

Final Board Meeting Minutes
Psychiatric Security Review Board
Administrative Meeting
Joint Panel
December 13, 2023

An administrative meeting of the Psychiatric Review Board Joint Panel was convened on Wednesday, December 13, 2023, at 3:09 pm via Microsoft Teams and teleconference. Board Members, PSRB staff and members of the public via Teams and phone were:

Adult Panel – Anne Nichol, J.D. (Chair, attorney member), Scott Reichlin, M.D. (psychiatrist member), Trisha Elmer, P.P.O. (probation member), and Julie Duke (public member). Pamela Buchanan, Psy.D. (psychology member) was not in attendance.

Juvenile Panel – Stewart Newman, M.D. (Chair, psychiatrist member), Marisha Childs, J.D. (attorney member), and Karey Casebier, (probation member.) Cari Boyd (public member) was not present.

PSRB Staff – Alison Bort, Executive Director, Katrina Tonsfeldt, Deputy Director, Maria McCormack, Hearings Officer, Laura O'Meara, ESS2, Sharon Hall, Bethany Quist, AS2

Public Present – Dr. Wilson Kenney, Harris Matarazzo, Megan Harper, Andrew Nanton, Laurie Bender, Mary Beth James, Dave Boyer, Della Hoffman, and Patrick Rosario.

Chair Nichol called the meeting to order at 3:09pm. There was a quorum present, and no public comments made. The minutes from the 9.27.23 meeting were determined to be reviewed at the next administrative meeting.

Dr. Bort then gave the Executive Director update. The first topic was new staff introductions. Priya Tripathi was introduced as our new ISS4 who was absent on a planned extended trip.

Katrina Tonsfeldt introduced herself as our new Deputy Director. She gave a brief bio as a previous community provider.

Bethany Quist was our OS2 and was promoted to AS2 after Brady Lambert left the agency for a promotional opportunity. Dr. Bort announced that OS2 position will remain vacant as many of job duties that position managed were eliminated due to going paperless. Dr. Bort communicated creating a new position to manage the evolving needs of the agency.

Dr. Kenney has been recommended by the Board to Governor Kotek for appointment for the psychologist position, currently held by Pamela Buchanan. Dr. Buchanan's term officially ends at the end of this month.

Dr. Bort stated they are heavily recruiting for all of the Board members. Ms. Elmer's tenure as Parole member will be completed in June of 2024, and Dr. Reichlin, Chair Nichol, and Ms. Duke's terms will be completed in June of 2025. Dr. Bort has sent emails to over 400

stakeholders and possible interested entities and had announced (and will continue to announce) recruitment opportunities at a variety of stakeholder meetings. The recruitments are also posted on the agency website.

Dr. Bort then provided feedback from the PSRB Forensic Conference evaluations. There were only 38 respondents who rated six areas on a 1 – 5 Likert scale, with 5 as the highest scores. All areas were rated between 4.5-5. Dr. Bort recognized the PSRB staff received the highest points for being welcoming and accommodating. Board members Nichol, Elmer, and Reichlin provided a panel at the training and received excellent ratings and feedback for their participation at the conference.

Next, Dr. Bort communicated House Bill 2805 initiated changes to Public Meetings. Dr. Bort communicated one of the changes clarified Board members engaged in training are differentiated from public meetings. This was relevant to the Board's training retreat that had occurred earlier in the day.

Next, Dr. Bort remarked on the continued collaborative relationship it holds with HSD and reminded the Board of the strategic roadmap that was presented at the Board's last meeting. Dr. Bort shared recent work with respect to the Mink-Bowman lawsuit to identify system issues that may serve as barriers to conditional release. Dr. Bort asked for questions.

Chair Nichol announced Board business.

There was an update on the Rules Advisory Committee that was held 12.8.23 regarding the two rule modifications.

Chair Nichol stated she listened to the RAC, and it was informational to her and to hear the perspectives of others on reading the rule.

Dr. Bort stated there were two parts of the RAC – the first part was on end of jurisdiction rules and the court dictates what their length of time commitment. There is no statute ordering the Board to credit them time served. The board changed their template, so the judge decides to credit time served and not the board.

