This handbook is intended to serve as a guide for Oregon State Hospital Staff, community providers, partnering agencies, Board Members and staff

2017 PSRB HANDBOOK

Oregon
Kate Brown, Governor

Psychiatric Security Review Board
610 SW Alder Street, Suite 420
Portland, Oregon 97205
Phone: (503) 229-5596
Fax: (503) 224-0215
psrb@oregon.gov

April 5, 2017

To: PSRB Partnering Agencies

From: Juliet Britton, J.D., Executive Director

Subject: PSRB Handbook

Dear PSRB Partners,

In an effort to provide a comprehensive guide to you on Psychiatric Security Review Board (PSRB) operations and policy, enclosed is the first edition of the PSRB Handbook. Board staff will periodically update this handbook as necessary. You will find the handbook will be useful to anyone who provides direct services to patients as well as those who are supervisors of programs who serve the PSRB. The handbook is intended to assist both hospital and community staff. I encourage you to use the new and improved PSRB website at http://www.oregon.gov/prb for current PSRB information, sample templates and references.

If your agency or division wishes to learn more about the PSRB and its operations, I am available to travel to any Oregon county to facilitate accurate information about PSRB operations and how our patients are safely supervised in the community or at Oregon State Hospital. Feel free to contact me at (503) 229-5596 or juliet.britton@oregon.gov if you have any questions or would like to arrange a continuing education session.

Sincerely,

Juliet Britton

Juliet Britton
Executive Director

Psychiatric Security Review Board

Conditional Release and Community Treatment Facilities

Background:

When someone commits a crime and is found by the Courts to be "guilty except for insanity," he or she is placed under the jurisdiction of the Oregon Psychiatric Security Review Board (PSRB) or the Oregon Health Authority (OHA).

Individuals found guilty except for insanity are typically placed under the jurisdiction of the PSRB or OHA for the maximum sentence length provided by statute for the crime. Depending on the offense, that is 5 years, 10 years, 20 years, or life.

Historically, PSRB authority over an individual has lasted longer than Department of Corrections' system authority.

While under PSRB jurisdiction, an individual can be housed in the Oregon State Hospital or in a variety of residential treatment settings, ranging from Secure Residential Treatment Facilities to independent living. The PSRB determines what kind of facility is appropriate based on the level of treatment, care and supervision required.

Mission of the Psychiatric Review Board – Public Safety

Oregon State law is explicit that PSRB must put public safety first. ORS 161.351(3) states: "In determining whether a person should be committed to a state hospital or secure intensive community inpatient facility, conditionally released or discharged, the board shall have as its primary concern the protection of society."

Conditional release under PSRB authority – Proven Public Safety Record

The PSRB has been successful in carrying out its mission. In the last 5 years, only 11 people out of the 765 who were living in the community on conditional release have been convicted of new felonies or misdemeanors.

The cumulative recidivism rate for the last 5 years for the PSRB is .47 percent. By comparison, as of 2009 the recidivism rate for individuals in the Department of Corrections system was more than 20 percent after being on parole or probation for three years.

Most PSRB clients begin their treatment at the Oregon State Hospital. When clients are conditionally released they are carefully monitored by the PSRB. They are subject to immediate return to the state hospital if they violate the terms of their release order.

PSRB SNAPSHOT (January 2017)

518 Number of people currently under PSRB jurisdiction.

137 Number of people under PSRB jurisdiction in Oregon State Hospital.

374 Number of people under PSRB jurisdiction who are on conditional release from the state hospital.

SAFETY RECORD

765 Number of people on conditional release in the last 5 years.

11 Number of people in the last 5 years who committed a felony or misdemeanor while on conditional release and were subsequently convicted of that crime.

.47% Cumulative annual recidivism rate for GEI clients since 2012.

FAQs

Are people who have been found GEI ever sentenced to the Oregon State Hospital?
No. The GEI statute calls for individuals to be placed under the jurisdiction of the PSRB if they committed Measure 11 crimes or the Oregon Health Authority for other offenses.

How is the length of time at the Oregon State Hospital established?
The period of time individual PSRB clients stay at OSH is based on a clinical assessment of the individual's mental status and progress in treatment at the hospital and a risk assessment as to their dangerousness as well as the availability of the appropriate resources in the community. If it is determined that a person can be safely managed and treated in a community setting, the PSRB attempts to find an appropriate placement.

Is the state trying to move PSRB clients out of the state hospital and into the community and what kind of impact will that have on public safety?
Because of additional funding from the Oregon Legislature since 2005, an increased number of PSRB clients have been moved into a variety of new community placements, including Secure Residential Treatment Facilities (SRTFs). Since more of these facilities have opened, there has not been any increase in the recidivism rate.

Is it safe to move people who have committed violent crimes into the community?
State law prohibits the Board from putting anyone on Conditional Release who is determined to be presently dangerous to others. Additionally, before individuals are released, they go through a comprehensive screening process that includes four levels of review. In all cases, including person-on-person crimes, victims who want notification are contacted in advance, as is the District Attorney's office that first prosecuted the case.

Conditional Release is not a new policy. Most states in the US have some type of conditional release program. The PSRB has supervised clients in the community on conditional release since its inception in 1978. Over the past 15 years, 1643 conditional releases have been granted to individuals who have transitioned into community placements throughout the state of Oregon. Some of these clients remain under supervision for decades or even life.

Who is notified when someone is being considered for conditional release?
By law, the district attorney from the committing county is notified along with the judge who signed the judgment order. Also, the victim(s), if they requested such notification. The Attorney General's office, the client's attorney and the client's case manager are also notified.

For more information contact Juliet Britton, Executive Director of the Psychiatric Security Review Board at (503) 229-5596

WHERE PSRB CLIENTS LIVE (January 2017)

Oregon State Hospital

- 137 individuals
- Locked 24/7 for secure perimeter patients
- 24-hour supervision
- Off-site privileges based on public safety and level of care needed

Secured Residential Treatment Facility (18% of Conditional Release Clients)

- Locked 24/7
- Egress controlled by staff
- Off-site privileges based on public safety and level of care needed
- 6-16 individuals per facility

Residential Treatment Facility/Home (39%)

- Unlocked
- 24-hour awake supervision
- Up to 16 individuals per facility

Adult Foster Home (6%)

- Unlocked
- 24-hour staff
- Up to 5 individuals
- Some clients with state variance allow for four hours home alone

Semi-Independent/Supported Housing (13%)

- Varies from individual apartments to shared housing
- Staff part time at the site

Intensive Case Management (4%)

- Independent living situation
- Staff contacts at least 2X per day with at least one at residence
- Case management team approach

Independent Living (self, with family) (19%)

- In regular apartment or houses
- Frequent home visits by case manager

Other (Department of Corrections) (1%)

QUESTIONS?

For General questions about PSRB resources in the community:

- PSRB
  610 SW Alder St. Ste. 420
  Portland, OR 97205
  (503) 229-5596
  psrb@oregon.gov

For General questions about community resources for patients diagnosed with a Developmental/Intellectual Disability:

- **Juvenile PSRB Developmental Disability community placement:**
  Lou McDonough
  Department of Human Services: Service Coordinator / SPD
  600 NW 14th Ave. Suite 100
  Portland, OR 97209
  (971) 673-2986
  lou.m.mcdonough@state.or.us

- **Adult PSRB Developmental Disability community placement**
  Matt Bighouse
  State of Oregon Department of Human Services /ODDS
  4494 River Road N
  Keizer, OR 97303
  (503) 945-9815
  matt.bighouse@dhsoha.state.or.us

For General questions about community resources for patients with a psychiatric diagnosis:

- **Juvenile PSRB community placement:**
  Alex Palm
  JPSRB Coordinator
  Oregon Health Authority
  500 Summer Street NE, E86
  Salem, OR 97301
  alex.j.palm@state.or.us

- **Adult PSRB community placement:**
  Elaine Sweet
  Oregon Health Authority
  500 Summer Street NE, E86
  Salem, OR 97301
  (503) 947-5068
  elaine.sweet@state.or.us

Many facilities in Central Oregon and Eastern Oregon are run by Greater Oregon Behavioral Health, Inc. (GOBHI).

- Greater Oregon Behavioral Health, Inc.
  401 3rd Street Suite 101
  The Dalles, OR 97058
  (541) 298-2101
  1-800-493-0040
  Fax: (541) 298-7996 info@gobhi.net
  Click here for a list of GOBHI Facilities.

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PSRB Overview

Mission

The Psychiatric Security Review Board's mission is to protect the public by working with partnering agencies to ensure persons under its jurisdiction receive the necessary services and support to reduce the risk of future dangerous behavior using recognized principles of risk assessment, victims' interest and person-centered care.

History and Functioning of the Psychiatric Security Review Board

On January 1, 1978 the Board assumed jurisdiction over all persons found guilty except for insanity (GEI) who posed a substantial danger to others. GEI is Oregon's insanity defense. The 2011 Legislature changed the dispositional phase of the GEI process such that the PSRB now has jurisdiction over Tier I (ORS 161.332)(3) offenders for all purposes and over Tier 2 offenders only when those patients are on conditional release. Oregon Health Authority has jurisdiction over Tier 2 offenders; who are managed by the State Hospital Review Panel (SHRP).

In 2007, the Legislature expanded the Board and its responsibilities to include a juvenile panel to oversee youth who were found responsible except for insanity (REI) of a crime.

