

MINUTES OF THE STATE PERSONNEL BOARD
November 17, 2016
Charleston, West Virginia

The State Personnel Board met on November 17, 2016 at 1:00 p.m. to conduct business and to consider other administrative matters. Present at the meeting: Robert Paulson, General Counsel, Department of Administration on behalf of Chair Mary Jane Pickens; Board members Ross Taylor (in person) and participating by telephone Mark Carbone, Jeff Woods and Mark Dellinger; and Mischelle Williams and Julie Thomas, Department of Health and Human Resources. Division of Personnel staff members attending were: Joe Thomas, Acting Director, Wendy Elswick, Teresa Morgan, Elisabeth Arthur, and Board Secretary, Drema Gibson.

APPROVAL OF MINUTES

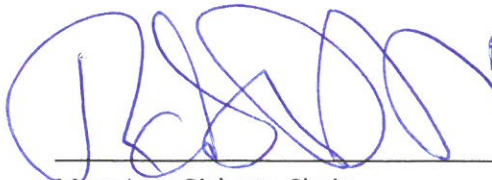
The members of the State Personnel Board received the minutes from the October 20, 2016 meeting prior to the meeting. Mr. Carbone moved to accept the minutes as written and Mr. Woods seconded the motion. The Board approved the minutes by unanimous consent.

2727 Department of Health and Human Resources

Upon motion of Mr. Carbone and seconded by Mr. Woods, the Board approved the Department of Health and Human Resources' proposal (SPB #2727) regarding the implementation of market rate increases and special hiring rates for direct care employees of Mildred Mitchell-Bateman and William R. Sharpe, Jr. Hospitals. This is being done as required under the *Hartley* decision. The effective date of the market rate increases and special hiring rates as outlined in the attached letter of October 24, 2016, from the Department of Health and Human Resources (attached as a part of these minutes) is January 1, 2017.

NEXT BOARD MEETING

The next regular meeting of the State Personnel Board is scheduled for Thursday, December 15, 2016, at 1:00 p.m. in Building 6, Room 416, State Capitol Complex, Charleston, West Virginia.

A large, stylized handwritten signature in blue ink, appearing to be 'MJP' with elaborate loops.

Mary Jane Pickens, Chair
State Personnel Board

Proxy for MJP

A handwritten signature in blue ink that reads 'Drema Gibson'.

Drema Gibson, Secretary
State Personnel Board



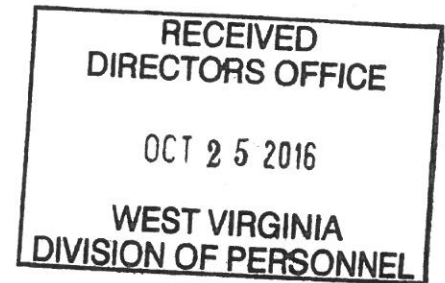
STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF HUMAN RESOURCES MANAGEMENT
ONE DAVIS SQUARE – SUITE 400
CHARLESTON, WV 25301

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 24, 2016

Acting Cabinet Secretary Mary Jane Pickens
Department of Administration
Building 1, Room E119
1900 Kanawha Blvd. E.
Charleston, WV 25303



Dear Acting Cabinet Secretary Pickens:

On August 1, 2014, Kanawha County Circuit Court Judge Bloom issued an order requiring the West Virginia Department of Health and Human Resources (DHHR) to develop a salary proposal to address staffing issues at the States two (2) psychiatric hospitals: Mildred Mitchell-Bateman Hospital (Bateman) in Huntington, and William R. Sharpe, Jr. Hospital (Sharpe) in Weston. (See attached). That proposal required the following:

- Annual market study relating to total compensation packages of Health Service Worker Trainees, Health Service Workers, Health Service Assistants, Licensed Practical Nurses, Nurse I, Nurse II, Nurse III, Nurse IV, Nurse Director I, Nurse Director II, Physician Specialist (Psychiatrist) and Nurse Practitioners at William R. Sharpe Jr. Hospital and Mildred Mitchell-Bateman Hospital pursuant to the following criteria:
 - Hospitals with 100 beds or more
 - 50 mile radius of Bateman
 - 75 mile radius of Sharpe
- Current wages within those categories brought to market rate
- New hiring rates established as the market rates from the study
- Retention Incentives provided every 3 years of 3% for persons who have been in a classification for 3 years or more. The first retention incentive was effective January 1, 2015. Consequently, a retention incentive is not due to be given in 2017.