Chair Nichol outlined the options available to the court, as the Board doesn't have the authority to make those decisions.

Dr. Bort added the next step in the process will be to have a public hearing about the changes the board wants to adopt.

Chair Nichol voiced there were valid concerns some people wouldn't get credit for time served and it would be unfair, especially substantial time incarcerated. This would mean educating people at the court level.

Dr. Bort adds another road would be to develop legislation giving the board similar/parallel statutory permission to give credit for time served. For now, it's important to recognize the statutory changes that permit courts to provide credit by reducing the commitment length. The rep from DOJ commented about mistakes made in original GEI order, if credit wasn't given as a

mistake, the concern was what options are available. Dr. Bort explained that this is why we need to educate everyone on the PSRB templates. The next step is to have the public meeting and then at the next board meeting adopt the permanent rule. She asked for comments and there were none.

Dr. Bort then discussed the second and more controversial rule the temporary rule on definition of dangerousness. There were a variety of stakeholders giving feedback and concerns which made the Board pause in the effort to permanently adopt this rule and engage in more discussion.

Chair Nichol agreed and said there were concerns about how the change in the language might change the decision-making process, or what is perceived as the requirements of the statute. Board needs to digest and look at statutory language and understand how it all fits together.

Dr. Reichlin asked what is the next step in the process?

Dr. Bort said the next step would be to hold another RAC, which would focus more on what the language would say and the board's intention. The impetus for the rule was how the appeals decision narrowed how the board can interpret law. Then they can decide on whether to move forward with making it a permanent rule or staying with the rule in place. More than likely another iteration would be presented at the next Board meeting, and temporary rules stays in place until April 3rd.

Chair Nichol announced the next action item was board training.

Dr. Bort stated for the public record the board had focused on IT, FileCloud and how to access things in modernization initiatives, as well as goals in succession planning - making sure the Board has right materials for onboarding and training.

The next item was conditional release policy. Dr. Bort said there is not enough time for that topic at this meeting. The policy was published in 2013 stating all conditional release hearings must be full hearings, which has become problematic because some places don't have beds or aren't open yet. When another place opens or accepts them, it means another full hearing has to happen. The board changed the policy at the last meeting and voted to have admin hearings under particular circumstances. There is some other clean-up that needs to happen in the policy as it's outdated. The board has the old policy and the new proposed one, and please review so we can review it at next meeting.

Chair Nichol stated the next board meeting must be scheduled by March 22nd. She asked if they should meet earlier because of the temporary rules. Dr. Bort asked board members for availability.

The board voted to meet on February 14, 2024 at 9:00 - 10:30am.

Dr. Bort announced three action items:

- 1) Review the older and newly proposed CR policy.
- 2) Vote on permanent adoption of EOJ rule.

3) Make decisions about the rule defining dangerousness.

The board will also review the meeting minutes from the last and current meeting.

Chair Nichol asked if they did not make changes to the temporary rule on dangerousness at the 2.14. meeting, would it be too late. Dr. Bort said not necessarily, they would have to have a public meeting and then one more board meeting.

Chair Nichol asked members of public for comments.

Harris Matarazzo asked the board to please note on the proposed changes of temporary rule regarding dangerousness, the impetus of the board's filing of new rule with state is it has to do with case of Rinne. The modifying of rule based on one case should be done advisedly. The board's interpretation of this rule differs from the court of appeals – court found the existing rule and statute are consistent and require a nexus and it should not be modified. The board drafted the rule within the last ten years, and it has stood the test of time.

His concern about the other rule on end of jurisdiction is most are getting maximum sentence plus not getting credited for time served raises constitutional issues about serving time that isn't legal. The impetus for that rule change is because of a concern that GEI is not a conviction. He referenced the State v. Giles. His perspective is it's a non-issue and nobody would challenge the Board's authority to credit time served. Finally, one of the unintended consequences of this rule might be a flood of post-conviction lawsuits because the GEI order didn't allow for time served.

Chair Nichol appreciated his comments and asked for any others, and there were none.

The meeting was adjourned at 3:50pm.