The 2009 Legislature again expanded the Board's duties by giving it the added responsibility of conducting hearings for individuals previously barred from purchasing or possessing a firearm due to a mental health determination who petition to have that right restored.

In 2013, the Legislature expanded once again the Board's duties to include the supervision and monitoring of a certain type of civil commitment and mandated that the Board's patients who are found GEI of a sex crime and who must register as a sex offender be designated with a risk rating as well as create a procedure for relief from the sex offender registration process.

The Board now has several program areas, including: GEI, REI, Gun Relief, Civil Commitment and Sex Offender Designation and Relief.

Membership of Board and Staff:

By statute, the Board is comprised by 10 Members. The Board Members are appointed by the governor and confirmed by the Senate for four-year terms. The adult PSRB Panel consists of a psychiatrist and a psychologist experienced in the criminal justice system, an experienced parole and probation officer, an attorney experienced in criminal trial practice, and a member of the general public. Similarly, the juvenile PSRB Panel is comprised of a child psychiatrist, child psychologist, an attorney experienced in juvenile law, a juvenile parole or probation officer, and a member of the general public. A chair for each panel is elected for a one-year term.

Current Adult Panel

Psychiatrist: Scott Reichlin, M.D., originally appointed 6/8/2015; current term expires 6/30/2021

Psychologist: Elena Balduzzi, Psy.D., originally appointed 10/1/2011; current term expires 6/30/2019

Attorney: Kate Lieber, J.D., originally appointed 10/1/2009; current term expires 6/30/2017

Parole and Probation: Trisha Elmer P.P.O., originally appointed 9/22/2016; current term expires 6/30/20

Public Member: John Swetnam, originally appointed 3/10/15; current term expires 6/30/2017

Current Juvenile Panel

Psychiatrist: Bennett Garner, M.D., originally appointed 3/15/2017; current term expires 6/30/2020

Psychologist: Catherine Miller, Ph.D., originally appointed 1/1/2015; current term expires 1/1/2019

Attorney: Charles Kochlachs, J.D., originally appointed 2/17/2016; current term expires 6/30/2019

Parole and Probation: Kathryn Kuenzi, J.C.C., originally appointed 1/1/2015; current term expires 1/1/2019

Public Member: Shelly Casteel, originally appointed 3/1/2014; current term expires 3/1/2018

The Board's staff consists of an Executive Director, three paralegals, three administrative assistants, an operations and policy analyst, research analyst, an administrative assistant and an executive secretary. The Executive Director oversees the day-to-day operations of the staff, including the monitoring of PSRB patients on conditional release, preparing orders resulting from Board hearings and affidavits and orders for revocation of conditional release. Preparation and presentation of the budget and legislative matters are performed by the director. She serves as agency spokesperson, maintaining a professional dialogue with persons in the mental health and corrections systems.

PSRB Staff

Name	Position	Email	Phone
Juliet Britton, J.D.	Executive Director	juliet.britton@oregon.gov	Direct: (503) 229-5044 Cell: (503) 781-3602
Sid Moore, J.D.	Deputy Director	sid.moore@oregon.gov	Direct: (503) 229-5032 Cell: (503) 709-8861
Jane Bigler	Executive Secretary	psrb@oregon.gov	Direct: (503) 229-5597
Shelley Banfe	Research Analyst	shelley.banfe@oregon.gov	Direct: (503) 229-5030
Laura Moeller, J.D.	Hearings Coordinator	laura.moeller@oregon.gov	Direct: (503) 229-5061 Cell: (503) 568-9882
Nola Borland	Hearings Scheduler	nola.borland@oregon.gov	(503) 229-5598
Jeanne Schaefer	Hearings Specialist	jeanne.schaefer@oregon.gov	(503) 229-5052
Matthew Berndt, J.D.	Conditional Release Monitor	matthew.berndt@oregon.gov	(503) 229-5043
Jeff Hanson	Conditional Release Monitor	jeff.hanson@oregon.gov	(503) 229-5023
Karen Bull	Case Summarizer	karen.bull@oregon.gov	(503) 229-5598
Ashley Wilsey	Office Specialist	ashley.wilsey@oregon.gov	(503) 229-5602

Cost and Performance Measures:

The Psychiatric Security Review Board is a State agency and the Oregon Legislature funds both the functioning of the Board and the funding of the mental health treatment and supervision of the patients in the community. The cost of the Oregon system involves a budget for the 2015-17 biennium of $3 million for Board functioning, hearings and 11 staff.

- Annual Performance Measures (.pdf)

National Acclaim

The Psychiatric Security Review Board has been the focus of international attention and study. An NBC white paper on "Crime and Insanity," shown on television in April 1983, focused on Oregon as a model system. In addition, the American Psychiatric

Association statement on the insanity defense in December 1983 recommends the model system presently in operation in the State of Oregon under the aegis of the Psychiatric Security Review Board. The APA was impressed that:

> *Confinement and release decisions for acquittals are made by an experienced body that is not naive about the nature of violent behavior committed by mental patients and that allows a quasi-criminal approach for managing such persons. Psychiatrists participate in the work of the Oregon Board, but they do not have primary responsibility. The Association believes that this is as it should be since the decision to confine and release persons who have done violence to society involves more than psychiatric considerations. The interest of society, the interest of the criminal justice system and the interest of those who have been or might be victimized by violence must also be addressed in confinement and release decisions.*

A report of the National Commission on the Insanity Defense issued in March 1983 and entitled "Myths and Realities", sponsored by the National Mental Health Association, recommends the adoption of a special statute to address the disposition of the acquitted after a finding of not responsible by reason of insanity of a violent crime. In that report, the National Commission also discusses the Oregon code creating the Psychiatric Security Review Board.

In 1989 the National Alliance for the Mentally Ill set goals and priorities which included the passing of statutes which provide improved systems for insanity acquittees, citing the Oregon Psychiatric Security Review Board as a model for such a statute.

In 1994, the Psychiatric Security Review Board was named the APA's Hospital and Community Psychiatry's Gold Achievement Award winner. The award was given in recognition of the program's commitment to improved integration of mental health services within the criminal justice system and its responsibility to individual, community and societal values.

Oregon remains one of the states currently in the forefront of legal process in this area. Connecticut and Arizona have similar agencies, with Connecticut having adopted the Oregon model years ago. Most recently, in 2010, Washington State created and enacted a version of this model. Other states, including Florida, Kentucky, Michigan, New Hampshire, and South Carolina have expressed an interest in this successful approach.

The insanity defense population will continue to be a part of our society. Oregon has chosen to create the Psychiatric Security Review Board, offering a multidisciplinary method of decision-making. By statute, the Board's primary concern is the protection of society. The system works well because of the Board’s ability to respond quickly to community emergencies and because the system balances the public's concern for safety, the treatment of persons in the community and the rights of the patients.

Adult Panel

When an adult commits a felony and is found by the courts to be Guilty Except for Insanity (GEI), the judge is likely to place the individual under the jurisdiction of the Oregon Psychiatric Security Review Board (PSRB) or the Oregon Health Authority (OHA) depending on the nature of the offense and physical placement of the individual. Tier I (ORS 161.332(3)) offenders remain under the PSRB's jurisdiction during the entire length of their term. Tier 2 offenders who are committed to the Oregon State Hospital fall under OHA's jurisdiction while they remain in the hospital. While a Tier 2 individual is conditionally released to the community, his or her jurisdiction transfers to the PSRB for monitoring and supervision.

Typically, individuals found GEI are placed under the jurisdiction of the Board or OHA for the maximum sentence they could have received if found guilty of the crime. Sentencing guidelines do not apply.

The Psychiatric Security Review Board's statutory functions are:

1. To accept jurisdiction over Guilty Except for Insanity patients

2. To protect the public

3. To balance the public's concern for safety with the rights of the patient

4. To conduct hearings, make findings and issue orders

5. To monitor the progress of each patient under its jurisdiction

6. To revoke conditional release if patients violate their terms

7. To maintain a current history on all patients

The Board carries out its functions by conducting hearings and monitoring patients on conditional release. In making decisions, the Board's primary concern is the protection of the public.

While under the Board's jurisdiction, an adult can be committed to the Oregon State Hospital or conditionally released to a lower level of care, ranging from secure residential treatment facilities to independent living. The Board determines what type of facility is appropriate based on both clinical and risk assessments, including the level of treatment, care and supervision required by the patient. Conditional release is granted to a patient once the Board determines that he or she can be adequately controlled with supervision and treatment in the community and that the necessary supervision and treatment are available.

The Board assesses readiness for conditional release planning by:

1. Reviewing the exhibit files that contain the reports and evaluations by the patient's providers of various disciplines;

2. Listening to the testimony of all witnesses;

3. Cross examining witnesses to obtain additional information; and

4. Considering the risk to society that the patient may pose if returned to the community, using:

a. Clinical judgment of professional staff;

b. Results of psychological testing and risk assessments performed on the patient;

c. Recommendations of the Oregon State Hospital's Risk Review Panel; and

d. The availability of resources in the community to compensate for any residual risk.

When release is appropriate and a verified plan is approved by the Board, the person is ordered released from the state hospital subject to the Board's specific conditions.

