

Final MINUTES  
PSYCHIATRIC SECURITY REVIEW BOARD  
Administrative Meeting  
Joint Panel  
Thursday, September 17, 2020  
8:30am-5:00pm

An administrative meeting of the Psychiatric Security Review Board was convened on Thursday, September 17, 2020 at 10:45 a.m. via remote videoconference using Zoom. The following were in attendance:

- Adult Panel – Pamela Buchanan, Psy.D.; Trisha Elmer, P.P.O.; Anne Nichol, J.D.; Scott Reichlin, M.D., Chair; and John Swetnam.
- Juvenile Panel - Shelly Casteel, Chair; Kathryn Kuenzi, P.P.O.; and Catherine Miller, Ph.D.
- PSRB Staff – Alison Bort, J.D., Ph.D., Executive Director; Sid Moore, J.D., Deputy Director; Megan Carpenter, Executive Support Specialist, as note taker, and Elie Steinberg, PSRB Intern.

Dr. Reichlin called the meeting to order at 10: 50 a.m. With no members of the public present, Dr. Reichlin introduced Dolly Matteucci, OSH Superintendent (CEO), who was present to provide the Board with updates from the Oregon State Hospital. In addition, Micky Logan, Director of Legal Affairs for OSH was also present to provide updates:

- **COVID-19**: Ms. Matteucci explained that since beginning of the pandemic in March, OSH’s goal has been to take actions for health and safety to staff and patients while providing excellent service. OSH strategies are in line with CDC and OHA recommendations:

- COVID-positive unit has been established, but not yet activated because no positive cases to date.
- Protective unit has been created for advanced age and those who are higher risk. OSH is currently considering individual units as households so that there was no comingling.
- OSH modified structure, sanitation protocols and did so in a protective manner so they can still receive treatment.
- Regarding staff, 18 individuals have been infected and recovered or are recovering and returning to work.
- Changes in service delivery due to COVID- Skype visitation for patients will continue in future state as well. Patients are very grateful for this. Some patients are not interested in this and maintain contact through phone. Tele-health has been implemented as well. Some patients are appreciative of the video technology because they can see the whole face and emotion of the provider with whom they are communicating. Others are not comfortable with this and feel disconnected and less valued. All options there will be those who love it and those who do not.
- Conditional Release Planning: CR planning has continued at steady pace. OSH and providers have been effectively using skype and phone to screen patients for placements. Luke-Dorf has been exceptionally accommodating.

Placements did slow down at beginning but have picked up again-  
visitation has slowed in the last two weeks due to the fires.

- **OSH Census:** An overview of the OSH census was provided. Due to the pandemic, it is taking a median of 24 days longer for new GEI admissions to OSH and discharges are taking an average of 40 days longer. It's expected that the admission time will slow with the impact of the pandemic.
  - On the Salem campus 27 individuals are Conditionally Release ready, and 12 individuals are actively interviewing. On the Junction City campus, 7 individuals are Conditional Release ready.
  - Currently, there is a total of 598 patients. Of those, 295 are at the hospital on Aid and Assist Orders, 50 are at the hospital on Civil Commitment, and 253 are at the hospital on Guilty Except for Insanity admissions.
  - From September 2018 through August 2020, average admissions per month was a medium of 6. Recently, as of July 2020, a spike of admissions has been seen. The hospital had 24 new admissions who did not have new commitments nor revocations. In August, there were 9 new admissions, where 3 of those were revocations.
  - In terms of discharges, there were 6 discharges in July 2020, and 8 discharges in August of 2020.
  - There has, though, been a rise in admissions of PSRB individuals before COVID.

- It is taking an average of 24 days longer for PSRB patients to be admitted to OSH. This is due to admissions being halted due to the response of the pandemic.
- Individuals who are discharged to the community are slowing down to an average of 40.5 days or longer.
- Due to bed availability, only 1.1 to 1.6 patients are being admitted a week after the temporary halt of admissions.
- **Wildfires:** OSH has been addressing Wildfire Outbreak as well. OSH is monitoring the air quality index 3 times a day to ensure staff and patients are protected. In addition, OSH has taken measures to ensure patients have updates regarding loved ones who may be impacted by the fires.
- **Forensic Director:** OSH has hired a new director of Forensic Evaluation Services, Uma Sankarum, Psy.D.. She will assist with Risk Review coordination and conduct risk assessments. Her previous role was providing assessment and treatment in OSH's Sex Offender Treatment Program.
- **Risk Review:** The Risk Review is focusing on Conditional Release readiness for patients. They are dedicating their time to assess individuals for Conditional release versus campus privileges.
- **Social Work Workgroups:** Della Hoffman, Chief of Social Work is working with Cheryl Meyers, Associate Director of Social Work, to lead a work group that focuses on patients who are nearing end of jurisdiction. 6 months prior, there is

time focused on those individuals. The plan is to collaborate effectively early on with community providers for readiness to ensure a timely placement. An additional workgroup is looking at units in both campuses at the SRTF Level of care and evaluating policies, privileges and identifying alignment in community level of cares on the same level. The goal is to bridge the difference in those levels of cares and identify individual differences between OSH and community programs offering the same levels of care.

