

**Psychiatric Security Review Board and  
Oregon Health Authority - Addictions and Mental Health Division**

**Report on Implementation of SB 420**

October 2012

The Oregon Health Authority, Addictions and Mental Health (AMH) Division and the Psychiatric Security Review Board (PSRB) respectfully submit the following SB 420 (2011) report. AMH and PSRB are required to report on implementation to the Legislative Assembly on October 31, 2012.

**Background**

Senate Bill 420 was passed in the 2011 regular session and took effect on January 1, 2012. This legislation changes the dispositional phase of the legal process for those who successfully assert the insanity defense. It creates a two tier system based on the nature of the offense for which an individual is found “guilty except for insanity” of a crime. In addition, the individual must continue to be affected by a mental disease or defect which, when active, causes him/her to pose a substantial danger to others. Those who commit Tier 1 offenses (*i.e.*, aggravated murder or Ballot Measure 11 crimes) will continue to be placed under the jurisdiction of the Psychiatric Security Review Board (PSRB). Jurisdiction of Tier 2 offenders (*i.e.*, non-Ballot Measure 11 crimes) who are committed to OSH are placed under the jurisdiction of the Oregon Health Authority (OHA). OHA will be responsible for conducting the statutorily required hearings and making decisions regarding placement of the Tier 2 individuals with input from PSRB regarding advisable conditions of release. As is the case with the PSRB, OHA must consider public safety as its primary concern when making these determinations. Once conditionally released to the community, jurisdiction of Tier 2 offenders transfers to the PSRB for monitoring and supervision responsibility.

**Progress to date**

Since the report submitted on March 1, 2012, OHA has successfully implemented the following:

- Reappointed panelists and drafted contracts for the Oregon Health Authority’s State Hospital Review Panel (SHRP). Members of this panel conduct hearings and make decisions related to placement of Tier 2 individuals. Members include:
  - Attorney Raymond W. Myers
  - Psychiatrist Mark Diamond, MD
  - Psychologist Gregory Czar, PhD, PC
  - Probation Officer Diana Karpinski
  - Public Member Melanie Zermer
- Along with the PSRB, provided over 20 trainings for community partners (including judges, district attorneys, defense attorneys, county mental health offices, and consumers) across the state regarding SB 420.
- Filed permanent administrative rules effective on June 19, 2012.

On January 1, 2012, the PSRB transferred 118 Tier 2 clients who were residents of OSH to the jurisdiction of the SHRP. SHRP has held 100 hearings since January 1, 2012, 28 of which were at the request of tier two patients and 72 were statutorily required. In order to ensure that all patients receive their statutorily required hearings in a timely manner, SHRP has scheduled 113 hearings. Under SB 420, when a patient is conditionally released by SHRP, the patient is released into the community and transferred to the jurisdiction of the PSRB. PSRB may revoke the release if the patient does not comply with the conditions of release, in which jurisdiction is transferred back to SHRP.

Since January 1, 2012 (when SB 420 took effect):

- 23 new individuals have been found guilty except for insanity of tier two crimes and placed under the jurisdiction of SHRP;
  - 19 patients have been conditionally released by the SHRP;
  - 2 patients have been approved for conditional release when a bed becomes available in the community.
  - 35 patients have been approved for community evaluations by the SHRP. Before a patient may be conditionally released, a community evaluation must be conducted.
  - 12 patients have been discharged from the state hospital by the SHRP because the term of their commitment ended. When the patient's term of commitment ends he or she is no longer committed to the hospital, to SHRP, or to the PSRB. These discharges would have happened regardless of SB 420 being implemented.
  - 9 additional patients have been discharged because they no longer meet the statutory criteria for jurisdiction.
- 14 Tier 2 patients have had their conditional release revoked by the PSRB.

### **Next Steps**

The PSRB and the OSH Legal Affairs Department will continue to provide presentations and training on the implementation of SB 420 and the SHRP to judges, district attorneys and defense attorneys throughout the state.