

Topic:	Admission types and discharge processes from the Oregon State Hospital (OSH)
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Overview

Description: *This worker guide will explain the different admission types that individuals with Intellectual and Developmental Disabilities (I/DD) may access the Oregon State Hospital (OSH) for care and treatment.*

Purpose/Rationale: *With different admission types comes different discharge procedures. It's important to understand the different responsibilities and processes to each admission type.*

Applicability: *CDDP/Brokerages, DD50, DD51, adults and children with I/DD*

Procedure(s) that apply:

Psychiatric Security Review Board (PSRB) AND the Juvenile Board (JPSRB) –

Please Note*JPSRB** has a separate board (5-member panel) and the individual would plea Responsible Except for Insanity (REI). The process is parallel to the adult process though with a different 5-person panel.

When a minor person is found by the courts to be **Responsible Except for Insanity (REI)**, the judge places the juvenile under the jurisdiction of the Oregon Juvenile Psychiatric Security Review Board (JPSRB) 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 qualifying mental disorder 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 or until age 25, whichever is shorter. Sentencing guidelines do not apply.

PSRB or the Oregon ***Psychiatric Security Review Board*** supervises adults who've successfully asserted the insanity defense to a criminal charge, this includes those individuals who may experience either Mental Health disorders or I/DD or both. Individuals found GEI/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

An individual is arrested for a criminal charge. After discussing options with the individual's legal counsel, the individual determines they wish to apply the "GEI" or Guilty Except for Insanity" defense. *The court may require that the person be evaluated for "fitness to proceed" or apply the 161.370 statute. This provides that the person be determined able to "aid and assist in their own defense". Forensic Psychologists trained in the testing curriculum can conduct this testing either in the community, at the jail, or most often at OSH. (See Aid and Assist .370 below)*

The individual, their attorney, and the prosecutor agree (and the court accepts the plea) that GEI is in the best interest of the individual and for safety for the community. The court then orders the individual to admit to the Oregon State Hospital (OSH) for restorative services.

At admission, patients are assigned a "treatment team," which includes a psychiatrist, psychologist, social worker, treatment care plan specialist, case monitor, primary registered nurse and other clinicians who work with patients to design a customized treatment plan to meet their individual treatment needs. The treatment plan is inclusive of restorative services updated monthly and contains internal treatment objectives and goals to work towards release (*for PSRB individuals the term ***discharge*** means discharged from PSRB jurisdiction). Restorative services include but are not limited to: treatments, medication management, skills training etc.

******At this point in the process OSH staff will complete one of the following: they will either be in direct contact with the CDDP/Brokerage, they will contact either ODDS or the CDDP/Brokerage contact information to confirm I/DD eligibility or OSH will assist the individual with applying for DD services. ****** see transition checklist Step #1 and Step #2

As the individual goes through treatment, the team will determine with the individual is Ready to Transition (RTT) the individual will go to a risk review panel at OSH. The Risk Review panel is an internal panel inclusive of psychiatrists, psychologists, social workers, OSH employment staff, occupational therapists, physical therapists (any combination of these professions as determined by OSH). The risk review team will meet and consider treatment files, interviews with the patient and social workers and other staff to determine if the individual can be granted a *level of privileges. There are multiple levels of privileges that may be granted. Privileges may include 1:1 on campus or off campus, 1:1 community or the individual can participate in the community with lower staff to patient ratio (*to be individualized).

After the individual successfully complies with the privileges for a period of time (to be determined by their treatment team) then the individual is ready for a request to the PSRB for conditional release.

Conditional release:

Either the county where the person came from or the county with the most appropriate available community resources to meet the individual's needs can be considered as a potential release area. The individual may choose where they would like to try to be released to – however it's the PSRB that will have the final determination what county an individual can be released (dependent upon a wide variety of variables, including treatment resources available and victim location). Once the county is determined, then OSH requests from PSRB an order for community evaluation. When the order is granted by PSRB, it is sent along with an "exhibit file" to the county Mental Health Director or designee in the county where the person will be potentially released, *(in many counties the designee may be the CDDP program, who will complete the evaluation)*. The Director or designee will consider the exhibit file, OSH treatment team notes and historical information and interviews to conduct the evaluation. Once the evaluation is completed it is sent back to OSH, who then reviews the evaluation and cc's the Forensic Liaison at ODDS. OSH will then submit it to the Board for "approval" or "denial" – "denial" will include information as to why.

If the county responds in the community evaluation that the county has adequate services to support the individual and mitigate the risk to the community **and** PSRB "approves" the community evaluation the person is then ready for placement. **OR** the county program responds with a "denial" because they do not have adequate resources available to mitigate community risk or provide services or a victim comes forth and opposes. If this is the response, the evaluation process begins again in another county of preference.

Once a provider placement is secure – the SC can reference the transition checklist for referral documents needed for release. The CDDP, PSRB Monitor and the identified provider will work together to develop a Conditional Release Summary that outlines the treatment and conditions that the board will consider for approval. 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.

Civil Mental Health Commitment 426 – *This section applies to those individuals that do not meet the statutory requirements of the **I/DD Chapter 427 commitment**, (but may be determined eligible for DD services while at OSH or may have a history of services in the community) NOTE: the Chapter 427 Commitment does not have the ability to place a person into the Oregon State Hospital.*

An individual has a qualifying Mental Health diagnosis (426.675) The individual has gone through the formal process and is committed to the care and custody of the Oregon Health Authority (OHA) for a term no longer than 6 months (this can be renewed at the end of the 6 months if deemed necessary)

An individual can be committed when Any of the following may initiate commitment procedures under this section by giving the notice to the court.