These conditions include:

1. An appropriate housing situation;

2. Mental health treatment and supervision;

3. The designation of a person who agrees to report on a monthly basis to the Board concerning the released person's progress and who also agrees to notify the Board's director immediately of any violations of the release conditions; and

4. Any other special conditions deemed appropriate and/or necessary such as abstaining from alcohol and drugs or submitting to random drug screen tests.

A change in mental health status that causes a patient to pose a risk of substantial danger to others or a violation of the terms of conditional release may result in immediate revocation of the release and return to Oregon State Hospital pending a hearing. Staff typically intervenes before the patient becomes a serious risk to the community.

The grounds for revocation include:

1. Violation of the terms of the conditional release plan

2. A change in mental health status

3. Absconding from supervision

4. Loss of the availability of appropriate community resources

The efficacy of the Board's decision-making and the ability of those treated and supervised persons to succeed on conditional release are evidenced by the fact that in 2015, more than 99% remained in the community on a monthly basis.

Juvenile Panel

When a young person is found by the courts to be Responsible Except for Insanity (REI), the judge places the juvenile under the jurisdiction of the Oregon Psychiatric Security Review Board (PSRB) if:

1. The court finds that the young person has a serious mental condition (defined as major depression, bipolar disorder or psychotic disorder); **or**

2. The court finds that the young person has a mental disease or defect other than a serious mental condition and represents a substantial danger to others, requiring conditional release or commitment to a hospital or facility.

Individuals found REI are placed under the jurisdiction of the Board for the maximum sentence they could have received if found guilty of the crime. Sentencing guidelines do not apply.

The Psychiatric Security Review Board's Statutory Functions are:

1. To accept jurisdiction over REI patients

2. To protect the public

3. To balance the public's concern for safety with the rights of the patient

4. To conduct hearings, make findings and issue orders

5. To monitor the progress of each patient under its jurisdiction

6. To revoke conditional release if the patient violates his or her terms

7. To maintain a current history on all patients

The Board carries out its functions by conducting hearings and monitoring patients on conditional release. In making decisions, the Board's primary concern is the protection of the public.

While under the Board's jurisdiction, youth can be committed to the Secure Adolescent Intensive Program (SAIP) for those with a mental illness or Secure Children's In-patient Treatment Program (ITP) for those with developmental disabilities. When juvenile patients turn 18 years old, they are transferred from SAIP/ITP to the Oregon State Hospital for care and treatment if the Board determines they need hospital level of care. Individuals can also be conditionally released and placed at a variety of lower levels of care, ranging from residential treatment facilities to independent living. The Board determines what type of facility is appropriate based on both clinical and risk assessment, including the level of treatment, care and supervision required by the patient. Conditional release is conferred on a patient once the Board determines that he or she can be adequately controlled with supervision and treatment in the community and that the necessary supervision and treatment are available.

The Board assesses readiness for conditional release planning by:

1. Reviewing the exhibit files containing the reports and evaluations by the patient's providers of various disciplines;

2. Listening to the testimony of all witnesses;

3. Cross examining witnesses to obtain additional information; and

4. Considering the risk to society that the patient may pose if returned to the community, using:

a. Clinical judgment of professional staff;

b. Results of psychological testing and risk assessments performed on the patient; and

c. The availability of resources in the community to compensate for any residual risk.

When release is appropriate and the Board approves a verified plan, the person is ordered released from the secure facility subject to the Board's specific conditions.

These conditions include:

1. An appropriate housing situation;

2. Mental health treatment and supervision;

3. The designation of a person who agrees to: report to the Board on a monthly basis concerning the released person's progress; and notify the Board's executive director immediately of any violations of release conditions; and

4. Any other special conditions deemed appropriate and/or necessary such as abstaining from alcohol and drugs or submitting to random drug screen tests.

A change in mental status that causes the youth to pose a risk of substantial danger to others or a violation of the terms of conditional release may result in immediate revocation of the release and return to a secure facility pending a hearing. Staff typically intervenes before the patient becomes a serious risk to the community.

Grounds for revocation include:

1. A change in mental health status

2. Violation of the terms of the conditional release plan

3. Absconding from supervision

4. The appropriate community resources are no longer available

Civil Commitments

A district attorney may petition the court to initiate commitment proceedings if there is reason to believe that a person is an “extremely dangerous person with a mental illness” (EDPMI). This statute likely will be used most when a criminal defendant who committed one of a number of very serious acts is indefinitely unable to aid and assist in his defense and cannot move forward in the criminal justice system. Commitment under this section is for two years, and the EDPMI is supervised by the Psychiatric Security Review Board (PSRB). The EDPMI may be recommitted indefinitely every two years if the court finds he or she continues to meet jurisdictional criteria. Conditional Release is permitted.

Gun Relief Program

The Gun Relief Program was established as a direct result of the investigation arising from the Virginia Tech tragedy. It revealed that a majority of states, including Oregon, were not sending the names of people barred from purchasing a firearm to the federal National Instant Criminal Background Check System (NICS) database. All federally licensed firearm dealers and law enforcement agencies use NICS to conduct background checks when individuals apply to purchase firearms.

Congress passed legislation requiring states to provide those names for inclusion in the federal database or risk losing some federal criminal justice grant funding. To address various concerns, Congress included a provision requiring states to establish "relief" programs whereby individuals previously barred from purchasing or possessing a firearm could petition to have that right restored and their name removed from the NICS database.

As a result, the 2009 Oregon Legislature enacted HB 2853, which in part directed the Oregon State Police to submit the names of firearm-disqualified individuals to the NICS database. HB 2853 also directed the Psychiatric Security Review Board to conduct relief hearings, given the mental health expertise of its Board members. The Board will only hear relief hearings from individuals who are barred from possessing a firearm due to an Oregon mental health determination, including civil commits, persons found guilty except for insanity (GEI) and persons who were found unable to aid and assist in a criminal proceeding. Persons are barred from purchasing or possessing firearms if they have received one of these mental health determinations.

Persons who previously received judicial relief under ORS 166.274 remain barred from possessing a firearm under federal law. However, the PSRB's relief program is certified by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and is recognized under federal law as having the authority to lift a federal mental health prohibitor.

Hearings

Hearings FAQ:

When Does PSRB have hearings?
Oregon Law requires that PSRB conduct hearings for the patients it monitors with certain frequency.

Initial Hearings
Initial Hearings must occur within 90 days of commitment by court order to PSRB if in the hospital or a secure intensive inpatient facility. See ORS 161.341(6)(a). When an adult patient is conditionally released by the court, there is no statutory requirement for that patient's initial hearing to occur within a specified time. However, the Board's policy is to set those patients' hearings within 90 days to mirror hospital patients' timelines.

2-Year/1-Year Hearings
Adult patients residing at OSH have hearings at least once every two years. Individuals who are committed to a hospital under the JPSRB will have hearings at least once every year.

Hospital Request for Conditional Release (CR) or Discharge
When a person is committed to a state hospital or secure intensive community inpatient facility and the superintendent of the hospital or director of the facility is of the belief that

the person no longer meets jurisdictional criteria or no longer needs hospital level of care, the statute indicates that the superintendent or director shall apply for an order of discharge or conditional release. The application must be accompanied by a report setting forth the facts supporting the opinion. The PSRB is required to hold a hearing on the application within 60 days (30 days if the person is a juvenile) of its receipt. Not fewer than 20 days (10 days in the case of a juvenile) prior to the hearing, the report is supposed to be sent to the Attorney General. See also the section in this guide about jurisdictional discharge hearings proposed by OSH.

5-Year/3-Year Hearings
When an individual is placed on conditional release, the Board will hold a hearing at the five year (three years, in the case of a patient is a youth) mark to consider the progress of the patient.

Patient/Outpatient Requested Hearing
Patients may request a hearing every six months and can request a conditional release evaluation, conditional release, modification to their conditional release or an early discharge from jurisdiction

Supervisor request for outpatient hearing
A case manager who supports a modification to the conditional release or an early discharge from jurisdiction may request a hearing for either of those purposes on the patient's behalf.

Revocation Hearings
Revocation hearings occur within 20 days (10 days, if a youth) after a patient is admitted to the hospital on a revocation order.

What Can I expect at a PSRB Hearing?
Hearings are run like miniature trials. As such, the Board expects courtroom decorum. Cell phones should be off, or, at a minimum, on vibrate. Hats are not allowed. There is no talking allowed amongst the audience during a hearing that is being recorded, as background noise can alter the recording. Children are not allowed, unless a special request is granted; Hearings often involve discussion of graphic details of incidents and information not suitable for children. The Board typically conducts hearings all day. Bring water, lunch, snacks as you likely will not have time to take a lunch break.

How far in advance are Hearings scheduled by the PSRB?
Typically, full hearings are scheduled up to three months in advance. Timing varies depending on the circumstances. For example, revocation hearings are scheduled just 2-3 weeks in advance. Occasionally hearings are scheduled at the last minute due to bed availability and anticipated moves of patients, or because there is a serious mental health decompensation and the hearing must be held sooner rather than later. Circumstances vary.

Who Decides the Outcomes of the Hearings?

The PSRB is composed of ten Board members: five for the Adult Panel and five for the Juvenile Panel. A quorum of three is required to decide the outcome of each hearing, so three members are assigned for each hearing day. In instances where conflicts of interest exist and one of the sitting Board members is not allowed to render a decision on a case, PSRB staff arrange for a fourth board member to also hear the case, review the exhibit file, and render a decision.