Following this update, Board members were offered an opportunity to ask questions. Dr. Reichlin asked whether there was feedback from OSH about anything the Board is doing or could be doing to impact the Oregon State Hospital. Ms. Matteucci established that there is consistent communication and a great relationship between PSRB and OSH. In addition, Dr. Bort and Micky Logan, the Director of OSH's Legal Affairs division, have regular meetings and have begun discussions to initiate a LEAN assessment and processes aimed at increasing efficiencies related to OSH and PSRB issues. This concluded OSH's presentation, and Ms. Matteucci and Ms. Logan left the meeting.

Dr. Reichlin wanted to ensure that there were no public members who might be present at this time, and formally requested anyone participating from the public to let the Board know and say hello. Deborah Howard, Director of Family Services at the OSH, stated that she was present.

Dr. Reichlin moved to the next topic on the agenda, Executive Director Updates. Dr. Bort provided the following updates.

- **Strategic Plan/ Annual Accomplishments:** Dr. Bort presented a document to illustrate and explain the accomplishments made on the strategic plan.
  - Dr. Bort expressed appreciation for the flexibility and adaptability of all the staff in response to the pandemic. There have been minimal disruption of Board operations despite the pandemic and increased use of technology, which was a goal embedded into the strategic plan prior to the pandemic. Employees have access to working remotely and all hearings are being held remotely.
  - **Initiative 1:** Dr. Bort provided a summary of the legislative workgroup. The workgroup resumed in September after a hiatus due to the pandemic. Drs. Balduzzi and Garner, both former board members have been actively participating in the workgroup to ensure the Board's perspective is represented.
  - **Initiative 2:** Established a workgroup with goal of increased consistency and integrity with using the START instrument. Dr. Balduzzi (who previously provided the initial and refresher training) has been a part of these discussions in addition to OHA's Health Systems Division and OHS staff. Goal is to record a webinar that can be used as a training tool for OSH and community providers. Many goals under this initiative are stalled due to the pandemic. The PSRB handbook will be updated in 2021.

Most training currently is occurring during monthly statewide-provider meetings and monthly PSRB 101s.

- **Initiative 3**: We are working with our legal counsel on a practice guide for Board members. Need to halt due to budget considerations, but it is a work in progress. We are also working on developing a comprehensive checklist to guide and make the onboarding process more consistent. Using our Board meetings, like the one we are having today, to bring in additional training and use to update and conduct board business.
- **Initiative 4**: Main focus this year has been on our partnership with law enforcement. We have developed and disseminated drafts to increase understanding of the law enforcement role during a crisis or revocation. These materials will be used during the legislative workgroup.
- **Initiative 5**: As previously mentioned, many new challenges with the onset and persistence of COVID. We've made good progress toward succession planning as evidenced by the development of a desk manual for each staff member. All but two staff met the deadline to submit a first draft. Sid Moore, Deputy Director, oversaw this process. We also implemented monthly individual sessions with each staff to focus on goal-setting, challenges, and feedback. Self-care and wellness is integrated into staff meetings as well. We have moved from weekly staff meetings to a

shortened huddle 3-4 times a week to stay in good communication with the advent of remote work.

- **Initiative 6:** As mentioned, excellent strides to everyone having a computer and ability to work from home. A pre-pandemic goal we achieved is access to our database and intranet outside of the office. We began discussions with state IT office and a company named In Lumon toward our goal of moving toward a web-interface. This will be expensive, and not likely to secure the funding given current budget concerns. We are also looking to move toward a cloud-based service for doc mall. We have also hosted interns and currently have one extern to assist with additional research and projects.
- **Outstanding Trainings:** Dr. Bort requested Board members to complete the Best Practice Survey and annual trainings as soon as possible.

