

Rulemaking Summary



The Psychiatric Security Review Board (PSRB) recently completed rulemaking updates to OAR Chapter 859, Division 200, which governs individuals committed to the Board under ORS 426.701–426.702 as extremely dangerous persons with a qualifying mental disorder.

- The rulemaking process included five Rules Advisory Committee (RAC) meetings held on August 27, 2024, September 12, 2024, October 1, 2024, October 11, 2024, and April 21, 2026.
- The Notice of Proposed Rulemaking was filed on April 28, 2026, and public comment closed on June 8, 2026.
- The adopted rules became effective July 1, 2026.

Why Did the PSRB Update the Rules?



PSRB undertook this rulemaking to make Division 200 clearer, more consistent, and easier to apply in practice. At the beginning of the RAC process, the primary focus was on clarifying important definitions and developing clearer guidelines for examiners who prepare reports for Board hearings. As the process continued, the RAC also identified a need to clarify hearing procedures, report format and submission requirements, and certification timelines.

The updated rules are intended to help attorneys, examiners, treatment providers, community providers, and victims better understand what information is needed, when it is needed, and how the Board uses that information in its hearing proceedings.

What Changed?



1. What did the rules help define or clarify?

The rules help clarify how key terms are understood and applied in PSRB proceedings. The rules clarify several important concepts, including:

- **Substantially similar symptoms or behaviors:** The rules clarify that symptoms or behaviors do not have to be identical to those that preceded the qualifying act, but they must reflect a continuing risk to others of the same general nature.
- **Resistant to treatment:** The rules clarify that treatment resistance involves both the treatment provided or refused and the person's continued significant impairment in making competent decisions and being aware of and controlling extremely dangerous behavior.



- **Extreme risk:** The rules clarify that “extreme risk” means that, because of the person’s qualifying mental disorder, the risk of future physical harm to others exists in a very high degree.¹
- **Foreseeable future:** The rules clarify that “foreseeable future” is not a fixed period of time. Instead, it means a period that can reasonably be foreseen based on the available evidence.

2. Did the rules change PSRB’s jurisdictional criteria?

No. The rulemaking did not change PSRB’s statutory jurisdictional criteria under ORS 426.701 or ORS 426.702. The rules clarify procedures, report expectations, timelines, terminology, and hearing processes, but they do not expand or narrow who qualifies for PSRB jurisdiction.

However, separate from this rulemaking, the Oregon Legislature passed House Bill 2005 (2025), which amended ORS 426.701 to expand the statutory qualifying acts to include certain attempts. The statute now includes *attempts* to cause death, serious physical injury by means of a dangerous weapon, physical injury by means of a firearm or explosive, certain sexual conduct involving children or forcible compulsion, and certain fires or explosions that create an extreme risk of grave or potentially lethal physical injury.

3. What hearing processes did the rules clarify?

The rules clarify the type and scope of hearings before the Board. This includes when issues may be combined, such as jurisdictional criteria and placement, in the same hearing when allowed by rule, and when the Board’s review is limited to the specific issue before it, such as a modification request or revocation. The goal is to make hearings more focused and predictable so the parties, providers, examiners, and victims understand what decision the Board is being asked to make.

4. What is new for examiner reports?

The updated rules clarify examiner qualifications, report content, and report timing.

- Reports should provide the clinical, behavioral, and risk-related information the Board needs for a hearing.
- Examiners may offer professional opinions, including opinions about jurisdictional criteria or community management. However, examiners should be careful to distinguish their clinical and forensic opinions from the Board’s decision-making role.
- The Board remains responsible for the final decision at a hearing.



¹ The rulemaking materials included *State v. T. L. B.*, 335 Or App 225, 558 P3d 861 (2024), rev allowed, 373 Or 556 (2025). Notably, this case is under review by the Oregon Supreme Court. PSRB will continue to monitor any additional changes that may be needed due to the outcome of that case.



5. What should examiner reports include?

OAR 859-200-0147 provides guidance regarding the clinical, behavioral, and risk-related information the Board believes is necessary to make its statutory findings. The rule is intended to assist examiners in presenting the facts, observations, and professional opinions that help the Board make informed decisions regarding jurisdiction, certification, and conditional release placement, treatment and supervision necessities. The goal is to promote more complete and consistent reports that focus on the underlying information supporting the Board's decisions.

6. Do examiners have to use a specific PSRB form or template for the examination?

PSRB will provide an approved template or format for examiner reports. Examiners may incorporate the required content into their own electronic record systems, so long as the report follows the Board-approved format or template.

7. When are examination reports due?

Submission deadlines vary by hearing type:

- **Full Hearings:** 14 days before the hearing date, unless the hearing is for one of the following purposes, then the earlier date applies.
- **Initial Hearings:** 60 days before the hearing date.
- **Certification Hearings:** 90 days before the end of the commitment period.
- **No longer meets jurisdictional criteria:** 45 days before the hearing date if an examination report includes an opinion that the person may no longer meet jurisdictional criteria, including in connection with a request for discharge, unless a longer or more specific timeline applies.

8. Do the rules change who makes the legal decision?

No. The rules clarify the distinction between professional opinions and Board decision-making.

- Examiners provide clinical and behavioral information, risk-related opinions, and professional opinions through oral and written testimony that assists the Board.
- Attorneys represent the parties, present evidence, examine witnesses, and make legal arguments about how the law applies to the facts.
- The Board remains responsible for making the final legal decision, including whether the person continues to meet jurisdictional criteria, whether certification is appropriate, whether discharge is required, and whether the person can be adequately controlled in the community.



How Can I Learn More?



1. Will there be training for examiners?

The PSRB will host a training course for examiners to explain the new Division 200 rules, examiner expectations, report content, timelines, and report templates.

Monday, August 31, 2026

2:00 p.m. - 4:00 p.m. Pacific Time

Location: Microsoft Teams

Link to Join: [Microsoft Teams meeting](#)

2. Where can I view the rules?

The adopted rules are published on the Oregon Secretary of State's [website](#).

3. How can I learn more about PSRB rulemaking?

The PSRB Rulemaking [webpage](#) contains information for upcoming and recently adopted rules, including materials and recordings for Rules Advisory Committees (RACs), proposed rule documents, public comments, and legislative history materials.

4. I still have questions. Who do I contact?

Please contact Alysson Bocciolatt, Rulemaking Coordinator, with questions regarding this or other rulemaking activities:

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