

AMENDED MINUTES
Psychiatric Security Review Board
Administrative Meeting
Adult Panel
September 26, 2018
Originally Approved 12/12/2018; Amended on 3/20/2019

An administrative meeting of the Psychiatric Security Review Board was convened on September 26, 2018 at 1:00 p.m. in the fourth-floor conference room of 610 SW Alder Street, Portland, Oregon 97205. The following were in attendance:

- 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.
- PSRB Staff – Alison Bort, J.D., Ph.D., Executive Director; Sid Moore, J.D., Deputy Director; and Jane Bigler, Executive Secretary, as note taker.
- Public Attendees – Harris Matarazzo, J.D. (in person); and via telephone: Maria Walchi, McNary Place SRTF; Kimberley Smith Daly and Jill Crittenden, both from Telecare Recovery Center at Woodburn; and Rochalle Rooks, Benton County Mental Health.

The meeting was called to order at 1:15 p.m. by Dr. Bort and she asked if any of the members of the public in attendance wished to make a comment. Mr. Matarazzo asked to reserve his right to 5 minutes of public comment if he sees need later in the meeting. The Board agreed. No other public attendees indicated they wished to make any comment.

Next was to be a review of the minutes from the Joint Panel meeting held on June 13, 2018. Ms. Bigler asked that the review of those minutes be postponed until the Joint Panel meeting in December so that the minutes can be reviewed by both panels. The Board concurred, the minutes from June 13, 2018 will be considered for adoption by both panels in December.

Dr. Bort then provided an update to the members regarding her first few months as the Executive Director with a focus on partnering, communication and avoiding risk. She noted that she has been meeting with various stakeholders:

- Dolly Matteucci, who is the new superintendent at Oregon State Hospital (OSH).
- Micky Logan, Legal Affairs Director, OSH. Dr. Bort and Ms. Logan plan to hold a new certified evaluator's training in October.
- Social workers at OSH regarding conditional release planning and timely requests to the Board.
- Anna Dyer, the new Forensic Utilization Coordinator, Oregon Health Authority (OHA) who recently replaced Elaine Sweet. Dr. Bort indicated that they meet/talk weekly.
- Bridges Executive Team – to brainstorm about how they might assist to avoid revocations.
- Peer Advisors, at both the OSH Salem and Junction City campuses – There were approximately 40 clients present at the Salem meeting and 6 clients at Junction City.
- Medical Providers – issues resulting from hearings such as standardizing Progress Note Updates.
- Site visits – Dr. Bort has 6 scheduled site visits over the next 3 months and hopes to meet with all of them within the next 6 months.

Dr. Bort moved on to report on the new “zero empty bed initiative.” There are approximately 63 individuals that are currently ready for conditional release per OSH's Risk Review Board. OSH is currently collecting data on the reasons these individuals have not been

conditionally released, but the reason does not appear to be due to the Board denying the requests. So far, the reasons appear to be due to there not being a bed available where the client has been accepted (waitlisted) or that the client refuses to leave the hospital.

Dr. Bort reported that she has several presentations scheduled over the next 6 months:

- Oregon Health Sciences University – 2 presentations (Grand Rounds, OHSU Forensic Fellows)
- Marion County – Concealed Gun Permit Conference
- Oregon State Hospital – all staff trainings in November and March. OSH staff always report how good Ms. Britton was with her communication and availability.

Next was a discussion around the Board's Strategic Plan. Currently, the Board doesn't have a formal plan, but Dr. Bort and Mr. Moore have been consulting with other agencies in preparation for creating one. The Strategic Plan will need to address:

- Strengthening communication
- Succession Planning
 - Standardized Board member training
 - Staff within the office
- Policies and technology
- Data collection
 - Data is needed for articles, such as the one that Dr. Balduzzi co-wrote regarding conditional release planning, so that we can rely on the data we have.
- Identifying best practices and standardizing programs

- E.g. Secure residential treatment facility's – pass policies
- Minimum standards expected

Dr. Bort noted that the first step will be to find a consultant to assist with the project.

Next, discussion moved on to the 2019-21 budget. The Legislative Fiscal Office (LFO) has approved and submitted our Agency Requested Budget (ARB) without changes. The next step is the Governor's Recommended Budget (GRB), which probably will not occur until after the election. It is unlikely that the Board's budget will be cut due to the small size of the agency. The requested budget amount is a little over three million dollars. Once the ARB is approved, it becomes the GRB, then passed on to the legislature. There weren't many changes during this process for the 2017-19 biennium, so it isn't anticipated there will be many this time either. The Board has not requested any major changes, as usual, the majority of the budget is for personnel services. Dr. Bort further reported that the Board is about \$114,000 in the "black" for 2017-19. This may allow for some technology purchases and any unforeseen legal bills. Mr. Swetnam inquired if funding for the consultant used for creating the Strategic Plan will come from this excess. Dr. Bort noted that it hopefully would, but at the moment all we have is a name of a consultant, no further negotiations have been determined. Lastly, Dr. Bort informed the Board that the Key Performance Measures (KPM) are due on October 1st, and it will be distributed once it is complete.

This segued on to the next topic, the Best Practices survey. Board members were given a copy of the survey. Dr. Bort noted that the answers must be a yes or no, as an "I don't know" option isn't allowed. Dr. Bort went over each question and discussion followed.