### **Administrative Rules Process**

Dr. Reichlin moved to the next agenda item, Overview of PSRB Oregon Administrative Rules. Sid Moore, Deputy Director, led this discussion. Mr. Moore provide an overview of the OARs related to the PSRB. Following that presentation, he presented OARs that the Board might consider for review and modification based on issues that have been presented in recent years.

Mr. Moore provided the Board a brief overview of the organization of Chapter 859, which provides the administrative rules governing the agency. Following this

presentation, Dr. Bort reviewed that one of the goals of the strategic plan was to review and strengthen the agency's administrative rules in areas that have been a challenge. Mr. Moore introduced a list of concepts for consideration. Next, Mr. Moore provided a brainstorm of an array of OAR hot spots the Board might want to consider.

After this update, Dr. Reichlin opened it up to the Board to ask questions, give feedback, and give ideas on what to add or clarify through rule.

- Scott Reichlin introduced that the expectations of the Board to protect the public while individuals are under the Board's jurisdiction, and that the Board does a good job of this. He believed that one area of work could focus on the individuals getting ready to discharge from the Board's jurisdiction and also to research what occurs once individuals discharge/lapse from jurisdiction. Dr. Bort responded that one initiative related to this idea was the workgroup launched by Chief of Social Work, Della Hoffman, at OSH. Specifically, to focus on those who are approximately 6 months from end of jurisdiction. With respect to those on conditional release, Dr. Bort stated there are no rules in place, but there is a procedure that is instituted with OHA/HSD and the county of responsibility ENCC as one is approaching end of jurisdiction. Post-jurisdiction is more challenging because the PSRB does not have the same level of access to information about clients once they have been discharged from the Board.
- John Swetnam noted that during hearings, often after a hearing has ended, the patient asks if they can say something. He stated that he believes it is important

for the patient to not feel railroaded, but to have their say. He states sometimes we remedy this by having the client's attorney call the patients, but other times we do not. He stated that during the hearing we provide the Victims an opportunity to say something, and perhaps we can implement something similar for patients as well. Solutions identified included improving scripts, developing an OAR that clarifies how to handle this issue. Mr. Swetnam pondered having the attorney call the patient as a witness. Dr. Reichlin added that this could lend itself to the opportunity for cross examination, which may not be what the patient wants. Dr. Reichlin agreed that providing the patient with an opportunity to make a verbal statement may be a good idea.

- Trish Elmer stated in terms of evaluations and Monthly Reports, that often they do not come in a timely manner. She states rule current states they shall be made into the record, but it may be something that needs to be put in a record. She stated that OAR 859-070-030 does not state a time constraint, and it may be a good idea to add a deadline to that. After Dr. Bort took a note of this, Ms. Elmer added that a barrier may be that it restricts things a bit because of the need for documents by a certain date.
- Ms. Elmer asked the question how often patients get conditionally released out of state. Mr. Moore responded by saying that we have about 4 patients who are conditionally released out of state, but it is not a very large number, yet it does come up every so often. Ms. Elmer provided her opinion that this appeared to be

problematic in terms of the Board's monitoring and supervising role. Dr. Bort said this is consistent with a court of appeals case (Knott v. PSRB), which provides some guidance on this topic.

- Dr. Reichlin asked whether those individuals on conditional release should be required to have a hearing every five years. Dr. Bort clarified that they only have *one* five-year hearing as opposed to one every five years and Mr. Moore added that rule 161.336 section 6 reads "A person who has spent five years on CR shall be brought before the Board for a hearing within 30 days before the expiration of the five year period" and stated that Dr. Reichlin's concern would require a statutory change, which is something the Agency could review. Trish Elmer and John Swetnam were in agreement to this. Trish Elmer brought up a side issue that the documentation at the 5-year hearing is sparse, sometimes only containing the monthly reports. Dr. Bort conceded that the records are not as detailed, but that there should be a jurisdictional report as well as assessments and a treatment plan available for review. John Swetnam stated that the Board's script states that we hold a hearing every five years (this needs to be changed). Anne Nichol asked how the Board is providing monitoring and what the oversight is after a 5 year hearing. Dr. Bort stated that typically individuals still do have hearings after this time because they want a modification to their conditional release or a discharge, so the Board might review their cases at that time. Dr. Bort agreed, there are no required reviews following the 5-year

hearing, but that the agency continues to review the monthly reports. Mr. Moore noted we might receive more information about a client if they have applied for a job for example. Dr. Bort also added the note that all clients are entered into LEDS and the agency would be notified if a client had contact with police (even if they were reporting a crime). Ms. Nichol inquired about out of state folks. Mr. Moore speculated they are assigned a case manager, but acknowledged their monitoring and supervision is more challenging. Dr. Bort added that there is not a mechanism for the Board to extradite a person conditionally released to another state unless another crime is committed. Mr. Moore indicated he would add this to the list of OAR topics. Later, Mr. Moore circled back to the 4 out of state conditionally released individuals. He stated one is in Florida, one was a modification to Germany, and two were conditionally released to Mexico where one, at least, has an ICE detainer. He stated that they all have local case managers in the database. Ms. Elmer stated that one solution may be to have a Criminal History report occasionally run (current practice is that they are only ran in preparation for a hearing).

