

MINUTES
Psychiatric Security Review Board
Administrative Meeting
Joint Panel
December 30, 2020

An administrative meeting of the Psychiatric Security Review Board was convened on Wednesday, December 30, 2020 at 8:30 a.m. via teleconference and Zoom. Board members present via telephone and video were:

- Adult Panel- Scott Reichlin, M.D., Chair; Trisha Elmer, P.P.O.; Anne Nichol, J.D.; and John Swetnam; and Pamela Buchanan, Psy.D.
- Juvenile Panel; Shelly Casteel, Chair; Kathryn Kuenzi, P.P.O.; and Catherine Miller, Ph.D.

PSRB staff present via zoom were Alison Bort, J.D., Ph.D., Executive Director and Megan Carpenter, Executive Support, as note taker.

Public members present via telephone and video were Harris Matarazzo, Tom Kim, Andy Nanton, Kate Grover, Sandi Flowers and Jessica Stout.

All participants, including Board Members, staff, and members of the public were appearing remotely due to the restriction brought about by COVID- 19. Dr. Reichlin, began the meeting and noted that last Joint Panel's Meeting Minutes from September 17, 2020 were to be adopted at a later time.

Dr. Reichlin then noted that the Board has found that some of the Progress Note Updates, if present and timely, sometimes do not provide all the information necessary for hearings. The Board relies on the prescriber to provide information that would lead to a

jurisdictional decision. Dr. Reichlin clarified what was missing in these reports by noting that the diagnosis and presence of qualifying mental disorder and typically not a problem, but the information around dangerousness is often lacking in the reports. Dr. Reichlin noted that the historic guidelines from 2018 help connect the Board with the hospital but thought that those can be reviewed. He noted that Sandi Flowers and Andrew Nanton, M.D., are present at the time of this meeting to help with brainstorming about barriers and to create some guidelines and standards to update the guidelines. Simrat Sethi, M.D., from the hospital previously submitted a document as an example to the board that they reviewed prior to the meeting.

- Dr. Andrew Nanton, Interim Chief of Psychiatry brought about a request to the Board. Dr. Nanton has been in his current role of Interim Chief of Psychiatry for about three months, but has previous experience in the community and other roles with relation to the PSRB. Dr. Nanton explained that the Progress Note Update (PNU), is a document generated independent of medical notes and is an additional documentation burden for the prescribers at the hospital. Dr. Nanton acknowledged the hospital's obligation to provide this document, but he also wanted to alert the Board to staff limitations. As proposed, the documentation is straightforward with including the diagnosis, but would like to add these to the regular clinical documentation to be more accurate and detailed rather than two separate documents that can miss information. In collapsing these into a single document, it can be a better product to the PSRB and less burdensome to the providers at the hospital to get the information that is needed.

Board members provided some feedback to the hospital regarding this request and what the Board needs to effectively resolve the challenges and goals for hearings when making a determination about jurisdiction. Dr. Reichlin noted that the example Dr. Sethi provided was not so much of an outline of the criteria proposed by OSH, but rather a note. He thought that what was significantly lacking with respect to the jurisdictional criteria, is the analysis of danger. He notes the Board's decision is not limited to a person's danger currently, but rather danger in the future *when* the person's diagnosis is active. In that context, the Board would like to have a more specific explanation as to what kinds of symptoms are typical when that individual's diagnosis is active and how those symptoms relate to danger, which is the crux of the issue before the Board.

Anne Nichol noted that she agrees with Dr. Reichlin, and added from her perspective as a non-medical professional that sometimes when there isn't enough detail, she does not want to be pulling details together in her imagination from the file, but rather wants the opinion of the prescriber on the question of the person's dangerousness when the diagnosis is active. As the Board's directive is community safety, Ms. Nichol noted that she does not want to draw conclusions all by herself, and that the prescriber's oral and written testimony should outline the evidence to assist her in achieving that conclusion.

Dr. Reichlin added to this, stating that if the hospital could implement a way to have a forensically trained person interact with a provider, that might be helpful to the Board.

From this discussion, Dr. Nanton stated that there are other limitations right now due to COVID-19 due to patients being on units they were not usually on and moving around, and thus not having consistent providers.

Executive Director, Alison Bort weighed in, stating that OSH previously provided the Board with incident reports, which shed light on the types of behaviors that could be relevant to a person's future dangerousness. It was her understanding that the hospital stopped providing this information to the Board because it was not part of the medical record of an individual. However, this is common information provided to the Board when individuals are on conditional release and captured through monthly reports and incident reports. Board member, John Swetnam, stated that he would like something like a Monthly Report to be submitted from the hospital to see how an individual is doing at that point in time.

Dr. Bort proposed collaboration to develop guidelines that are consistent with the feedback provided by the Board during this meeting while also considering the constraints of the hospital. Dr. Reichlin added that incident reports, although never really captured in the medical record, would be helpful for both parties and that it might be useful to include a summary of incident reports in the PNU. Dr. Nanton stated that he was processing all the information provided from the Board and will provide another proposal at the next meeting.

