.com/2024/01/26/lack-of-information-about-tragic-foster-care-cases-prompts-oversight-bill-in-house-of-delegates/>

<sup>6</sup> [https://westvirginiawatch.com/2024/02/16/judge-demands-records-says-cps-failed-to-adequately-investigate-kids-locked-in-sissonville-shed/#:~:text=By%3A%20Amelia%20Ferrell%20Knisely%20%2D%20February,16%2C%202024%206%3A00%20am&text=West%20Virginia%20Watch\)-.A%20federal%20judge%20says%20Child%20Protective%20Services%20failed%20to%20respond,to%20water%20or%20a%20toilet.](https://westvirginiawatch.com/2024/02/16/judge-demands-records-says-cps-failed-to-adequately-investigate-kids-locked-in-sissonville-shed/#:~:text=By%3A%20Amelia%20Ferrell%20Knisely%20%2D%20February,16%2C%202024%206%3A00%20am&text=West%20Virginia%20Watch)-.A%20federal%20judge%20says%20Child%20Protective%20Services%20failed%20to%20respond,to%20water%20or%20a%20toilet.)

<sup>7</sup> <https://wvmetronews.com/2024/03/30/federal-judge-says-state-health-department-was-negligent-in-handling-of-emails-tied-to-foster-care-lawsuit/>

**J.P., a protected person,**

**By Counsel**

/s/ Michael J. Folio

Michael J. Folio (WV Bar ID: 6314)

Andrew W. Castillo (WV Bar ID: 14358)

Disability Rights of West Virginia

5088 Washington St. W, Ste 300 Charleston,  
WV 25313

Ph: 304-346-0847

[mfolio@drowv.org](mailto:mfolio@drowv.org)

[acastillo@drowv.org](mailto:acastillo@drowv.org)



**IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA**

**J.P., a protected person unlawfully  
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**CIVIL ACTION NO. 24-P-10  
Judge Jacob E. Reger**

**WILLIAM R. SHARPE, Jr., HOSPITAL, a  
state psychiatric hospital, et al.,**

**Defendants.**

**CERTIFICATE OF SERVICE**

I, Michael J. Folio, counsel for J.P., a protected person, do hereby certify that on July 23, 2024, I filed through the West Virginia E-filing system a copy of the foregoing

**J.P.'s MOTION FOR DEFAULT JUDGMENT AGAINST CYNTHIA A. PERSILY, IN  
HER CAPACITY AS SECRETARY OF THE WEST VIRGINIA DEPARTMENT OF  
HUMAN SERVICES,** which will send notification of such filing to the following:

Heather M. Noel, W. Va Bar No. 7814  
Caleb B. David, W. Va. Bar No. 12732  
Shuman McCuskey Slicer PLLC  
300 Wedgewood Drive, Suite 110  
Morgantown, WV 26505

Chelsea V. Brown, Esq.  
Bowles Rice LLP  
125 Granville Square, Suite 400  
Morgantown, WV 26501

I further certify that a copy of the foregoing motion will be mailed to the following address  
on this day:

Cynthia Persily, Secretary  
Department of Human Services  
One Davis Square  
Suite 100 East  
Charleston, WV 25301

/s/ Michael J. Folio

Michael J. Folio (WV Bar ID: 6314)

Disability Rights of West Virginia

5088 Washington St. W, Ste 300 Charleston,  
WV 25313

Ph: 304-346-0847

[mfolio@drowv.org](mailto:mfolio@drowv.org)



## West Virginia E-Filing Notice

CC-21-2024-P-10

Judge: Kurt W. Hall

**To:** Michael J. Folio  
mfolio@drowv.org

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# NOTICE OF FILING

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IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA  
J. P. v. William R. Sharpe, Jr., Hospital  
CC-21-2024-P-10

The following service return was FILED on 5/15/2024 11:41:43 AM

Notice Date: 5/15/2024 11:41:43 AM

Beth A. Burkhart  
CLERK OF THE CIRCUIT COURT  
Lewis County  
117 Court Avenue  
WESTON, WV 26452

(304) 269-8210  
Beth.Burkhart@courtsww.gov



May 15, 2024

Dear Beth Burkhart:

*24-P-10*

The following is in response to your request for proof of delivery on your item with the tracking number:  
**9489 0090 0027 6415 3544 82.**

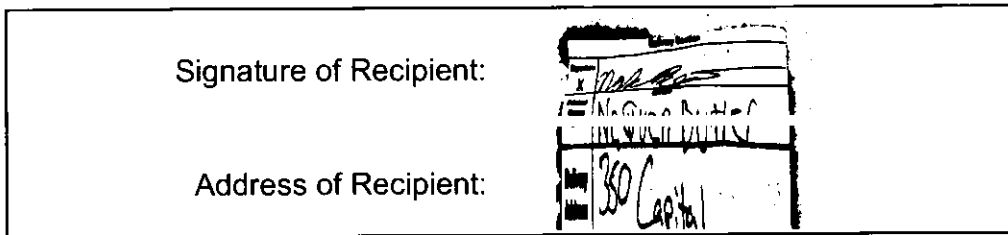
**Item Details**

**Status:** Delivered, Individual Picked Up at Postal Facility  
**Status Date / Time:** May 13, 2024, 8:02 am  
**Location:** CHARLESTON, WV 25301  
**Postal Product:** First-Class Mail®  
**Extra Services:** Certified Mail™  
Return Receipt Electronic