Now in its third cycle, DHHR's Office for Human Resources Management (OHRM) and the Bureau for Behavioral Health and Health Facilities (BBHBF) present the following proposal, pursuant to the Court's order. DHHR respectfully requests that the proposal be placed on the November, 2016 agenda for the State Personnel Board or that a special meeting of the State Personnel Board be convened prior to December, 2016.

As in prior years, the Division of Personnel (DOP) conducted the requested market study using information available to the public in a database called YODA maintained by the West Virginia Health Care Authority. (See attached). Upon receipt of DOP's market study, DHHR adjusted the market rates across DOP classification series consistent with DOP's Schedule of Salary Grades. It then compared the market study rates to the salaries of approximately 470 applicable Sharpe and Bateman employees. Details about the market study and adjustments are contained in prior proposals in this matter.

DHHR concluded that the number of classifications for which the established market rate exceeded the maximum allowed by DOP's Schedule of Salary Grades continued to grow over years past. At Bateman, only the Health Service Worker series continues to offer room for salary growth.

Consistent with its prior proposals, DHHR requests that the State Personnel Board (Board) establish the following new special hiring rates and approve salary increases to these rates for any applicable employee whose salary is currently below the new special hiring rates for his/her classification.

Proposed New Special Hiring Rates Effective January 1, 2017

Classification	Bateman	Sharpe
Health Service Trainee	\$ 26,584.18	\$ 25,793.32
Health Service Worker	\$ 28,585.14	\$ 27,734.75
Health Service Assistant	\$ 30,586.10	\$ 29,676.18
Licensed Practical Nurse	\$ 39,792.00 *	\$ 36,840.13
Nurse 1	\$ 54,396.00 *	\$ 50,604.54
Nurse 2	\$ 57,660.00 *	\$ 54,413.49
Nurse 3	\$ 61,128.00 *	\$ 58,509.13
Nurse 4	\$ 64,812.00 *	\$ 62,604.76
Director of Nursing 1	\$ 68,712.00 *	\$ 68,712.00 *
Director of Nursing 2	\$ 77,220.00 *	\$ 77,220.00 *
Nurse Practitioner	\$ 77,220.00 *	n/a
Physician Specialist	\$ 164,748.00 *	n/a

* Market Rate is above DOP maximum for that classification; DOP maximum established as Special Hiring Rate.

The following table compares the new special hiring rates across all three (3) years DHHR has brought this matter before the Board.

Year-to-Year Comparison

Classification	Bateman			Sharpe		
	2017	2016	2015	2017	2016	2015
HST	\$26,584.18	\$24,910.00	\$24,428.00	\$25,793.32	\$24,738.00	\$24,710.10
HSW	\$28,585.14	\$26,784.00	\$26,267.04	\$27,734.75	\$26,600.00	\$26,570.04
HSA	\$30,586.10	\$28,659.00	\$28,105.69	\$29,676.18	\$28,462.00	\$28,449.96
LPN	\$39,792.00	\$37,639.00	\$37,003.00	\$36,840.13	\$36,414.00*	\$36,414.00
Nurse 1	\$54,396.00	\$52,953.00	\$51,101.75	\$50,604.54	\$49,442.87*	\$49,442.87
Nurse 2	\$57,660.00	\$56,939.00	\$54,948.15	\$54,413.49	\$53,164.44*	\$53,164.44
Nurse 3	\$61,128.00	\$61,128.00	\$59,084.00	\$58,509.13	\$57,166.44*	\$57,166.44
Nurse 4	\$64,812.00	\$64,812.00	\$63,219.84	\$62,604.76	\$61,167.60*	\$61,167.60
DON 1	\$68,712.00	\$68,712.00	\$68,712.00	\$68,712.00	\$68,712.00	\$68,712.00
DON 2	\$77,220.00	\$77,220.00	\$77,220.00	\$77,220.00	\$77,220.00	\$77,220.00
NP	\$77,220.00	\$77,220.00	\$77,220.00			
Phys Spec	\$164,748.00	\$160,473.00	\$153,370.00			

* Actual Market Rates lower than prior year: Special Hiring Rate maintained at higher level.