How do Case Managers find out the Hearing outcome?
Case Managers may call the PSRB office the day after the hearing for the verbal hearing result or wait for the Board order to be mailed, approximately two weeks after the hearing.

When does the PSRB need MD Progress Notes and Case Manager Progress Notes for PSRB Patients who have upcoming Hearings?
The PSRB staff needs both up-to-date MD Progress Notes and Case Manager Progress Notes at least three weeks prior to a patient's scheduled hearing.

Does the PSRB require a certain number of—or period covered by—submitted Progress Notes in order to have a hearing?
It is required that the Board should receive a recent progress report from the treating doctor: the Board should have a Progress Note from the last thirty days, so that the Board will know that the patient has recently been seen and assessed. The notes should include information summarizing the patient's psychiatric status since the last hearing.

Will a hearing still happen if the patient's doctor is not available to testify at the hearing?
Possibly, depending on the type of hearing and whether or not there are stipulations, but usually, no.

If a Patient is granted Conditional Release at a Hearing, how soon will the Patient be released from the Hospital?
It depends on when the bed is available at the placement where the patient will be residing, but typically the hospital processes these requests as quickly as staff is able, most often within a few days of CR being ordered, but that cannot be guaranteed.

Types of Hearings

The Board conducts full hearings and administrative hearings.

Full Hearings: At full hearings, the patient, his or her attorney, the Department of Justice (or the District Attorney, representing the State) and the Board are present. Two-year, 5-year, revocation and conditional release hearings for adult patients are conducted through full hearings.

Administrative Hearings: At an administrative hearing, the Board conducts deliberations in private so the patient, case manager, and attorneys do not attend. Most modifications of conditional release are handled via an administrative hearing.

Scheduling of Hearings

The Board has several statutorily-mandated timelines to conduct certain hearings (see previous pages). Board staff will schedule a hearing so long as witnesses are available and all necessary documents have been submitted for the exhibit file. If either the patient's attorney or the State's attorney wants to request a continuance for a valid reason, it should be submitted to the Board at least 10-days prior to the scheduled hearing. The Board also has the authority to continue a case on reasonable grounds. Continuances are typically re-set up to 60-days: sometimes longer if requested by a party.

Approximately one week prior to the hearing, PSRB's hearings lead will have a tentative order of hearings for the following hearing day. It is important to remember that Board staff cannot predict precisely how long hearings will take. Maximum flexibility by the participants is greatly appreciated. Staff will work closely to attempt to accommodate scheduling conflicts.

Notice of Hearing

The Department of Justice, defense attorney, district attorney, judge who decided the patient's disposition, and all interested parties and victims who request it receive prior notice of all hearings by the Board.

Media at hearings

Sometimes, patients, victims and witnesses ask the PSRB whether or not there will be media present at hearings and whether or not media is allowed to be present at hearings held at the Oregon State Hospital. Hearings conducted by the PSRB are open to the public. Board deliberations are not open to the public. For details, see PSRB's rules about public records including deliberations (OAR 859-040-0015) and about media (OAR 859-050-0105).

Evidence Required at a Psychiatric Security Review Board Hearing:

FOR PSYCHIATRIST OR PSYCHOLOGIST

At any hearing for a person under the jurisdiction of the Psychiatric Security Review Board, the Board requires the submission of a psychiatric/psychological evaluation of the patient that has been conducted by a psychiatrist or licensed psychologist. The Evaluation shall address the following questions:

1. What is the person's current diagnosis?

2. Is the mental disease or defect active or in remission?

3. May this person's mental disease or defect, with reasonable medical probability, occasionally become active, and when active, render the person a danger to others?

The Board will further require that the psychiatrist/psychologist who performed the evaluation be available to testify at the hearing, either in person or by telephone, so that counsel and the Board members have an opportunity to cross-examine. If the patient stipulates to jurisdiction and provides the PSRB notice in advance, the Board may waive this requirement.

Hearings for Patients Residing in Oregon State Hospital

1. The patient's treatment team shall ensure that prior to all full hearings, the following documents have been submitted to the Board a minimum of 12 days prior to the scheduled hearing:

a. Progress Note Update authored by the psychiatrist (even if patient is treated primarily by a nurse practitioner) dated within 60 days of scheduled hearing date. The report must include an opinion as to whether the person is affected by a mental disease or defect which may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. It should also reflect a recent interview with the patient and a detailed account of the patient's progress in treatment since the last note.

b. START dated within the past 90 days

c. Violence Risk Assessment (or an updated VRA if one was generated)

d. Specialty Risk Assessments, if applicable, such as Sex Offender Risk Assessment, Stalking Risk Assessment or Arson Risk Assessment

e. SURF or ISURF (substance abuse assessments) or START if detailed alcohol and drug risk and history is noted.

f. In addition to the above documents, if the hospital is recommending conditional release then the following should be submitted to the Board by the social worker:

a. Request for Hearing

b. Signed Summary of Conditional Release Plan

c. Signed Agreement to Conditional Release

d. If victim wants contact with patient, a letter from victim noting the desire for contact.

2. Witnesses at Full Hospital Hearings

a. It is the Board's expectation that the patient's treating psychiatrist or a psychiatrist designated by the Clinical Director be available to testify to testify at PSRB hearings. Typically, at least 30 days prior to a hearing, PSRB staff send out the monthly docket to the designated OSH staff liaison. Since revocation hearings must be done within 20 days of a patient's return to the hospital, notice will be shorter than the typical 30 days. The Board expects OSH staff to promptly inform PSRB staff if a treating psychiatrist has a schedule conflict.

b. At all full hearings, the Board expects the psychiatrist to be able to testify regarding the following:

1. Does the patient suffer from a Qualifying Mental Disease or Defect?

2. When active, does this Mental Disease or Defect cause the patient to be a substantial danger to others?

3. Familiarity with the patient's mental health history

4. The progress the patient has made while residing at the hospital

5. Any recommendations for further treatment, evaluation, including level of care or conditional release

6. If patient requests to act as his or her own attorney, the psychiatrist's opinion as to whether the patient is competent to represent him/her self.

c. If conditional release is being recommended or one of the issues at the hearing is a particular treatment such as DBT or sex offender therapy/risk, the patient's therapist or social worker may be called as a witness. **If any OSH clinician believes he/she has relevant**

testimony for the hearing, please inform PSRB staff no later than 1 week prior to the scheduled hearing so the witness list can be finalized.

d. The Board will conduct a two-year hearing even if a patient voluntarily refuses to attend.

3. What if a Treatment Team does not believe a patient meets jurisdictional criteria?

a. Solely drug and alcohol diagnoses or personality disorders, including paraphilia, do not qualify as mental illnesses and the Board is required to discharge those patients who longer meet the mental disease or defect prong or the dangerousness prong.

b. ORS 161.341 requires OSH to submit an Early Discharge Hearing Request when OSH believes a patient does not have a qualifying mental illness or is no longer a substantial danger to others when the mental illness is active.

c. The treatment team submits its Early Discharge Hearing Request to Risk Review, to which the Superintendent has delegated the authority to request discharge hearings.

d. Prior to submitting a hearing request, a treatment team must take the patient before Risk Review for authorization to request a jurisdictional discharge hearing.

e. Once approved, the Treatment Team must submit a PSRB hearing request (see: Hearing Request Form), the Risk Review minutes, and the progress note that supports an early discharge, to the PSRB.

4. Tier II GEI patients are under the jurisdiction of OHA while they reside at the Oregon State Hospital. (See ORS 161.332 for distinction between Tier I and Tier II offenses.) Tier II individuals are conditionally released at the directive of the State Hospital Review Panel (SHRP). Per administrative rule, the Board will conduct a review within 21 days of the hospital's proposed conditional release after it receives a copy of the proposed summary of conditional release plan, community evaluation and progress note update. This review is not a hearing and parties will not be present. The Board will notify SHRP and the community of any additional conditions it finds advisable. Once placed on conditional release, the patient will transfer to the jurisdiction of the Board. Providers should direct all SHRP-ordered evaluation questions to SHRP's staff, not the PSRB.

Community Evaluations

PSRB Patients live in the community at various levels of care, including licensed residential, semi-independent, ICM (Intensive Case Management) and independent. A PSRB patient will never be placed on conditional release unless the county mental health agency has evaluated the patient and accepted him or her for placement. The purpose of the community evaluation is to ascertain whether the proposed placement has the resources to adequately address the risk factors of the particular patient. Evaluators are expected to be familiar with the entire PSRB/SHRP/court exhibit file as well as to meet face-to-face with prospective patient.

Oregon State Hospital Requesting Community Evaluation: At any time, hospital staff can ask the Board to order a community evaluation for a Tier I patient. Requests for Tier 2 patients should be made directly to the State Hospital Review Panel. A Request for Evaluation should be in writing with a justification for the request, most recent Risk Review minutes and a recent Progress Note Update which notes the patient is appropriate for an evaluation. Additionally, the Board must have previously received an ISURF/ASAM (if available), current START, and Violence Risk Assessment prior to ordering an evaluation.