**Shipment Details**

**Weight:** 5.6oz

**Recipient Signature**



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,  
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Washington, D.C. 20260-0004

**SUMMONS**



IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA

**J. P. v. William R. Sharpe, Jr., Hospital**

9489 0090 0027 6415 3544 82

Service Type: Circuit Clerk - Certified Mail - Including Copy Fee

NOTICE TO: Cynthia A. Persily, One Davis Square, Charleston, WV 25301

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Michael Folio, 5088 WASHINGTON ST W, STE 300, CHARLESTON, WV 25313

THE ANSWER MUST BE MAILED WITHIN 20 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

5/8/2024 11:17:24 AM  
Date

/s/ Beth A. Burkhart  
Clerk

RETURN ON SERVICE:

Return receipt of certified mail received in this office on \_\_\_\_\_

I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_

I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to \_\_\_\_\_, a member of the individual's family who is above the age of sixteen (16) years and by \_\_\_\_\_ advising such person of the purpose of the summons and complaint.

Not Found in Bailiwick

\_\_\_\_\_  
Date

\_\_\_\_\_  
Server's Signature

**AFFIDAVIT OF SUSAN GIVEN, M.S.W., L.S.W.**

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, TO-WIT:

I, Susan Given, being first duly sworn, state as follows:

1. I am the Executive Director of West Virginia Advocates, Inc., d/b/a Disability Rights of West Virginia ("DRWV"). I have been active in the advocacy community for persons with developmental disabilities since 1978.

2. I was previously employed as a Program Manager for the Bureau of Medical Services of the West Virginia Department of Health and Human Resources ("DHHR") from April 2012 until becoming DRWV's Executive Director in 2016. From February 2009 until April 2012, I was employed by the West Virginia Supreme Court of Appeals as the coordinator for the Kanawha County Drug Court. I was employed by DRWV from August 2000 through February 2009 in various capacities managing DRWV's protection and advocacy system grants, conducting compliance and policy review, providing advocacy support and supervision, and doing client intake review. I was employed by Webster County Family Resource Network from 1997 through 1998. I was employed by Children's Home Society of West Virginia from 1993 through 1997 and North Central West Virginia HeadStart for two years beginning in 1991.

3. DRWV is the Protection and Advocacy System ("P&A") mandated under federal law for persons with disabilities in the state of West Virginia. DRWV was designated as West Virginia's P&A in 1977. DRWV has served as the state's P&A for roughly 47 years.

4. P&A agencies were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. There are P&As in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Collectively, the P&A agencies are the largest provider of legally based advocacy services to people with disabilities in the United States.

5. On November 14, 2022, the U.S. Department of Health and Human Services, Office for Civil Rights (OCR), launched an investigation of West Virginia Department of Health and Human Resources (DHHR) related to unlawful discrimination based on disability, including the failure of persons with developmental disabilities to receive the required services to prevent institutionalization in state psychiatric hospitals and who remain unlawfully segregated in such facilities. The OCR investigation is ongoing.

6. In response to concerns and deficiencies related to the community placements of persons with developmental disabilities and the unlawful warehousing of persons with developmental disabilities in the state's two psychiatric hospitals and private diversion psychiatric hospitals, former DHHR Secretary Dr. Jeff Coben directed current Department of

Human Services (“DHS”) Deputy Secretary Christina Mullins to confer with DRWV to develop a plan to remedy such concerns and deficiencies.

7. On or about February 28, 2023, representatives of DRWV and DHS met for the first time pursuant to Dr. Coben’s request. The attendees were Deputy Secretary Mullins, Behavioral Health Director Alex Alston, Special Assistant for IDD Robert Hansen, DRWV’s Legal Director, and me. At the meeting, Deputy Secretary Mullins advised that Dr. Coben had charged her with his duties and oversight of the two psychiatric hospitals and that she was serving with his full authority. She advised that the only authority she did not have with the two psychiatric hospitals was to sign contracts because that’s in code. She shared that Secretary Coben had delegated his cabinet secretary authority to her for the two hospitals.

8. After Dr. Coben resigned, Deputy Secretary Mullins advised that incoming and current DHS Secretary Cynthia Persily and incoming and current Department of Health Facilities Secretary Michael Caruso directed her to continue the meetings as previously ordered by Dr. Coben. The parties typically met bi-monthly and continued to meet until on or about May 2024.

9. Concerns and deficiencies related to community placements included, but were not limited to, abuse, neglect, provider failure to comply with DHS contract and grant obligations, provider failure to comply with BMS manuals and contract obligations, and providers dumping patients.

10. Concerns and deficiencies related to unlawful warehousing included, but were not limited to, providers improperly and falsely certifying persons for involuntary civil commitment, persons with developmental disabilities being wrongfully detained in state psychiatric hospitals and private psychiatric diversion hospitals, persons not receiving the required level of inpatient services and treatment, and deficient discharge planning that results in avoidable and unnecessary inpatient commitments and stays.