DHHR intends to process the salary increases according to this proposal effective January 1, 2017, and establish the new Special Hiring Rates effective that same date.

As stated below, DHHR is certifying that the BBHFF has the funds available to pay for the proposed court-ordered pay increases for this fiscal year. DHHR cannot guarantee available funding for the future and is required to appear before the State Personnel Board periodically for approval as stated in the court ordered proposal. Funding for the current proposed increases was approved during the 2016 legislative session and includes funding for current vacancies. Please note that funding for the proposed increases does not include paying affected employees over the DOP maximum established on the schedule of salary grades and funding may not be sufficient if increases are given over the maximum.

Thank you for your consideration.

Sincerely yours,




Becky Manning
OHRM Deputy Director

/jet

Cc: Secretary Karen L. Bowling
Warren Keefer

I, Warren Keefer, in my role as Chief Operations Officer of the West Virginia Department of Health and Human Resources, hereby certify that the Bureau for Behavioral Health and Health Facilities has the funds available to pay for the pay increases proposed as set forth above.



William R. Sharpe, Jr. Hospital Regional Salary Comparison						
	Registered Nurses	Licensed Vocational Practical Nurse	Aides, Orderlies, Attendants	Physician Specialist (Psychiatrist)	Director of Nursing	Nurse Practitioner
William R. Sharpe, Jr. Hospital	Salary & Wages	53,679	34,803	27,230	74,841	
	Benefits	23,157	15,014		32,285	
	Total Average Salary & Wages	76,836	49,817	38,977	107,126	
Reynolds Memorial Hospital	Salary & Wages	53,907	35,578	28,428	114,595	94,233
	Benefits	7,889	5,213	4,186	16,782	13,808
	Total Average Salary & Wages	61,796	40,791	32,594	131,388	108,041
Peterson Hospital	Salary & Wages	61,618	42,576	33,320	86,329	
	Benefits	14,573	10,070	7,881	20,417	
	Total Average Salary & Wages	76,191	52,646	41,201	106,746	
Camden Clark	Salary & Wages	58,364	32,780	27,664	87,755	113,672
	Benefits	14,592	8,180	6,916	21,939	28,418
	Total Average Salary & Wages	72,956	40,960	34,580	109,694	142,090
United Hospital Center	Salary & Wages					
	Benefits					
	Total Average Salary & Wages					
Monongalia General Hospital	Salary & Wages	63,711	40,218	28,884		97,903
	Benefits	17,895	11,170	8,022		27,192
	Total Average Salary & Wages	81,606	51,388	36,906		125,095
Wheeling Hospital	Salary & Wages	57,083	35,841	30,530		82,144
	Benefits	12,833	8,058	6,884		18,467
	Total Average Salary & Wages	69,916	43,899	37,384		100,611
Fairmont Regional Medical Center	Salary & Wages					
	Benefits					
	Total Average Salary & Wages					
Grafton City Hospital	Salary & Wages	60,172	38,367	28,222	88,018	
	Benefits	16,259	10,367	7,085	23,783	
	Total Average Salary & Wages	76,431	48,734	35,307	111,801	
St. Joseph's Hospital	Salary & Wages	55,020	33,210	22,660		
	Benefits	14,360	8,868	5,914		
	Total Average Salary & Wages	69,380	41,878	28,574		
Ohio Valley Medical Center	Salary & Wages					
	Benefits					
	Total Average Salary & Wages					
Marlette Memorial Hospital	Salary & Wages	58,198	36,171	24,170	73,445	115,003
	Benefits					
	Total Average Salary & Wages					
West Virginia University Hospital	Salary & Wages					
	Benefits					
	Total Average Salary & Wages					
Summersville Regional Medical Center	Salary & Wages					
	Benefits					
	Total Average Salary & Wages					
BLS State Average	Salary & Wages	58,010	35,890	23,760	146,000	91,270
	Benefits					
	Total Average Salary & Wages					
(Averages not including William R. Sharpe, Jr. Hospital)						