Judge Requesting Community Evaluation for Possible Court Conditional Release: Generally, the PSRB does not get involved in a GEI case until the judge has found a person GEI and determined whether he/she will be committed to OSH or placed on conditional release. However, PSRB staff can assist attorneys, judges and county mental health agencies in processing a court conditional release. ORS 161.327 requires that the mental health agency conduct a conditional release examination before a court is permitted to place a GEI defendant in the community. The court may order evaluations, examinations and compliance per ORS 161.327(3)(a).

If the defendant is found GEI solely of a Class C felony, the court must order the community mental health program to evaluate the person for conditional release. This does not mean the person must be placed on conditional release, just that they be evaluated. Judges can also order evaluations on any case, not just Class C.

Community evaluations follow the same format as if the PSRB or SHRP had ordered consideration of a patient for conditional release in the particular community. If the mental health agency believes the defendant can be safely maintained on conditional release, it should include a completed Summary of CR Plan and signed Agreement to Conditional Release form with the evaluation. See templates and forms at the end of this guide.

Case Manager Request for Evaluation: At any time, a case manager can request a community evaluation (move from one community program to another). Prior consultation with the Executive Director may be appropriate to determine residential availability and appropriate level of care for a particular patient. A Request for

Evaluation and a justification for the request should both be in writing. Additionally, all monthly progress reports should have been received by the Board.

Patient Request for Community Evaluation: If a patient requests a community evaluation, the Board will treat the request as a request for a hearing and set the hearing once the Board receives the required documents. If the case manager supports the patient's request for evaluation, the case manager should submit a Request for Evaluation as noted above as this will likely expedite the evaluation process and remove the need for a hearing.

Timelines for Community Evaluations Performed by the Receiving Community Provider: OAR 309-019-0160 sets forth the timelines for completion of the evaluation—even if a bed is not currently available. The expectation is that the evaluation be completed no later than 45 days after the provider has received the Order to evaluate. Patients can be transported to the proposed residence or county for the in-person interview if that is expected to expedite the evaluation process and assist in transitioning the patient from his/her current placement to the new placement. Providers should communicate with the current placement to facilitate these interviews.

Responsibilities of the Discharging Provider: The agency that requested the order of evaluation (also known as the discharging provider) is also responsible for working with the receiving provider to develop the conditional release plan and submit it to the Board. If the patient is at OSH, this should be done prior to the conditional release hearing. If the patient is already on conditional release, the plan should be submitted with the request to move the patient to the new placement. A patient cannot move without an administrative hearing approving the request. The exception to this is if it is a lateral move and all other conditions stay the same. No move should be made without communication with one of the PSRB conditional release monitors, executive director, or deputy director.

OSH Risk Review: At the request of Oregon State Hospital, the Board will typically not consider ordering conditional release or evaluation for conditional release unless OSH Risk Review has weighed in on the issue.

How the Oregon State Hospital (with help from the Community Provider) gets a Patient out of the Hospital and into a Community Placement:

1. OSH Treatment Team goes to OSH Risk Review (RR) for more and more privileges over a period of time, getting patient first on-grounds privileges and working up to off-grounds privileges (to establish a pattern of responsibility, accountability, and trustworthiness).

2. Once privileges are earned and successfully used, the OSH treatment team goes to the RR for conditional release (CR) planning.

3. The OSH Treatment Team works with the patient to identify a program that has an opening and is a good clinical fit. This may include the patient visiting a provider. The provider and OSH Treatment Team work together to determine if it is the right fit for the patient. A patient should not visit or talk to providers unless RR has authorized conditional release planning. It can be very demoralizing for a patient if the treatment team leads the patient to believe he or she may go to a certain program or level of care and the PSRB later determines that program or level of care is not appropriate.

4. After identifying a program, the treatment team requests an evaluation.

5. Occasionally, the Board will order an evaluation at a full hearing and will direct OSH to identify a program within 30 days of the order, in which case it is necessary to notify the provider's Board.

6. Once a program is identified and an evaluation completed, the treatment team sends the evaluation to the PSRB. If the evaluation results in a recommendation for conditional release, the board will schedule a "Hospital Request for CR" hearing.

7. If the identified program turns out to not be a good fit for the proposed patient, then typically the OSH social worker will contact the PSRB's executive director and discuss other potential placements. The executive director may approve evaluation to another community provider.

8. When an identified program is a good fit and the patient is deemed appropriate by the community provider for placement, then the PSRB will schedule a Hospital Request for CR hearing.

9. At the Hospital Request for CR hearing, it is the State's burden to establish that jurisdictional criteria exist and to establish suitability for the patient to the proposed placement. Typically, the patient's treating MD in the hospital testifies as well as the social worker who worked with the community provider regarding the evaluation. The community provider, MD, and case manager usually listen via conference call so they are able to ask questions of the hospital treatment team on their patient's behalf. If the State meets its burden, it is likely that the patient will be conditionally released into the community with placement at the facility that evaluated him/her.

10. In order for the patient to be released to the community placement, there must be an evaluation and a summary of conditional release plan, each separately marked as exhibits for Board consideration.

Conditional Release Occurs After All of the following:

1. OSH Risk Review approves Conditional Release Planning.

2. Patient is evaluated by community provider. See below

3. Community Provider Accepts Patient.

4. OSH and Community Provider develop a proposed SCRP (Summary of Conditional Release Plan) that lays out details and conditions under which the Patient will live if conditionally released by the Board. These conditions are submitted jointly by the community evaluator and the hospital treatment team. Prior to drafting the SCRP, at a minimum, a careful review of the most recent START and VRA should be conducted to ensure that mitigation of risk is contemplated in the plan. Use the above PSRB template only.

a. A SCRP must contain the following:

i. Name of the PSRB supervisor with contact information, including address, phone and email.

ii. Location information on where the patient will live.

iii. A list of the conditions the patient must follow (including, but not limited to: individual therapy, group therapy, psychiatric treatment, medications, groups required, curfew, specific treatment for sex offenders, AA/NA/DDA groups, passes, dietary, etc.)

iv. SCRP may include special conditions deemed appropriate given the specific risk associated with the patient. The community evaluator and OSH treatment team are expected to assess patients' risk and include special conditions in plans submitted to the Board. See sample special conditions at the end of this guide. Sometimes, the Board will add special conditions as a result of the Conditional Release hearing.

Hearings for Persons Already on Conditional Release

At any time a case manager can request a modification of conditional release.

When a case manager requests a modification, he or she should review all current conditions and recommend all the modification requests at once as to minimize the number of hearings required for a particular patient. Typically,

providers are expected to review the conditions once per month and determine if a modification is appropriate.

1. Depending on the type, modifications may be handled through an administrative hearing. Housing step-down, driving privileges, pass privileges (secure facility patients), a reduction in treatment, and reduction in home visits are all examples of conditions typically reviewed at an administrative hearing. However, given the nature of the instant offense or the patient's history, some modifications may be handled at a full hearing. After a patient has been on conditional release for five years, the Board must hold a full hearing per statute even if there is no modification requested. See: ORS 161.336(6)

2. 90-days prior to a patient's 5-year date on conditional release, PSRB staff will send a letter to the case manager detailing what documents are required and providing scheduling information for the full hearing. See sample Document Request correspondence and sample scheduling request.

3. The documents below are due on the deadline provided in the PSRB correspondence. If a provider needs more time to gather documents, he or she should call a PSRB Conditional Release Monitor to inform staff of expected timelines. **Board staff will not set a hearing** unless it receives the following:

a. All monthly progress reports.

b. All Psychiatry Progress Notes. At least one of these dated within 90-days should have diagnoses and current medications.

c. Progress reports/polygraph results from other providers (i.e. sex offender or DBT y).

d. A letter from case manager recommending modifications to the current conditional release plan. This letter should include, among other things, information regarding why the requested modification is clinically indicated and appropriate given the risk factors of a specific client. Also, see: ORS 161.336(5)(b).

e. If modification is at the outpatient's request, a letter from the case manager with an opinion regarding outpatient's requested modifications.

f. An evaluation by a psychiatrist or psychologist. The evaluation shall contain an opinion on whether the patient suffers from a

mental disease or defect which when active, causes the outpatient to present a risk of substantial danger to others.

g. The outpatient's most recent Annual Assessment, completed by members of the IDT.

h. Current Treatment/Service and Support Plan.

4. When a provider does not believe that an outpatient should remain under the Board's jurisdiction, (See ORS 161.336(5)(b)), the provider should request a hearing if the clinical team believes:

a. That the patient no longer suffers from a qualifying mental illness or defect; or with reasonable medical certainty, it can be said that the patient's mental illness or defect will not become active or make him a substantial danger to others; or

b. That an risk of dangerousness to others posed by the outpatient is based solely on drug and/or alcohol use. Drug and alcohol-related diagnoses and personality disorders, including paraphilia do not qualify as a mental illness for the purposes of PSRB jurisdiction. See case law (Tharp v. PSRB (2005) as well as ORS and PSRB OARs

If an outpatient supervisor is requesting a discharge on his/her client's behalf, the request must be submitted to the Board in writing and include clear and substantial justification for the request. Additionally, the outpatient supervisor should include in the request, the psychiatric evaluation the team relied upon to form that opinion as well as information about the patient's post-PSRB transition plan (Guardian/AIMHI bed, e.g.)