11. During the bi-monthly meetings, Deputy Secretary Mullins acknowledged and willingly shared that, among other things, providers were wrongfully discharging clients under their care who were in the community, providers were wrongfully discharging clients with developmental disabilities under their care who were in the community, persons with developmental disabilities were being improperly involuntarily committed to the state psychiatric hospitals, persons with developmental disabilities do not belong in the state psychiatric hospitals, and the state psychiatric hospitals are the wrong place for persons with developmental disabilities.

12. The concerns and deficiencies discussed at the bi-monthly meetings and many of the facts that Deputy Secretary Mullins acknowledged and shared with DRWV have been the subject of committee meetings by the West Virginia Legislature with no measurable corrective action:

a. May 10, 2021, Legislative Oversight Commission on Health and Human Resources Accountability – Abuses of persons with developmental disabilities that resulted in former House Health Chair and Current Deputy Speaker Del. Dr. Rohrbach to share that “[t]his

is the most disturbing thing I've heard in seven years. I can assure you the leadership of this house is not going to tolerate this. This is going to come to an end.”

(<https://wvmetronews.com/2021/05/11/legislators-want-more-answers-about-abuse-at-w-va-behavioral-care-centers/>);

b. January 11, 2022, Joint Committee on Health – Involuntary Civil Commitment reforms;

c. April 26, 2022, Joint Committee on Children and Families – Disability services for persons with developmental disabilities;

d. October 14, 2022, Sen. President Blair letter to Governor Justice regarding abuses and unlawful warehousing of persons with developmental disabilities.  
(<https://www.documentcloud.org/documents/23375654-letter-re-sharpe-hospital-to-governor-jim-justice-10-14-22>);

e. December 6, 2022 Joint Committee on Health – Discussion of William R. Sharpe, Jr., Hospital and illegal warehousing of persons with developmental disabilities  
(<https://wvmetronews.com/2022/12/06/as-feds-investigate-state-run-facilities-advocate-tells-lawmakers-of-vicious-cycle-of-institutionalization/>), (<https://wvpublic.org/new-federal-investigation-targets-dhhrs-treatment-of-people-with-disabilities/>), and  
(<https://www.theintelligencer.net/news/top-headlines/2022/12/west-virginia-dhhr-under-federal-civil-rights-investigation/>);

f. March 3, 2023, West Virginia House of Delegates – People with disabilities in Beckley forced to use the bathroom in buckets and outside, inspections show  
([https://www.register-herald.com/news/state\\_region/people-with-disabilities-in-beckley-forced-to-use-the-bathroom-in-buckets-and-outside-inspections/article\\_18790d7a-b9f7-11ed-8dec-63c4337ace4f.html](https://www.register-herald.com/news/state_region/people-with-disabilities-in-beckley-forced-to-use-the-bathroom-in-buckets-and-outside-inspections/article_18790d7a-b9f7-11ed-8dec-63c4337ace4f.html));

g. May 7, 2023, Legislative Oversight Commission on Health and Human Resources Accountability – Discussion of DHHR's plan for IDD patients at Sharpe and Bateman Hospitals and Continuum of Care for Mental Health Facilities  
([https://www.wvlegislature.gov/committees/interims/Agenda.cfm?abb=HEALTH&meet\\_date=05/07/2023&start\\_time=1:00PM](https://www.wvlegislature.gov/committees/interims/Agenda.cfm?abb=HEALTH&meet_date=05/07/2023&start_time=1:00PM));

h. December 12, 2023, Joint Standing Committee on Health – Update on IDD/ICF  
([https://www.wvlegislature.gov/committees/interims/Agenda.cfm?abb=JTHEALTH&meet\\_date=12/12/2023&start\\_time=4:00%20PM](https://www.wvlegislature.gov/committees/interims/Agenda.cfm?abb=JTHEALTH&meet_date=12/12/2023&start_time=4:00%20PM)); and


i. January 23, 2024, House Committee on Health and Human Resources – Discussion of what House committee members called a “crisis” related to the absence of community placements for persons with developmental disabilities who are being detained at state psychiatric hospitals.



13. During prior bi-monthly meetings with Deputy Secretary Mullins, she has shared that Sharpe Hospital is not a proper placement for J.P.

14. During prior bi-monthly meetings with Deputy Secretary Mullins, DRWV raised the issue about DHS' failure to enforce Chapter 513 Intellectual and Developmental Disabilities Waiver ("IDD Waiver Manual") that has caused or contributed to the improper placement of persons with developmental disabilities at state psychiatric hospitals. Deputy Secretary Mullins advised that the community providers object to the enforcement of the IDD Waiver Manual and there was nothing she could do. At one point she shared that "her hands were tied."

FURTHER AFFIANT SAYETH NAUGHT.

  
Susan Given, M.S.W., L.S.W.

Sworn to before and subscribed to in my presence this 23<sup>rd</sup> day of July, 2024.

[SEAL]

  
Kaitlyn Ann Stowers  
Notary Public