Nurse 1 \$ 50,604.54 Health Services Trainee \$ 25,793.32
 Nurse 2 \$ 54,413.49 Health Services Worker \$ 27,734.75
 Nurse 3 \$ 58,509.13 Health Services Assistant \$ 29,678.18
 Nurse 4 \$ 62,604.76 Licensed Practical Nurse \$ 36,840.13
 Nurse Director \$ 68,712.00
 Nurse Practitioner \$ 77,220.00
 Phys Spec n/a

DOP Max

Nurse 1 \$ 54,398.00 Health Services Trainee \$ 34,332.00
 Nurse 2 \$ 57,660.00 Health Services Worker \$ 36,090.00
 Nurse 3 \$ 61,128.00 Health Services Assistant \$ 37,884.00
 Nurse 4 \$ 64,812.00 Licensed Practical Nurse \$ 39,792.00

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

E.H., et al.,
Petitioners,

v.

MATIN, et al.,
Respondents.

2014 AUG 10 PM 1:05
KANAWHA COUNTY CIRCUIT COURT
Civil Action No. 81-MISC-585
Judge Louis H. Bloom

ORDER

On August 1, 2014, the parties appeared pursuant to this Court's June 27, 2014 *Order*, which held the Respondents in contempt of court for failing to comply with this Court's June 3, 2014, *Order* and prior *Orders*, and directed the Respondents to show cause as to why they should not be sanctioned. Upon appearing on August 1, 2014, the Respondents presented a plan to the Court which substantially complies with the Court's June 3, 2014, *Order*. The Respondents represented that, with the Court's approval, they would implement the proposed plan forthwith. Accordingly and consistent with the *Oral Ruling* made on August 1, 2014, the Court approves of the plan submitted by the Respondents on August 1, 2014, and finds that the Respondents have purged themselves of the contempt so long as they execute their proposed plan.

FINDINGS OF FACT

1. The findings of fact contained in the *Orders* entered by the Court on June 3, 2014, and June 27, 2014, are hereby adopted and incorporated into this instant *Order*. Additionally, the Court makes the following findings.

2. The Respondents have presented a proposed plan to bring the two state psychiatric hospitals, Mildred Mitchell Bateman (Bateman) and William R. Sharpe, Jr. (Sharpe)

(collectively Hospitals), into compliance with the staffing requirements set forth in the 2009 *Agreed Order*.¹

3. The plan developed by the Respondents utilizes the West Virginia Division of Personnel's Pay Plan Implementation Policy to implement recruitment and retention incentives to address the ongoing vacancies in direct care positions at the two hospitals.²

4. To implement the recruitment and retention plan, the Respondents propose to undertake two market studies, one in each hospital's geographic area, to determine the market wages and market compensation packages offered by major hospitals (defined as having bed counts of 100 beds or greater) in the market areas for each of the two hospitals.³

5. In a letter addressed to the Director of the Division of Personnel, submitted with Respondents' plan, the Respondents indicate that they will obtain market wage and compensation package data for the respective geographic areas for the Hospitals from the major hospitals "from whom the information for the market is available to the DHHR/BHIF."⁴

6. During the August 1, 2014 hearing, the Respondents acknowledged that some of the major hospitals in the respective geographic areas are likely to be in states bordering West Virginia, and the Respondents are unsure whether wage and compensation package information can be obtained from those hospitals. Counsel for the Respondents represented, however, that the Respondents would make reasonable efforts to obtain such data from the major hospitals in neighboring states that fall within the two market study geographic areas.⁵

¹ See Respondents' Proposal to Address Recruitment Issues at Mildred Mitchell Bateman and William R. Sharpe, Jr., Hospitals, Aug. 1, 2014, Hr'g ex. 1.

² *Id.*

³ *Id.*

⁴ *Id.* at 1.

⁵ See August 1, 2014, Hr'g Tr. 28:4-24.