5. Witnesses

a. The Board expects that at a minimum, the treating psychiatrist and case manager will be available to testify at every full hearing.

b. Telephonic testimony of psychiatrists or other witnesses is permissible if there is no objection by the State or patient's attorney. Case managers and psychiatrists should notify Board staff immediately if they are not available to testify on the scheduled hearing date.

c. The therapist, evaluator or psychiatrist testifying should be able to opine on the following:

i. Does the patient suffer from a qualifying mental disease or defect?

ii. When active, does this mental disease or defect cause the patient to be a substantial danger to others?

iii. His or her familiarity with the patient's mental health history

iv. The progress the patient has made while on conditional release

v. Any recommendations for further treatment as well as an evaluation, including an opinion about appropriate level of care or conditional release. This may include a recommendation to "step down" in residential care or reduce/remove certain treatment conditions.

d. The Board requires personal appearance of all patients on conditional release at a 5-year hearing. The Board will not consider exceptions to this policy unless the patient is physically incapacitated and cannot be transported to the hearing due to failing health or if the hearing would be detrimental to the patient's psychiatric stability. The Board has video and conference call capabilities.

Case Manager Responsibilities
(See also Administrative Rule 309-019-0160)

Notify Board of Serious Incidents. Case Managers are expected to keep the executive director or PSRB staff apprised of all serious incidents regarding a patient. If a patient absconds from supervision, is admitted to a hospital, is arrested or is exhibiting signs of decompensation, not complying with his or her conditions of release (i.e. positive urinalysis), case managers should immediately notify the executive director.

Major Medication Changes. Safety planning during any medication change should be occurring.

The PSRB's expectation is not that the Board will have any role in specific medication management decisions or require that changes be delayed until the Board approves them. These are between the patient and the Licensed Medical Professional. However, PSRB patients are different from many other types of patients in that changes in mental status have the potential to result in greater consequences for both the community and the patient. Not only do many individuals under PSRB jurisdiction have a history of engaging in dangerous or even violent criminal behavior when experiencing increased psychiatric symptoms, but all PSRB patients are at risk of experiencing significant

losses of freedom such as revocation of their conditional release status if their mental health deteriorates.

In recognition of what is at stake when providing treatment for PSRB patients, the Board expects that providers will work with the PSRB monitor to develop Safety and Risk Management Plans for each PSRB patient. The intent of these plans should be to ensure that staff understand each patient's history, recognize warning signs and have safety plans in place in the event of an increase in symptoms. This is a long-standing expectation and providers are no doubt already doing it, even if it hasn't been explained as such.

For Safety and Risk Management Plans to be useful, the Board and the County expect that information about changes that could conceivably affect the patient's mental status should be communicated to the PSRB Monitor as soon as possible. In general, all information about medications, including changes in medications from Primary Care Providers, should be provided to the PSRB monitor immediately.

In addition to communication about medication changes that could affect the patient's mental status, the Board also asks that the PSRB Monitor be informed immediately about non-routine (i.e. not part of a titration or an adjustment to maintain blood levels) changes to antipsychotics or mood stabilizers. If Safety and Risk Management Plans are in place and current—which they should be in nearly every case—then they should be used as indicated as the medication changes go forward. If such a Plan is not already in place, the Board expects Safety Planning to be done before such a medication change is implemented.

Notify the executive director of any concerns about residential programs/staff. The after-hours cell number is 503-781-3602.

Notify Board of a change in residence. If prior authorization was granted for a patient to move, immediately notify Board staff of the new address and date of move. Unless it is an emergency, changes in residence require prior authorization from the PSRB.

Periodically Review Patient's Order of Conditional Release and recommend appropriate modifications, as needed. If the modification is to move to a different residence, also complete the Summary of Conditional Release Form with the new conditions.

When a Patient is on Conditional Release, what are the Case Manager's/PSRB Supervisor's responsibilities?

1. Make sure the patient has signed a PSRB Agreement to Conditional Release.

2. Submit the signed PSRB Agreement to Conditional Release to the PSRB.

3. Review the Summary of Conditional Release Plan (SCRP) with the patient to ensure the patient understands the conditions he or she must follow to be in compliance.

4. Ensure all conditions are met by verifying treatment, groups, home visits, etc. The designated case manager is responsible for coordinating with all the staff members who provide services to patients.

5. Write Monthly Progress Reports for each patient and submit them to the PSRB no later than the 10th of every month.

6. Notify the PSRB if the patient has a change in psychiatric stability.

7. Notify the PSRB if the patient absconds (leaves without permission) from his/her placement.

8. Notify the PSRB in the event there is a critical incident involving the patient.

9. Have patients submit to random drug and alcohol testing, if required to do so by the Conditional Release Order or at any time the case manager or PSRB supervisor suspects alcohol or drug use.

10. Request modifications to a patient's Conditional Release Plan (SCRP) in writing, well in advance (ideally 1-2 months before the case manager wants the requested modification to become effective)

11. It is the case manager's responsibility to facilitate a patient's move to a different provider when appropriate. Reasons for a move include: patient is ready for a lower level of care; patient wants to move closer to family and friends; patient prefers a different geographic location due to personal interests, employment or educational opportunities. Finally, sometimes the case manager and/or the patient would like a fresh start with a new provider. To facilitate the move the following steps must occur:

> **a.** Case manager requests a conditional release evaluation, including the bases for evaluation. Consult the PSRB's conditional release monitor with questions about providers or current vacancies.
>
> **b.** Case manager works with potential incoming provider to facilitate a face-to-face interview. This includes developing a new summary of conditional release plan with the incoming provider, if the patient is accepted.

c. Once accepted, current case manager requests in writing that the Board authorize the move.

d. The move may not occur until the Board approves the transfer.

Submit Monthly Progress Reports on time. Case managers shall submit monthly progress reports to the Board on the 10th of each month. The Board will send each case manager a custom monthly progress report template for each patient that shall be used. This form may not be modified in any way.

If there are errors on a progress report, case managers should notify Board staff immediately and an updated template will be sent to you. Fill in all conditions with dates and if there are blanks, explain in the comments section why the patient did not meet his or her conditional release order (clinician was ill, refused to go to group, etc.).

Ensure that other progress reports are submitted to the Board. If a patient is receiving treatment from a provider, such as sex offender treatment or DBT therapy, the Board wants routine written updates. If the patient is seen weekly, the Board expects a monthly report. If a patient is seen monthly, a quarterly report will suffice.

Ensure that the patient has signed the Board's Agreement to Conditional Release form. This document is crucial in the event the patient violates one of the standard conditions and the Board contemplates revocation. It also can be used to extradite a patient if he or she leaves the state and has a pending Escape 2 charge. When a patient is placed on conditional release from OSH, these forms should be signed. If the patient is on a court conditional release, the case manager is responsible for making sure the patient signs and returns the forms to the PSRB prior to the conditional release.

Review Conditional Release Plan monthly and Request Modification when appropriate. Typically, case managers request 3-5 modifications per year. See hearings sections.

What is Early Discharge?

For patients in the state hospital, see page 16, "What if a Treatment Team does not believe a patient meets jurisdictional criteria?"

For patients on conditional release, see below, as well as ORS 161.336, ORS 161.341 and ORS 161.346:

Patients are placed under the PSRB's jurisdiction for a certain period when they plead GEI. The PSRB gives credit for time served and hospitalization that occurred while the GEI charges were pending. However, patients may be discharged early under certain circumstances after a full hearing.

The two ways a patient can receive an early discharge are: (1) Patient no longer has a diagnosis of a qualifying mental disease or defect (MD/D); or (2) Patient no longer is a substantial danger to others if that MD/D were to become active.

Case managers typically bring the issue of early discharge to the treatment team for consensus of clinical opinion on diagnosis and danger risk. If the treatment team believes jurisdiction is no longer appropriate, a written evaluation with a clinical opinion should be drafted by the psychiatrist and submitted with the Request for Discharge Hearing.

Topics Covered in a Discharge Evaluation

1. What is the person's current diagnosis?

2. Is the mental disease or defect active or in remission?

3. May this person's mental disease or defect, with reasonable medical probability, occasionally become active, and when active, render the person a danger to others?

If a patient requests a hearing and it is not supported by the treatment team, this evaluation will still be required before the PSRB can schedule the hearing (with the opinion that discharge is not appropriate).

The Board will further require that the psychiatrist/psychologist who performed the evaluation be available to testify at the hearing, either in person or by telephone, so that counsel and the Board members have an opportunity to cross-examine.

If your program does not use an MD, you may hire an independent evaluator through Addictions and Mental Health to complete the evaluation (costs are covered by AMH).

For funding details for independent evaluations, contact Elaine Sweet at AMH for more details: elaine.sweet@state.or.us

Communications with the PSRB

For all email communications from HIPAA entities to the PSRB, the following should be included:

> *The information in this email is privileged and confidential. It is for the intended recipient. Any dissemination, distribution or copying of this communication received in error is strictly prohibited*

This helps the Board classify information that is public versus confidential when the Board receives Public Information Requests. If your agency does not have secure

email, please use initials or other non-identifying information concerning clients while communicating via email.

Residential Staff Responsibilities

Facilities housing PSRB patients should have their own written policies and procedures for the supervision of patients. Residential staff should have a clear communication protocol with the PSRB case manager assigned to a resident. Regular training should be occurring so staff is familiar with policies and procedures. PSRB staff members are available to conduct on-site training for new employees anywhere in the state.