Mr. Moore asked if the Board had reviewed the Sex Offender Relief/Reclassification Rules. The following were questions/concerns Board members expressed:

- OAR 859-400-0005(4) – reference to “Static-99” is incorrect, it needs to have the “R” added.
- Wording of OAR 859-400-0090(1) – members were urged to look at it with the notion of rehabilitation, rather than “statistical likelihood.” Suggestion was made to use the Board of Parole’s OAR regarding this topic.
- OAR 859-400-0100(1) – implies 10 members (Adult and Juvenile Panels) rather than the usual three members from only one panel. Discussion followed. Notably:
 - If there was a combination of the two panels, the quorum would be 6 rather than three.
 - The reviewing panel could end up with more than one member of the same discipline (attorney, psychiatrist, psychologist, etc.) if a combination of panel members was used.
 - Juvenile sex offenders aren’t classified in the same manner as the adults. Therefore, it was determined that these reviews should be handled by the Adult Panel.
- OAR 859-400-0160(1) – first line references “independent forensic” mental health assessment, but the forensic evaluation may not include the sex offender topic, so should change the wording to “sex offender” mental health assessment.

Dr. Balduzzi moved that the Board adopt these rules with the noted changes. Mr. Swetnam seconded the motion. The motion passed unanimously.

Dr. Bort noted that staff has gone above and beyond to meet the deadline for the completion of the Static-99R’s and stated there are still about 35 cases yet to be completed.

Next was a Case Law Update – Provided information about State v. Folks (2018), 290 Or App 94, further supporting that substance-induced psychosis is not a qualifying mental disorder.

Dr. Bort moved on to a discussion of the 2019 Legislative Session. Currently there is no plan for the Board to submit any Policy Option Packages (POPs), but there is some clean-up language needed for the Civil Commit statutes. Mr. Swetnam expressed concern about needing changes to assist with the issue of “malingering.” **Dr. Bort noted that this is an important topic we are discussion with partners and provided some examples from early discussions. There are no drafted concepts prepared at this time and there needs to be additional discussion on this issue.**

Next, Dr. Bort reminded Board members of two required trainings they need to complete via iLearn: 1) Respectful Workplace and 2) Sexual Harassment Prevention. This topic will be addressed again at the next administrative meeting.

Discussion then skipped to the 13th item on the agenda, Hearings Safety, as the members should also complete the “Active Shooter” training in iLearn. Dr. Bort further requested the authority to purchase and have panic buttons installed, especially for use during hearings held at the PSRB office.

Next, Dr. Bort provided an update to the Board on the status of public records requests. The Board’s office continues to receive requests for entire client files. Dr. Bort is working with General Counsel and the Public Records Advocate at the Governor’s Office. There was a request for 63 files back in February, but only one redacted client file has been provided to date. The reporter for Enterprise is planning and exposé on the forensic program within Oregon and has asked for a fee waiver. To date, the Board has spent approximately \$11,000 in legal fees related to this request.

The PSRB's 2019 Forensic Conference will be held April 10th and 11th and the theme is "Building Partnerships." If any Board members have ideas for a keynote speaker, please let Dr. Bort know.

Next, Dr. Bort gave an update on Restorative Justice. After an initial meeting and subsequent proposal for \$40,000 to form an advisory council, Dr. Bort placed further progress with this project on hold. The Board cannot get into a paid contract for this program. Dr. Bort is looking to partner with Crime Victim's Services as well as the Department of Corrections for further information on already established programs that the Board may delegate to operate the program.

The last topic on the agenda was clarification of various Board policies:

- When line of sight supervision ordered by Board, is it required if the client is needing to have an overnight stay in a hospital for a medical procedure or at a crisis/respite level of care? – Discussion ensued and ultimately it was determined that if the client could leave "against medical advice," technically someone should be present to assure the client does not abscond.
- Authority to order Independent Evaluations – Board does have the authority to order an independent evaluation.
- GPS removal/expectation for solo passes from secure facilities (SRTF) – Question is, if client resides at an SRTF, should they always carry a GPS-enabled device, or can they have that requirement removed. The Board expressed their concern that if GPS is no longer required, shouldn't the person be stepped down from an SRTF level of care. Sample given, a client has proven over a long period of time that they always went where he stated he was going, yet there are other reasons why

he has not stepped down to a lower level of care. Members indicated it should continue to be considered on a case by case basis and further noted that the request for removal should include the clinical benefit for the client to have GPS requirement removed.

- Executive Director's role with approval of conditional release evaluation requests for Civil Commit clients and clients with capital offenses. After brief discussion, yes, these cases should continue to go before the Board for approval, as well as any other case that Dr. Bort defers to them for decision.
- OAR 859-050-0110 – Hearing Audio Retention – Currently audio recordings from hearings are retained for 5 years. Dr. Bort recommends extending this length of time to 10 years. Discussion followed but this topic was ultimately tabled until the next administrative meeting.

Mr. Matarazzo asked if he could utilize his 5 minutes of public comment time. He raised the following concerns:

- The revitalization of the Planning and Placement meetings. With a history of previous Executive Director's going beyond their scope, from a policy perspective, the Board's Executive Director should not be involved.
- The Executive Director being present during closed deliberations. Mr. Matarazzo noted that it makes him uncomfortable, for similar reasons as those noted for the Planning and Placement meetings, the Executive Director should not be allowed to be present during closed deliberations.
- Restorative Justice – The steering committee had indicated in their report that the Board was not to be involved, but now a proposal has been made to the Board.

Chair Balduzzi thanked Mr. Matarazzo for his comments and the meeting was adjourned to Executive Session at 3:30 p.m.