- Ms. Nichol stated that she was unsure if she would be in favor of having a hearing every five years, but believed there could be utility in having some sort of review following the 5 year hearing. Dr. Bort tied this back to Dr. Reichlin's original suggestion of improving end of jurisdiction planning to minimize the risk of individuals falling through the cracks at the end of their jurisdiction. Ms.

Nichol stated that checking in at some point towards the end is a good idea, but that she does not believe this needs to be a full hearing. Dr. Reichlin, on the other hand, was worried if this type of review was done through an administrative hearing, it could be a challenge to answer jurisdictional questions. Ms. Nichol noted the resources involved in full hearings and stated that having an opinion of it being an admin is a good solution. Dr. Reichlin restated his concern with an administrative hearing is sparsity of the record. He states that for administrative hearings now, the record is supposed to support the request being made. He is concerned that if there was no request, there may be less motivation that the record be complete, which is why he suggests a full hearing. Ms. Nichol offered that the Board could make the request and provide guidance on what would need to be submitted.

- From this discussion, Dr. Reichlin proposed improvements related to planning full hearings. As an example, he stated instituting requirements to avoid unexpected requests that extend or make cumbersome the hearing. Dr. Bort identified the impact of unexpected requests on the hospital staff and community providers with respect to planning their day around hearings. Dr. Bort shared that OSH offered to resolve some of these challenges through participation in a LEAN process. Initial brainstorming has included inviting the attorneys to the table to discuss how to improve or make hearings more efficient/free from redundancies or unexpected requests. With respect to last minute respects,

members discussed the pros and cons of using the Board's authority to continue a matter. Ms. Nichol opined that last minute requests are typically frowned upon in court settings and can result in a continuance. On the other hand, Ms. Nichol expressed that it is the patient who suffers from the delay and the Board has strived to avoid using a continuance to handle a last-minute request.

- Kate Kuenzi stated that the rule says we are supposed to be holding hearing twice a month, but that that should be stricken since it is old practice. Ms. Nichol agreed, stating that we would have to change the statute first. Dr. Bort opined that a statutory change wouldn't necessarily be needed because there is an exception built into it that allows the Board to meet less frequently.
- Catherine Miller brought up the topic of continuances in the context of the JPSRB, particularly with respect to not meeting quorum. Dr. Bort stated that this has been identified as a rule change that we expect to pass while filling vacancies on the JPSRB, with the idea of an adult panel member substituting in emergency situations. Dr. Miller expressed agreement with this rule change. Dr. Bort went on to identify that the sunseting of the JPSRB is an identified topic for the PSRB Legislative workgroup (subcommittee on JPSRB is scheduled on October 25, 2020). In preliminary discussion with OYA, the idea that the JPSRB could expand/balance out the caseload of the adult Board by overseeing juveniles as well as adults up to the age of 25 years old was suggested. This is based on the developmental/neuropsychological differences in the brain up through this age

and the juvenile panel's familiarity with this research. Dr. Bort shared that she had analyzed the numbers and found that the agency only has 12 adults who would fall into this category, and all but one will be turning 26 years old within the next year. Dr. Bort shared that OYA estimated, without a formal analysis, that they were currently serving 24 youths who would have undoubtedly been better suited for the JPSRB program, stating that the OYA system is not set up to provide for their intensive mental health needs. Turning back to the continuances, noted that perhaps an adult board member can substitute in certain situations.

Dr. Reichlin then moved the meeting to approve the Board's meeting minutes from June 10, 2020. There was only one correction for the date at the beginning. Mr. Swetnam moved to accept the minutes as amended, and the motion passed unanimously.

Dr. Reichlin then turned it over to Alison Bort to discuss Decision Making.