Document all incidents: Staff is expected to document all incidents regarding PSRB patients and forward them to the Board or case manager, who will forward reports to the Board. Staff is expected to ensure that patients are complying with all conditions of release and report to the case manager and Board if they are not compliant.

Procedures for patient going out on a pass or escorted trip: A QMHP should consult with the patient prior to a pass/escorted outing outside the facility and determine if there are any signs of instability of mental health or noticeable risk factors. Additionally, staff should have an established communication protocol so that previous shift staff can report to subsequent shifts regarding the psychiatric stability or conditional release compliance of the patient.

Secure Facilities/Patients with any condition requiring "Supervised by Staff"

"Supervision": Unless otherwise noted in the Order of Conditional Release, "supervised" means arms-length, **not** line of sight.

Patient incidents occurring outside the facility should be cause for staff to immediately return to the facility with the patient. This includes "getting away" from the group or refusing to comply with staff directives or the patient's conditions of release.

Staff ratio on escorted outings should be appropriate so that if needed, one staff member can leave the group safely to follow a patient who absconds or refuses to comply with staff directives. Staff should have cell phones on their person in the event they need to call for back-up assistance.

It is appropriate for staff to immediately call 911 if a PSRB patient leaves the group or fails to comply with staff's directives to return. It is appropriate for staff to follow patient, reporting to police the patient's whereabouts to aid in his or her apprehension.

Communications with the PSRB: For all email communications from HIPAA entities to the PSRB, the following should be included:

The information in this email is privileged and confidential. It is for the intended recipient. Any dissemination, distribution or copying of this communication received in error is strictly prohibited

This helps the Board classify information that is public versus confidential when there are requests from the public for information. If your agency does not have secure email, please use initials or other non-identifying information concerning clients while communicating via email.

Revocation of Conditional Release

The Board has the statutory authority to revoke a patient's conditional release if it believes that a patient's mental health deterioration is causing that individual to no longer be manageable in the community and/or the patient has violated his or her conditions of release, which causes him or her to be a substantial danger to others. Typically the case manager has been in previous discussions with the Board's executive director regarding the circumstances surrounding any incidents that may have caused staff to consider revocation.

Attempts should be made to treat the patient in the community. This may include community in-patient hospitalization, respite care or moving the patient to a higher-level of care (supported housing).

Revocation paperwork is done by Board staff; however, local law enforcement or secure transport will be responsible for transporting patient to Oregon State Hospital. Once a patient's conditional release is revoked, the only placement is in the hospital. Under rare circumstances, the Board may rescind a revocation order.

If a patient is apprehended by out-of-state law enforcement, extradition is facilitated by Board's staff through the local district attorney's office and the Oregon Governor's Office. In preparation for this possibility, extradition orders must be signed by the patient prior to departure on out-of-state passes.

Once the Board revokes a patient's conditional release, the case manager should send a letter to the Board noting the events that led to the revocation, whether the county will take the patient back into the community and if so, under what circumstances.

Medical clearance, medical transport, and drug or alcohol detoxification must all be completed prior to transport back to OSH.

PSRB Policy: Protocol for Revocations

Revocations sometimes are appropriate for PSRB patients on conditional release who no longer can safely be managed in the community. The law in Oregon allows for revocations that mandate law enforcement to return a patient to OSH. Some community

providers elect to have a patient transported to OSH via secure transport, which is also allowed if clinically appropriate.

The Board relies on case managers to inform its staff of critical incidents or changes in mental health status. This is especially true so the Board can ascertain if revocation is appropriate. Revocation bases include new serious law violation(s), absconsion from supervision, continued refusal to ingest prescribed psychotropic medications, and mental health deterioration. Board staff reviews the PSRB patient file and interviews the case manager (PSRB designated person). After this, staff prepares the following paperwork when the Board has ordered a revocation:

Affidavit in support of Revocation: Summarizes the jurisdiction history, describes bases for revocation.

Order of Revocation: This is the Board Order that describes the authority for revoking a person's conditional release and states the basis for the revocation.

Oregon law allows for the Board to revoke a PSRB patient and order that person's return to the state hospital. During business hours, PSRB staff initiates and completes the revocation paperwork on the case manager's behalf. If it puts neither the public nor the patient's safety at risk to do so, best practice is to develop a short-term safety plan (Director's Custody, respite bed, step-up to a higher level of care) and process the revocation during the next business day so PSRB staff can facilitate the process. The Board expects case managers to communicate with OSH about expected transport dates and ensure OSH has all necessary information they need to admit the patient. The OSH admissions manager's phone number is (503) 947-4247.

After-Hours Revocation Background

If a business hour revocation is not feasible, there is a section of Oregon law allowing community mental health directors, facility directors, peace officers and persons responsible for supervision of a person on conditional release to take that person on conditional release into custody or request that they be taken into custody. ORS 161.336(4)(a) applies to business hours and (4)(b) applies to after-hours revocation. Specifically, the law provides:

> **ORS 161.336 Conditional release by agency; termination or modification of conditional release; hearing.**
>
> **(4)(a) If at any time while the person is under the jurisdiction of the board it appears to the board or its chairperson that the person has violated the terms of the conditional release or that the mental health of the individual has changed, the board or its chairperson may order the person returned for evaluation or treatment to a state hospital or, if the person is under 18 years of age, to a secure intensive community inpatient facility. A written order of the board, or its chairperson on behalf of the board, is sufficient**

warrant for any law enforcement officer to take into custody such person and transport the person accordingly. A sheriff, municipal police officer, constable, parole and probation officer, prison official or other peace officer shall execute the order, and the person shall be returned as soon as practicable to the state hospital or secure intensive community inpatient facility designated in the order.

(4)(b) The community mental health program director, the director of the facility providing treatment to a person on conditional release, any peace officer or any person responsible for the supervision of a person on conditional release may take a person on conditional release into custody or request that the person be taken into custody if there is reasonable cause to believe the person is a *substantial* danger to others because of mental disease or defect and that the person is in need of *immediate* care, custody or treatment. Any person taken into custody pursuant to this subsection shall be transported as soon as practicable to a state hospital or, if the person is under 18 years of age, to a secure intensive community inpatient facility.

Of course the overall mental health picture and circumstances regarding the person's status should be considered and carefully contemplated prior to initiating the revocation process. CONSULTATION WITH THE PSRB EXECUTIVE DIRECTOR is requested before taking such action. Historically, commission of a new person-on-person crime, serious threatening behavior toward others, coupled with a history of violence, significant medication change accompanied by concerning behavior such as increased mental health symptoms or repeated medication refusal or absconding from supervision have all been bases to revoke a patient from conditional release.

After-Hours PSRB Revocation Protocol/Safeguards:

1. The responsible party (facility director, program director, person responsible for supervision, peace officer) decides revocation is appropriate.

2. Call the PSRB Executive Director, Juliet Britton, J.D., immediately to consult. Her phone number at any hour: (503) 781-3602. Leave a message if she does not answer.

3. If Board staff cannot be reached, consider placing a Director's Custody or implement an appropriate safety plan (1:1 staffing, house restriction, etc.) and wait until the next business day at which time PSRB staff will complete the revocation process.

4. If the above cannot be achieved, you may initiate revocation.

a. Call OSH Communications Center telephone number: (503) 945-2800 and inform them you are initiating a revocation. If you do not communicate ahead of time with the Communication Center at OSH, OSH staff will not provide any information to law enforcement/secure transport personnel and that will further delay the admission and create tension between community providers and OSH staffs.

b. Call local law enforcement/secure transport and inform them that you are "placing a Director's Custody" on the patient and ordering a revocation in accordance with ORS 161.336(4)(b). Ask them to transport to the local hospital to get medical clearance (or jail).

c. Get Medical Clearance - Oregon State Hospital is not equipped to treat individuals whose mental status deterioration or rule violation behaviors are related to alcohol or substance use intoxication and/or withdrawal or to an unstable medical condition. As such, please ensure that prior to contacting OSH your patient has been medically cleared at the closest medical facility and that communication between the admitting psychiatrist at OSH and the professional providing medical clearance has taken place.

d. Law enforcement is required by law to transport to OSH without any paperwork or confirmation from the PSRB.

e. It is possible you will receive pushback from the front line officer so work your way up the chain of command and keep citing the statutory authority. Sometimes, law enforcement will want to confirm with OSH that the revocation is authorized – in which case, ensure you have completed step 4a above.

Community Provider Responsibilities Once Revocation Occurs

The case manager is expected to communicate with OSH admissions to ensure that the MAR and any other clinical information is given immediately to OSH so continuity of care can be provided. Best practices and standard of care recommends that *the community prescriber has a doctor-to-doctor conversation* shortly after the patient's arrival. The *case manager should communicate with the OSH social worker* regarding conditional release planning or any other relevant clinical information that would be helpful to the patient's care and treatment while at OSH. If the patient has a medical condition, communication with OSH should be made immediately after the decision to revoke is made to ensure the OSH admitting doctor has all the information necessary to adequately treat the patient both mind and body. The OSH Admissions Manager's phone number is (503) 947-4247. **It is the community provider's responsibility to ensure OSH has all information necessary to ensure continuity of care.**

PSRB will also send the provider a letter within several days of the revocation requesting you to provide the Board or SHRP with details about what led to the revocation, opinion about what clinical and treatment goals are appropriate, and whether your agency is willing to consider the patient for placement again. For some patients, a relatively fast stabilization can occur and the patient can return to the same bed at the facility at the revocation hearing. Funding to hold the bed up to 30-days can be requested through AMH billing.