7. The Respondents further testified that the market study would clearly set forth the data being analyzed by listing the value of wages with and without benefits and the value of each component of the benefits so that comparisons are clear and unambiguous.⁶

8. Counsel for the Respondents represented that "if the Court so orders and desires us to move forward, we're prepared to do that pursuant to the Court's instruction, and we have attempted to do that to the best of our ability, and that's all I would say with respect to the plan."⁷ In response, the Court emphasized: "moving in the direction as the Department has outlined appears to be within their means and within their power to begin to move on at a deliberate pace, and I think that solves the problem that I have with the prior plans. . . . [T]his [plan] needs to be implemented with deliberate speed."⁸

9. The Respondents did not object to the Court's approval of the proposed plan. Rather, the Respondents requested that, based on their submission of the proposed plan and representations as to its implementation, the Court purge the contempt *Order* entered on June 27, 2014.⁹

10. Ongoing vacancies and the Respondents' continued reliance on mandatory overtime and contract employees at the Hospitals violate the terms of the 2009 *Agreed Order* and raise serious concerns related to the care of patients who are among the State's most vulnerable populations. As such, prompt implementation of the Respondents' plan is necessary.

CONCLUSIONS OF LAW

11. The plan developed by the Respondents, as presented at the August 1, 2014, hearing, substantially complies with this Court's *Orders* of June 3, 2014 and June 27, 2014, by utilizing

⁶ See *id.* at 33:14-34:17.

⁷ *Id.* at 40:11-16.

⁸ *Id.* at 43:13-17, 44:8-9.

⁹ *Id.* at 45:23-46:1.

currently existing Division of Personnel policies and procedures to immediately and effectively address the staffing vacancies and the related reliance on mandatory overtime and temporary/contract workers to bring the Hospitals into compliance with the 2009 *Agreed Order*.

12. Specifically, the proposed plan presents an appropriate method by which the Respondents can (1) significantly reduce the number of direct care staffing vacancies at Sharpe and Bateman Hospitals; (2) discontinue the Respondents' practice of requiring direct care employees to work mandatory overtime, except in exceptional and infrequent contexts; and (3) discontinue the Respondents' reliance on temporary employees and contract workers to fill the vacant positions, except in exceptional and infrequent contexts.¹⁰

13. The Respondents may wish to pursue other solutions which would require legislation to implement. Nothing in this *Order* or any prior *Orders* of this Court impedes the ability of the Legislature to change the manner in which the Hospitals are operated, nor do the *Orders* prohibit the Respondents from seeking such legislative action.

14. Until such time as the Legislature changes the law, however, the current plan, which utilizes the current legal structure to address the ongoing violations of the 2009 *Agreed Order*, should be implemented without delay or disruption.

DECISION

Accordingly, the Court hereby **ORDERS** that the Respondents are purged of contempt so long as the Respondents immediately implement the plan as they proposed, including the stipulations made at the hearing that (1) the Respondents will make reasonable efforts to obtain wage and compensation information from all major hospitals in the respective radiuses—a fifty mile radius of Bateman Hospital and a seventy-five mile radius of Sharpe Hospital—containing

¹⁰ See July 2, 2009, *Agreed Order*, ¶ 10(a)–(b).

those hospitals in neighboring states; (2) the Respondents will clearly set forth the data being analyzed in the market survey, including a breakout of the wages with and without benefits and a value of each component of the benefits; (3) the Respondents will submit the findings of the market survey, including the data relied upon to the Petitioners, the Court Monitor, and the Court upon its completion; (4) the Respondents shall provide a status report to the Court at the hearing scheduled for September 17, 2014, regarding implementation of the plan; and (5) that Department of Health and Human Resources Secretary Karen Bowling, Bureau for Behavioral Health and Health Facilities Commissioner Victoria Jones, and Governor Earl Ray Tomblin's Chief of Staff, Charles Lorensen, shall appear in person at the September 17, 2014, hearing.

The Clerk is hereby **DIRECTED** to forward a certified copy of this *Order* to all counsel of record and to the Office of the Court Monitor.

ENTERED this 13 day of August 2014.


Louis H. Bloom, Judge

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CLAYTON S. GATSON, CLERK
OF SAID STATE, DO HEREBY
CERTIFY THAT THE
GIVEN ABOVE IS A TRUE
AND CORRECT COPY OF THE
ORIGINAL AS THE SAME
REMAINS IN MY OFFICE
THIS 11th DAY OF JULY, 1908.
CLAYTON S. GATSON, CLERK
COUNTY OF KANAWHA, WEST VIRGINIA
C. C. C.

8/13/14

Date _____
Our next meeting is on _____
_____ perkins
_____ at _____
By _____
_____ secretary of club
_____ from _____
_____ to _____
Clerk _____
_____ who has _____
_____ minutes _____
_____ C. Ebers

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mailed