- (a) Two persons;
- (b) The local health officer; or
- (c) Any magistrate.

Petitions the court claiming that the individual is a "Person with mental illness" means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future and is not receiving such care as is necessary to avoid such harm.

Once an individual is committed and then admitted to OSH the CDDP will be notified that they are serving an individual who possibly experiences or has already been determined to experience a developmental disability and is currently in OSH. The individual may be ready to transition (typically within 30 days of the commitment).

OSH identifies the home county (OSH may contact ODDS for this information if not known at the time of admission), if the individual is found to not be in DD services OSH is may send a completed application for services to the CDDP who will then determine eligibility and notify the individual/OSH of the determination. If the individual is already in DD services, ODDS will provide the contact information for the CME. **See transition check list.

If the individual is determined eligible and is willing to accept DD services, the CME will work to determine a placement option. **See transition check list.

The CME can assist interested providers in accessing OSH to visit and start building a relationship between the individual and the provider (this coordination can occur between OSH staff and CME staff).

Once the individual, the CME and the provider agree it's a good placement option, the CME will ensure that all steps on the transition check list is completed for proper referral.

Aid and Assist .370 –

An individual has committed a crime and is admitted to the Oregon State Hospital to determine if they are able to Aid and Assist in their own defense and trial. When a person is accused of a crime, sometimes they are not able to participate in their trial because of a mental illness or they lack capacity. In these cases, the court may issue an order under ORS 161.370 for the defendant to be sent for mental health treatment, most often at the Oregon State Hospital, so he or she can become well enough to "aid and assist" in their own defense.

The evaluator may determine:

The patient **is able**, meaning he or she is competent to stand trial. In most cases, the patient is sent back to her or his respective county jail in order to resolve their legal issues. Please note that a patient at OSH for an aid/assist that is found able may get credit for time served and may be released to the community from jail quickly after being found able to aid and assist.

This patient **is not yet able**, which means the patient does not yet have the capacity to aid and assist but may regain competency in the foreseeable future. In this case, the patient may remain at OSH for further treatment.

The patient **is never able**, or that the patient is unlikely to regain competency in the foreseeable future. If the determination is "never able", the hospital notifies the court, the patient is returned to jail and their charges are dismissed. The judge may consider different commitment types, such as the 426, but the patients are usually released from jail rapidly and may need an urgent placement. In both cases, the court dismisses the charges and either:

Orders that the patient be discharged; or
Initiates civil commitment proceedings.

The hospital may keep patients who are under an "Aid and Assist" order for:

- Up to three years;
OR
- The period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted, whichever is shorter.

For patients who remain at OSH until they reach their end of jurisdiction (EOJ) which is the length of time that OSH is legally able to hold a patient, additional consideration should be given on more in-depth discharge planning at least 60-90 days prior to the patient reaching their EOJ.

Aid and Assist patients are assigned a CMHP or "370 liaison" from their county where the charges originated out of. They are responsible for coordinating services for community restoration and discharge planning.

Due to Senate Bill 24, more patients that have been held under Aid and Assist at OSH qualify for treatment in the community. OSH currently assesses all patients whose highest charge is a misdemeanor for their need for hospital level of care every 30 days. When a patient no longer requires the hospital due to dangerousness or acuity of symptoms, they are eligible for community restoration and a notice is provided to the CMHP and Court notifying them that the patient no longer requires a hospital level of care. The court orders the CMHP to determine whether services and supervision are available to support the patient in the community. The CME should work with the CMHP, and OSH to find an appropriate placement for patients eligible for community restoration.

Form(s) that apply:

Transition Checklist
PSRB Conditional Release Summary
Request for Evaluation Order
Monthly Monitoring report (PSRB)

Definition(s):

Conditional Release- is a grant by the court or the Board for a client, patient or defendant to reside outside a state hospital in the community under conditions mandated by the court or Board for monitoring and treatment of mental and physical health.

Insanity Defense- also known as "GEI", refers to a plea or finding of "Guilty Except for Insanity" (PSRB)

Reference(s): SB 421, section 2, (3)(a)(C)(2013), ORS 161.387(1) & 2013 OL Ch. 715 (SB 421),
Title 35, Chapter 426.427

2017 PSRB Handbook www.oregon.gov/prb/Documents

Division 88

PLACEMENT OF DEFENDANTS WHO LACK FITNESS TO PROCEED

ORS 309-088-0105, ORS 161.370 (1)(a) (2) (a-c) Determination of fitness to proceed

ORS 426.701 Commitment of extremely dangerous person with Mental Illness

ORS Chapter 859 Psychiatric Security Review Board (PSRB)

Division 501 Juvenile Psychiatric Security Review Board (JPSRB)

Frequently Asked Questions:

Q: How long will the individual be at OSH for a .370?

A: It depends on the ability of the individual to comprehend the charges and the process of the court proceedings. Many times, individuals are assessed and determined in a matter of days, others may take significantly longer, Up to three years; or the period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted, whichever is shorter.

Q: Do the terms Aid & Assist and Competency mean different things?

A: No, these terms are both used in the court system to identify when individuals are not able to participate in their trial because of the severity of their mental illness. A court may issue an order under **ORS 161.370** for them to be sent for mental health treatment — most often at Oregon State Hospital — so they can become well enough to "aid and assist" in their own defense. This order may also be used for those experiencing Intellectual or Developmental Disabilities to determine fitness to stand trial.

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