Passes for Persons on Conditional Release

Case Manager Responsibilities:
1. Get Release of Information from Client for any pass "host"
2. Provide hosts with current CR Order with all conditions and medication info; explain expectations of client as well as the fact that the host is expected to notify the case manager or PSRB: when the patient arrives at the host's place of residence or other meeting point; or if any violations or concerns arise during the pass (PSRB after-hours cell is 503-781-3602).
3. Check in with the host after the pass to get feedback on success (or not) of pass. Report to Board any concerns about the pass.

1. Out of County

a. Case managers may approve a multiple day pass, up to two weeks, as long as the client has pass privileges to support that type and length of pass and the case manager submits a notification for it with specific information regarding the pass. Use the Pass Notification Form to inform Board.

b. For those clients who do not have privileges to be outside of facility without staff, a pass request must be submitted (usually SRTF residents and DD clients). Use the PSRB Pass Request Form. Pass requests shall be submitted no later than 10 days prior to travel (exceptions are allowed for unforeseen events, such as family emergencies).

c. The Board generally will not approve pass requests if the patient does not have pass privileges at the facility where he/she resides (level system).

2. Out of State/Out of Country- requires Board approval, no matter the length (single day, overnight, multiple days)

a. Under most circumstances the Board will not approve requests for travel outside of the United States for patients under the Board's jurisdiction. There are circumstances however, under which the

Board may authorize such activity if it is not in conflict with public safety and patient treatment. Such a decision will be made at an administrative hearing or full hearing.

b. The Board will consider the following non-exclusive factors when making a decision to approve travel outside of Oregon.

i. Length of time on supervision

ii. Conformance to conditions of release

iii. Payment of financial obligations, which may include: extradition costs, treatment costs and any other fees associated with supervision

iv. Purpose of travel

v. Mode of travel

vi. Travel companions

vii. Offender's criminal history

viii. Victim concerns

ix. Country or countries of travel

x. Any requirements or concerns of the country countries being visited

xi. Recommendation of case manager and staff

If the Board approves a request for travel outside the United States, the patient is still subject to the imposed conditions of release.

All out of state travel must be approved by the Board and a signed Waiver of Extradition must be submitted prior to the client's departure. The Board recommends at least a one week notice for these types of passes (exceptions are allowed in case of emergency such as a sudden death in the family).

Medical Marijuana

Use of marijuana can increase the risk that persons with a mental disease or defect—particularly those with thought or mood disorders—will be a substantial danger to others. Therefore, it is the Board's policy that no persons under its jurisdiction may possess or use marijuana. The Board will find a violation of conditional release for any

possession or use of marijuana even if the patient has a medical marijuana card. The Board will not give special permission to use a medical marijuana card under any circumstances. The Board will not sanction a patient for having a medical marijuana card but rather the focus will be on possession and use of marijuana.

Pursuant to Oregon Ballot Measure 91, on July 1, 2015, marijuana possession, consumption, and manufacturing became legal in the State of Oregon under certain circumstances. These circumstances are defined as the "recreational use" of marijuana. The PSRB would like to make it explicit that this new law does not affect the Board's policy on marijuana use, recreational or otherwise. As a reminder, Board policy on marijuana is as follows:

> **Consuming/possessing marijuana or products containing marijuana in any form is forbidden by your *Order of Conditional Release* and also prohibited by the *Agreement to Conditional Release* which you signed when you were placed on conditional release. Violation of this policy is serious and will be considered a violation of your conditional release.**

Victims

Victim Information

Under Oregon law, when a person is found guilty except for insanity (GEI) or responsible except for insanity (REI), the judge is required to ask the victim whether he or she wishes to be notified of future hearings or releases relating to the defendant and if so, include victim contact information in the court order that places a defendant under PSRB jurisdiction. The Board then is required to provide notice in advance of any hearing regarding that individual. Generally, this notice is done via U.S. Mail when a hearing is scheduled.

In 2009, the Oregon Legislature expanded victims' rights to include post-conviction proceedings. This legislation explicitly put into law the right for victims or representatives to have the opportunity to be heard and to make a victim impact statement at the end of a PSRB hearing. It is helpful for anyone wishing to make a statement to coordinate this with the Oregon Department of Justice Victim Advocate.

Additionally, a victim can assert or decline victim rights at any time.

Patients Contacting Victims

While under the Board's jurisdiction, patients should not attempt to contact directly or indirectly victims of the GEI/REI offense. This includes asking family members or case managers to talk to victims on a patient's behalf (even if it would benefit patient or is part of his/her therapeutic work). If a victim directly or through the DOJ Victim Advocate contacts OSH or a provider to initiate contact, contact will require approval by the PSRB. If you have reason to believe that a patient has contacted a victim or intends to

contact a victim, inform PSRB staff immediately and inform the patient he/she may not do so until the Board has approved contact after a hearing.

Victims' Participation in the PSRB Process

Victims will be allowed to be heard at all full hearings. Victims may elect to listen to the hearing via teleconference without making a verbal statement and/or to submit a written victim impact statement. Victims may also give a verbal, unsworn statement to the Board. Victims of patients' non-PSRB crimes will not be permitted to give victim impact statements. However, either party may call such victims as witnesses, if the testimony is determined by the Board Chairperson to be relevant. If victims provide advance notice, the Board will attempt to accommodate special requests such as seating arrangements, additional security, etc.

The PSRB will consider requests from victims who wish to request restorative justice services. Participation is contingent upon the patient's ability to participate and other requirements as adopted by the PSRB by administrative rule.

Providers should communicate with PSRB hearing staff to determine if victims will be participating. Victim impact statements can be highly emotional and graphic. This can often increase anxiety and staff may need to provide additional support prior to, during, and after the hearing.

Additional resources:

Oregon Department of Justice – Crime Victims' Services Division:

Crime Victim's Services Division / Post-Conviction Victim Advocacy Program
Oregon Department of Justice
Phone 503-378-4284 (available 24/7)
Email: CrimeVictimsServices@doj.state.or.us

Resources (Ctrl + click for access)

- **Oregon Revised Statutes**
  - **ORS 161.295 – 161.737 (Effect of mental disease or defect; guilty except for insanity)**
  - **ORS 163 A (Sex Offender Reporting and Classification)**
  - **ORS 166.274 (Gun Relief)**
  - **ORS 419C.520 – 419C.544 (Juvenile Code: Delinquency)**
  - **ORS 426.701 and 702 (Persons With Mental Illness; Dangerous Persons; Commitment; Housing)**
- **Case Law Digest**
  - **Beiswenger vs. PSRB**
  - **Laing vs. PSRB**
  - **Osborn vs. PSRB**
  - **Tharp vs. PSRB**
  - **State vs. Peverieri**
- **Oregon Administrative Rules for PSRB (OARS)**
- **Sample Court Commitment Orders**
  - **Tier 1 (word doc.)**
  - **Tier 2 (word doc.)**
- **Civil Commitments For Extremely Dangerous Mentally Ill Persons (EDPMI)**
- **Oregon Health Authority Invoice Instructions**
- **PSRB Hearings Process**
- **Sample Hearings Documents**
  - **Application for Hearing**
  - **Statement of Hearing Rights**
  - **Hearing Scheduling Form for Client on Conditional Release**
  - **Affidavit of Indigence**
  - **Application for Appointment of Attorney at PSRB Hearings**
  - **Oregon State Hospital Document Request Form**
  - **Notification of Right to Appeal**

- Conditional Release Guide
- **Sample Case Manager Documents Submitted to PSRB**
    - Tier 1 and 2 Sample Court Conditional Release Order (post 3100 and 420) **(word doc.)**
    - Sample Request for Modification of Conditional Release – Change Multiple Conditions
    - Sample Request for Modification of Conditional Release – Step Down
    - Sample Request for Modification of Conditional Release – SRTF Pass Level
    - Pass Request (Needs Approval)
    - Pass Notification (No Admin Approval Required)
    - Waiver of Extradition
    - Monthly Progress Report
- **Conditional Release Evaluation Documents for Case Managers**
    - Sample Order for Evaluation **(word doc.)**
    - Summary of Conditional Release Plan
    - Template for Conditional Release Evaluation
    - Special Conditions to Conditional Release
    - OAR 309-019-0160
    - Agreement to Conditional Release
    - **For Multnomah County Providers Only:** Document Requirements for Multnomah County Placement
- **PSRB Policies**
    - Major Psychiatric Stability and Medication Changes Policy
    - START Policy
    - Expectations Regarding Sex Offender Treatment
- **Documents for Revocation of Conditional Release**
    - Revocation Protocol for Community Providers
    - Sample Order of Revocation
    - Sample Affidavit in Support of Revocation

- **Sample Court Orders**
    - **Sample Civil Commitment Order (word doc.)**
    - **Sample Contested Order (word doc.)**
    - **Stipulation (word doc.)**
    - **Sample Conditional Release Order**
    - **Sample Discharge Orders**
- **Contact Information**
    - **PSRB Contact Information**
    - **District Attorneys by County**
    - **Map of Oregon State Hospital Salem Campus**
    - **Map of Oregon State Hospital Junction City**
    - **Contact Information and Driving Directions to OSH Salem and Junction City**