Dr. Nanton has left the meeting.

Next, Dr. Reichlin moved to the subject of the Adoption of Rule OAR 859-200-0020 9B. Dr. Bort provided that it was about the definitions for the Psychiatric Security Review Board's 426.701 population. Currently, the OARs exclude those individuals with developmental and

intellectual diagnoses. Dr. Bort shared the outreach she had done over the past year, including conversations with Matt Bighouse from DHS and the PSRB legislative workgroup during sessions related to ORS 426.701. Consistently, none of the stakeholder could provide reasons why this was excluded, with the exception of Chapter 426 traditionally covering civil commitments for those in the behavioral health system and Chapter 427 covering civil commitments for those with intellectual and developmental disorders. The statute itself does not appear to explicitly exclude intellectual and developmental disorders; therefore, the Board's rules should be consistent. Dr. Bort proceeded with the adoption of new rules process, including holding a Rules Advisory Committee, to which no one from the invited participants nor the public had feedback. The Board would like to adopt that rule without that exclusion at this time.

Harris Matarazzo asked if there is anyone under the Board's jurisdiction now who would be covered by this, and if this would change anyone's jurisdiction. Dr. Bort conceded this type of analysis had not been done; however, that in any case, the rule does not change the statute, which provides the ultimate authority. Dr. Bort clarified that the goal of the change was to move what appeared to be an artifact.

Dr. Reichlin brought up the question that the Board vote on this change. Dr. Bort noted that the vote would mean adopting the rule without the language that excludes a developmental or intellectual disability. Dr. Reichlin brought this rule to the floor to vote. He moved to adopt the rule as amended which eliminates the exclusion. Trish Elmer, Board

Member, seconded the motion. All Board members said aye, and the amended rule was adopted.

Next, Dr. Reichlin moved to the topic of Agency Budget. Dr. Bort qualified these updates in the context of the unknown long-term impact of COVID-19 on the economy. Dr. Bort shared that the Governor's Recommended Budget approved funding for the Board at a similar level as the Agency had previously. The budget included approval of funding for the Board's preparation day stipends (Adult Panel); funding for additional Board meetings; and funding toward technological advances proposed in the agency's policy option packages. The request for a 1.0 permanent position was denied. Dr. Board cautioned that this is not the final budget for the next biennium and that the Legislature's process would begin in February.

Following the discussion of budget, Dr. Reichlin moved onto the PSRB Legislative Workgroup and asked Dr. Bort for an update. Dr. Bort noted that the larger workgroup sessions had wrapped up, and that the work was moving toward developing legislative concepts. In addition, a report that provided more comprehensive recommendations (beyond changes to legislation) was forthcoming. Of importance, the workgroup had identified the ongoing necessity of the Juvenile Panel, noting that before the agency considers sunseting the JPSRB (or otherwise incorporating it into one Board), that the recommendation was that the agency conduct increased outreach. Dr. Bort also shared feedback that the "responsible for insanity" label continues to be seen as stigmatizing and disincentivized parents from choosing the REI defense. Dr. Bort went on to share that the workgroup was proposing two legislative concepts during the upcoming session. One concept focuses on changes to ORS 426.701 and the other

focuses on court conditional releases. Dr. Reichlin followed up with questions related to the outreach plans for increasing JPSRB caseload. Dr. Bort acknowledged that no plan had been developed to date, noting that the agency is currently recruiting a Deputy Director. Dr. Bort will provide a status update as this plan is developed and unfolds.

Dr. Reichlin then posed a question regarding Court Conditional Release. He asked that at some point in the process, to incorporate education for the client that would convey the requirements that the PSRB imposes to these clients. He noted that individuals who are Court Conditionally Released often do not understand how significant a PSRB jurisdiction changes their lives and their life course. Often, they think that it is a minor change, but if the client could be provided information earlier on, it might positively impact them. Dr. Bort agreed that this could be an initiative the agency could develop with the legal community in the future, noting that it would not require a statutory change.

On the topic of recruitment, Board member Nichol provided some feedback regarding outreach about JPSRB. She noted that it might be good idea to reach out to DA Offices and asked if that is a part of the outreach plan. She noted that Juvenile prosecution is different than adult prosecution.

Dr. Bort noted that the Agency is actively recruiting for Board Members for the Adult Panel and Juvenile Panel. She also noted that recruitment for a new Deputy Director is ongoing and we started with 19 applicants. Fifteen of these applicants have now gone through the screening process with videotaped interview questions.

The next topic was Board trainings, and Dr. Bort noted that everyone had completed their 2020 trainings.

Dr. Reichlin invited the public members who attended the meeting an opportunity for public comment. Mr. Matarazzo stated he wanted to add that to the topic of legislative concepts. He noted it wasn't just the DA office involved in this. He also worked closely on these matters and noted it was a collaborative process and productive. He additionally noted that the concepts were collaborative and what will go before the legislature is good. With continued outreach, problems will be fewer and fewer. He finished by giving thanks for being included in that process. There was no other public comment made at that time.

The meeting adjourned to Executive Session at 9:30am.