

MINUTES
Psychiatric Security Review Board
Administrative Meeting
Joint Panel
December 12, 2018
Approved June 4, 2019

An administrative meeting of the Psychiatric Security Review Board was convened on December 12, 2018 at 8:30 a.m. in the fourth-floor conference room of 610 SW Alder Street, Portland, Oregon 97205. Board members present were (in person unless otherwise indicated):

- Adult Panel – Elena Balduzzi, Psy.D., Chair; Trisha Elmer, P.P.O.; Anne Nichol, J.D.; Scott Reichlin, M.D. (by telephone); and John Swetnam.
- Juvenile Panel – Shelly Casteel, Chair; Bennett Garner, M.D.; Charles Kochlacs, J.D. (by telephone); Kathryn Kuenzi, P.P.O. (by telephone); and Catherine Miller, Ph.D. (by telephone).

PSRB staff present in person included Alison Bort, J.D., Ph.D., Executive Director; Sid Moore, Deputy Director; and Jane Bigler, Executive Secretary, as note taker. Also present in person were Harris Matarazzo, J.D.; Sam Kubernick, Assistant Attorney General; and Alex Palm, Juvenile Coordinator, Oregon Health Authority. Other(s) attending by telephone was Anna Dyer, Forensic Utilization Coordinator, Oregon Health Authority.

At 8:40 a.m., Chair Balduzzi called the meeting to order and asked if there was public comment that anyone wished to make. Mr. Matarazzo and Mr. Kubernick asked to defer their 5 minutes to later in the meeting. Chair Balduzzi stated they would be allowed time to speak if needed.

Next, Chair Balduzzi asked the Board to review meeting minutes for the following dates:

- Adult Panel only – September 26, 2018 – The following Typographical errors were indicated:

- Page 2, in the bulleted paragraph starting with “Anna Dyer,” the last line should say “meet/talk” rather than “take.”
- Page 5, first bullet should read, “OAR 859-400-005(4) – reference to “Static-99” is incorrect, it needs to have the “R” added.”
- Page 6, first paragraph, the reference to the “Static-99” should be “Static-99R.”
- Page 6, second paragraph, the citation to the case law “State v. Folk (2018)” should be “State v. Folks (2018), 290 Or App 94.”
- Page 6, last paragraph, the font for the word “exposé” should be changed to match the rest of the meeting minutes.

Ms. Elmer moved to accept these minutes with the corrections noted and Mr. Swetnam seconded the motion. The motion passed unanimously from all of the Adult Panel members.

- Joint Panel Meeting – June 13, 2018 – Dr. Garner moved to accept the minutes as written and Mr. Swetnam seconded the motion. The motion passed unanimously with all members present.

Dr. Bort then moved to the Executive Director update:

- Forensic Conference – Scheduled for April 10 and 11, 2019. An outline of topics for the conference had been provided to the Board members for their review and a short discussion followed. Dr. Bort stated there was interest in having the Board present at the conference and that Dr. Balduzzi and Dr. Reichlin had conducted training the prior week for staff at Oregon State Hospital regarding testimony that was well-received by participants. Dr.

Balduzzi and Ms. Nichol noted that they plan to attend the Forensic Conference.

- PSRB Awareness Campaign – Dr. Bort reported that she has been providing updates and/or statistics about the PSRB when she meets with community agencies, representatives from the Governor’s office, as well as the media. When she has met with legislators, her key message has been the Board’s role and conceptualization of post-PSRB recidivism. Discussion then moved to some of the latest newspaper articles that involved PSRB and/or stories that included circumstances of clients that have been released from PSRB supervision. Within this conversation, the topic of a recidivism study was mentioned. Dr. Bort noted that prior to the previous Executive Director’s departure from the agency, she began the groundwork for a recidivism study, but it was very preliminary, and never really got off the ground. The Interim Executive Director had a lot of other pressing issues to take care of and was not able to focus on proceeding with a recidivism study and no progress has been made since that time. Dr. Bort further noted that the Board should continue to be consistent in the information provided in the response to media and requests for public records. Mr. Moore added that the Legislature wants transparency. Dr. Bort stated there were a number of ideas for possible changes to the laws that have been discussed in different meetings with stakeholders. Dr. Bort has also been keeping policy advisors with the Governor’s Office apprised of some of these ideas, and system improvements will continue to be a topic of further discussion in the future.

- Strategic Plan – Dr. Bort and Mr. Moore will be exploring potential consultants to assist with developing an agency strategic plan in the near future and will be getting a quote regarding the fees involved.
- Community Evaluation Workgroup – Dr. Bort provided an update that a group had met the prior week and will be looking to streamline the process. More discussion to come at a later date.
- Retention of Audio Recordings of Full Hearings – Dr. Bort reported that it would not be cost prohibitive as mentioned at a previous meeting. Ultimately the Board decided that they will maintain the current process of keeping all audio recordings for 5 years after the date of the hearing.
- Sex Offender Rules – Update – Mr. Moore reported that the SO rules went into effect as of December 1, 2018 rather than January 1, 2019 as previously thought. Mr. Moore is still working on the forms for applicants to use and further noted that the hearing process will be similar to the process for gun rights restoration hearings.
- State email address for Board Members – Dr. Bort informed the Board that the Department of Administrative Services has a new policy requiring Board members to have and utilize a state email address. Research thus far has indicated that it will not be cost prohibitive. Dr. Bort, Mr. Moore and Shelley Banfe will be meeting with some IT folks at the end of the month to discuss the future technology needs for the agency, such as software updates. Staff will continue verifying and researching how best to implement the new policy regarding email.