### **Decision Making**

- **Upcoming Board Vacancies:** It has come to our attention that Dr. Reichlin and Mr. Swetnam's terms end technically in June of 2021. That is because they took over someone else's term and they took over more than 2 years of those. The agency thought both members would be eligible for a full second 4-year term. Dr. Reichlin appears to be 3 weeks over the term limit whereas Mr. Swetnam appears to be approximately 3 months of the term limit. Following consultation with the

Governor's office and further consultation with Mr. Swetnam, the agency will begin recruiting for Mr. Swetnam's position with a goal of a new member being confirmed by the Senate for a term that would commence July 1, 2021. However, Dr. Reichlin may have some additional flexibility that Dr. Bort is exploring further. In any case, both members could continue their positions until the vacancies are filled. Mr. Swetnam stated that that turnover is good for organizations as it allows for new ideas. Dr. Reichlin stated that he was willing and eager to continue as he enjoys this work. He stated that he has discussed with Dr. Bort the difficulties of finding a psychiatrist to take over this role. An ideal candidate could be a semi-retired individual. Dr. Reichlin echoed overall feedback that the Board position does not pay very well relative to the earning potential of a psychiatrist, and the limitations therein. Dr. Bort shared the history of recruiting Board members and the relatively small number of individuals who apply. The most candidates the agency received historically was for the probation officer position on the adult panel; however, on average, the Board receives 1-2 statements of interest for other positions. Dr. Bort shared her plan to expand recruitment and ensure there is a process that is inclusive of recruiting as diverse an applicant pool as possible.

- **Budget Update:** Dr. Bort provided an update on the outlook of the budget, which is unpredictable, and the State is contingency planning for worse case scenarios. Dr. Bort is hopeful that proposals for budget cuts will not interfere with a reduction in workforce. The agency has submitted the agency recommended budget and Dr.

Bort is in the middle of advocating to sustain current service level funding. This is challenging because 70% of our funding supports salaries, so there is not much left to cut.

- **Review and Possible Adoption of Administrative Hearing Request Form:** Dr. Bort framed the problem of administrative hearings is that the Board does not have the opportunity to get clarification if there is missing information that would inform their decision. In addition, Board members have expressed that the letters for modification are often open ended, provide non-relevant information, or otherwise lack an analysis of the client's risk. To rectify this problem, Dr. Bort has been working with staff and the community providers to develop a template that guides this process and enhances focus on the relevant information the Board needs. Dr. Bort provided a draft of this form to the Board members for their feedback.
  - Ms. Nichol stated that a 'why now' might be nice to add to the form (why is the request being asked for now) or for case managers to speak to what has changed since the person's conditions were ordered. She anticipated the form would be helpful. Dr. Reichlin agreed that the form would be helpful and requested an additional section be added to address any recent medication changes/requests. Dr. Reichlin noted that a reference to the current Conditional Release plan might be useful on this form.
  - Dr. Reichlin asked whether the Board would fill out the feedback, or how that would work. Dr. Bort anticipated that she would be filling out the feedback,

which would be disseminated by Board staff. Dr. Reichlin inquired if Dr. Bort thought that the community providers will find this form better or worse than what they are doing now. Dr. Bort stated she has presented this form to community providers during statewide provider meetings. Providers seemed to be in support, but there has not been much specific feedback. Dr. Bort stated that typically this form would stand alone, but that as START might also be helpful. Dr. Bort encouraged Board members to provide feedback about when a START would be advised. The current advice is that they are included when a person is supported for a lower level of care, driving privileges or more significant requests.

- Mr. Swetnam suggested that the agency take a look at the order in general and explore whether it could be shorter/clearer (average length is 7 to 8 pages long).
- Dr. Bort then went on to ask the Board if they desired to adopt a form for a modification to conditional release request. Mr. Swetnam moved to institute a form like the one that laid before them to institute. Ms. Nichol seconded this motion, and the Board passed the motion unanimously.

### **Trauma-Informed Care Training**

Dr. Bort then went on to present a training to the board around Trauma Informed Care. During this, the Board was presented with video training modules presented by Mandy Davis, PhD, LCSW, Director of Trauma Informed Oregon. Small

discussions followed each module led by Dr. Bort following each module. The first module focused on how trauma was defined, how different work industries contribute to systematic oppression, and the resistance people present to trauma informed care. The second Module revolved around the pervasiveness of trauma and how race and socioeconomic status contribute to trauma impacting individuals in the workplace. The third module discussed the differences between trauma specific and trauma informed. The final module focused on the topic of NEAR Science.

After this training, Dr. Reichlin opened the meeting for public comment. After no member of the public stepped up, Dr. Reichlin closed the meeting at 3:40pm on Thursday, September 17, 2020.