



COMMONWEALTH OF VIRGINIA

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Correction to Report 2014-BHDS-006: *Critical Incident Investigation— Bath County, Virginia, November 18, 2013*

Concerning Report 2014-BHDS-006: *Critical Incident Investigation—Bath County, Virginia, November 18, 2013* released on March 27, 2014, the Office of the State Inspector General (OSIG) is correcting an error in footnote 41 on page 23.

Page 23, Contributing Factor No. 4, Clinical determination linked to the bed search [as published]:

Another factor contributing to the critical incident on November 18, 2013 was that the Commonwealth's emergency response system for individuals experiencing psychiatric emergencies linked the execution of a TDO with identifying a facility with an "available and appropriate" bed on the TDO form.⁴¹

Page 23, Contributing Factor No. 4, Clinical determination linked to the bed search, Footnote 41 [as published]:

⁴¹Unpacking the term "available and appropriate bed" reveals the complexity of locating a bed for a person proposed for involuntary temporary detention. The Emergency Medical Treatment and Labor Act (1986) (EMTALA) requires that hospitals provide screening and treatment for emergency medical conditions; however, EMTALA does not apply to psychiatric emergencies and private psychiatric facilities have the discretion to admit or reject individuals. The decision to admit a person under a TDO can be multifaceted. For example, a facility might have an available bed that is not appropriate for every person. A double-occupancy room occupied by a female might not be appropriate for a male admission. Likewise, some individuals seeking TDO admissions may have behaviors that would place other patients or facility staff at risk, and not all private facilities are equipped to serve geriatric patients, and/or individuals presenting with complex medical conditions. Finally, some individuals presenting with acute symptoms might require one-to-one staffing that is not available on short notice. The OIG-BHDS 2012 Report (Footnote 3) recognized that "medical clearance" and "challenging populations" were two of the three primary reasons for the delays in securing a TDO bed in a timely manner (pg. 24).

Page 23, Contributing Factor No. 4, Clinical determination linked to the bed search, Footnote 41 [error as published]:

The Emergency Medical Treatment and Labor Act (1986) (EMTALA) requires that hospitals provide screening and treatment for emergency medical conditions; **however, EMTALA does not apply to psychiatric emergencies and private psychiatric facilities have the discretion to admit or reject individuals.**

Page 23, Contributing Factor No. 4, Clinical determination linked to the bed search, Footnote 41 [correction]:

Per the Office of the Attorney General of Virginia, footnote 41 does not accurately reflect the requirements of the Emergency Medical Treatment and Labor Act (EMTALA). EMTALA does apply to psychiatric emergencies, which constitute emergency medical conditions under the Act. Thus, a private psychiatric hospital may be required to accept the transfer of a patient who has an unstabilized psychiatric emergency condition depending on the capacity and capability of the hospital to provide treatment for the patient's emergency condition. The focus of the OSIG's investigation was on the Commonwealth's psychiatric emergency services system and not EMTALA compliance. Thus, the report makes no conclusions regarding issues related to EMTALA.