Next, Dr. Balduzzi moved on to the fourth item on the agenda, a discussion regarding the Board's preferred approach to attorney questions at hearings. The debate is whether the AAG should lead the questioning at hearings vs. deferring to the Board for them to ask. Dr. Balduzzi gave a quick overview of the various reasons questioning has happened both ways. For example, the Board used to handle hospital requests for conditional release administratively. However, as a result of the investigation that followed the unfortunate event that occurred in Columbia County in May of 2012, it was recommended that the Board go back to holding full hearings for all hospital requests for conditional release. At this full hearing, the Board was to ask questions of the OSH treating psychiatrist with the proposed community treating psychiatrist listening in to ensure the doctors had effectively communicated regarding any special or specific circumstances for the particular client being considered for conditional release.

Over time, the process has reverted back and has spilled over into 2-year and 5-year hearings as well, in regards to who should lead this line of questioning. Dr. Balduzzi requested that the Board discuss and make a determination as to what process should be made the standard to ensure uniformity. Mr. Swetnam and Ms. Elmer opined that their preference is for the attorney to lead the questioning and then if Board members want something elaborated on, they can ask follow up questions. Ms. Nichol also indicated it is her preference for the attorneys to take the lead as while she is the attorney member, she doesn't want her occupation and role as a Board member to overlap, as Board members should remain the neutral decision makers. Dr. Balduzzi and Mr. Kochlacs concurred and further noted that the attorneys shouldn't depend on the Board to do the questioning.

Dr. Garner also mentioned that another time the Board should require communication between treating psychiatrists is when a client moves from one agency to another for their mental

health services when already on conditional release. Dr. Bort agreed and stated that this will be incorporated when setting administrative hearings for transfers as well as when Dr. Bort authorizes a lateral transfer.

At this point in the meeting, Mr. Matarazzo asked that he be allowed to utilize his time for public comment and the members agree. He opined that in regards to judicial efficiency, if the client has stipulated to jurisdiction and the state doesn't oppose the conditional release, he isn't sure what is gained by further questions by the attorneys, the Board should ask the specific questions they deem necessary. Mr. Kubernick was asked his opinion as one of the state's attorneys and he indicated that the state rarely opposes the request for conditional release, but ultimately doesn't have a preference as to who leads the line of questioning. Discussion continued with varying opinions and ultimately a final decision for this topic is to be revisited at a future meeting.

Next, Dr. Bort presented the Board with an official list of conditions of release such as lateral moves, out of state travel, increased conditions and/or level of care that have previously been delegated to the Executive Director to make the decision rather than requiring an administrative or full hearing for the Board to decide. She asked for clarifications for the cases under each group of clients, adults, juveniles and the civil commits of extremely dangerous individuals. Discussion ensued and the Executive Director has been authorized to approve of the following as noted, Board staff will create a policy that includes this information:

Action	Adult	JPSRB	Civil
1. Order CR Evaluations for clients at OSH for all crimes except capital cases (murder)	Y	Y	N
2. Order CR Evaluations for clients in the community for all crimes except	Y	Y	N

capital cases (murder)			
4. Approve increases in frequency of treatment while on conditional release.	Y	Y	Y
5. Approve addition of new conditions increasing supervision while on conditional release.	Y	Y	Y
6. Approve addition of new “standard” conditions from either PSRB or community.	Y	Y	Y
7. Approve lateral transfer (if new agency, require documentation of doc-to-doc communication)	Y	Y	Y
8. Approve move to higher level of care (if new agency, require documentation of doc-to-doc communication)	Y	Y	Y
9. Approve out-of-state travel in the USA (up to 14 days), unless level of care/pass privileges or CR order specifies otherwise.	Y	Y	No, with the exception of travel to a neighboring state with staff supervision for medical appts or shopping.
10. Approve medication self-administration	Y	Y	N
11. Approve conditional release of <i>voluntary</i> stays at OSH, both back to original placement or different placement	Yes – for original placement with same conditions.	Yes – same as adult.	N
12. Any others recommended?	No	No	No

Dr. Balduzzi then indicated that due to the need to move on with the hearing day, the following topics will be discussed at the next meeting:

- Status and Decision-making on PMHNP Testimony

- Nomination of New Chairperson for the Adult Panel

Lastly, was a discussion of date(s) and time(s) for Administrative Meetings in 2019. The Adult Panel will meet quarterly, with one of those meetings being a full day. The Juvenile Panel will not have an independent meeting, but will join the Adult panel for the day-long meeting as well as one other date. Ms. Bigler will send an email to Board members for their availability.

Meeting adjourned at 10:35 a.m.