

Final Board Meeting Minutes
Psychiatric Security Review Board
Administrative Meeting
Joint Panel
January 18th, 2023

An administrative meeting of the Psychiatric Security Review Board Joint Panel was convened on Wednesday, January 18th, 2023, at 1:37pm via Microsoft Teams and teleconference. Board members, PSRB staff and members of the public present via Teams and phone were:

Adult Panel – Scott Reichlin, M.D. (Chair, psychiatrist member), Pamela Buchanan, Psy.D. (psychologist member), Julie Duke (public member), Trisha Elmer, P.P.O. (probation member), and Anne Nichol, J.D. (attorney member.)

Juvenile Panel – Stewart Newman, M.D. (Chair, psychiatrist member), Marisha Childs, J.D. (attorney member), Karey Casebier, (probation member), Cari Boyd, (public member—Ms. Boyd left the meeting approximately an hour into the meeting).

PSRB Staff – Executive Director Alison Bort, J.D.; PhD., Deputy Director Mandy Standiford, Hearings Officer Maria McCormack, Executive Support Specialist Laura O’Meara (taking minutes).

Public Present – Harris Matarazzo, Defense Attorney for PSRB clients, Jessica Stout, Steve Elzie, Debra Maryanov, Brett Szymoniak, Benjamin Teese, Mandy Hill, Megan Harper, Kevin McChesney, Kristin Owen, Shannon Wilhelm,

Dr. Reichlin opened the meeting to public comment. None were made.

Dr. Reichlin presented the minutes from the September 7, 2022, meeting. He asked for comments or corrections. Dr. Bort and Trish Elmer made minor grammatical corrections.

Dr. Reichlin asked for a motion to accept as amended. Trish Elmer motioned, and Anne Nichol seconded the motion. The meeting minutes were passed unanimously.

Dr. Reichlin passed the meeting to Dr. Bort for Executive Director Updates.

Dr. Bort Updates: Dr Bort. – Updates 2023

Dr. Bort stated the PSRB's current lease officially ended in December 2022. Dr. Bort reminded the Board that the agency established an interagency agreement with DAS Real Estate to identify whether the agency should move to a new location or remain in the current space. Since the last Board meeting, the agency determined to relocate to a new space, which has now been identified as a smaller office in North Milwaukie. Reduced office space corresponds to the changes related to hybrid remote work as well as the agency's plan and goals associated with going paperless, thus, reducing the space needed for extensive paper files. Dr. Bort explained that the planned move-in date has been pushed to April 1st primarily due to permitting and construction.

Next, Dr. Bort provided a brief budget update, informing the Board that with Governor Kotek's recently taking office, the Governor's Recommended budget has not yet been established. Dr. Bort reminded the Board that the agency is requesting two policy option packages: 1) DAS IT services and supports and 2) A 1.0, permanent Information Services and Support-4 position, which would primarily be designated to provide IT support to the board and support moving the agency's technology projects forward, in particular, a transition from the ACCESS database to a new case management system. Dr. Bort informed the Board that she is currently scheduled to present the budget before the Ways and Means Committee of the legislature on March 21st.

Next, Dr. Bort then informed the Board of the results of the agency's Annual Progress and Performance Report (APPR), which summarizes the agency's key performance measures. The Board's key performance measures include timeliness of hearings, maintaining people on conditional release, a customer service survey, a best practice survey, and recidivism.

Next, Dr. Bort and Deputy Standiford administered the Board's Best Practice Survey Memo for 2022, and subsequently, Board members indicated whether the agency was not meeting any of the items included in the survey. The Board unanimously voted that the agency was meeting all 13 of the items included in the Best Practice Survey.

Next, Dr. Bort informed the Board on two legislative bills that the agency is currently tracking. House Bill 2460 is part of the project on changing up the behavioral health system. There are two parts that relate to the PSRB. The first entails a work associated with ensuring that services provided by PSRB programs are more clearly identified so that adequate funding can be

granted. The second requires the agency to establish standardized end of jurisdiction planning beginning 12 months prior to the end of one's jurisdiction.

At this point Dr. Bort welcomes Dr. Newman for the record.

Dr. Bort introduced House Bill 2376 and referenced that the legislature had previously passed SB 65 establishing the Board's authority to develop a restorative justice program initiative from 2017. Dr. Bort explained that the most significant barriers to establishing this program included the lack of funding as well as challenges with reviewing such a program. The agency did engage in consultation with the DOJ's Victim's services and the Oregon State Hospital to establish an informal program related to clients who offer letters of apology to their victims in which the Board is not involved. The new House Bill 2376 requires the Board to study the progress on developing this program. Should the bill pass, Dr. Bort will summarize past efforts that have been made with a recommendation to sunset the program.

Dr. Reichlin suggested the agency outreach to the legislature proposing the bill, and Dr. Bort and Deputy Standiford indicated that this was in process.

Dr. Reichlin requested clarification as to the support that DAS-IT would provide the Board, explaining that they had supported him in the past and had been effective. Dr. Bort clarified that DAS-IT has agreed to support the Board members for now, but that support for Board members had not been previously contemplated in the price agreements, so it was unclear as to whether that support would persist. Dr. Bort clarified that the Board may continue to access DAS IT for computer issues, but that any issues with cell phones should be directed to Deputy Standiford.

Next, Dr. Reichlin moved to Deputy Standiford's updates on administrative rules. Deputy Standiford discussed the rules process and informed the Board that the agency would be holding a Rules Advisory Committee (RAC) in February to make the temporary rules voted on in September permanent. This included updating language to reflect the new version of the DSM-5-TR and allowing an adult panel member to sit on the juvenile panel in an emergency.

Deputy Standiford next informed the Board that management is examining the agency's historical practice of granting credit for time served following advice from our DOJ counsel that there is no statutory authority for the agency to do that unless it is written in the underlying GEI

order signed by the judge. Deputy Standiford indicated that this will likely result in either a statutory or administrative change in the future.

Dr. Bort recommended the agency move toward adopting a definition to identify when a person has been determined appropriate for conditional release. Dr. Bort explained that the term “conditional release readiness” is a designation the hospital utilizes to indicate they believe a person no longer requires a hospital level of care. Dr. Bort explained that those individuals are reviewed by Disability Rights Oregon, and Dr. Bort opined that there is a misperception that this designation means the person should be in the community when in fact the designation, as understood by the Board, is that “conditional release readiness” is a privilege granted by the hospital’s risk review to allow a person’s treatment team at the hospital to request the Board order an evaluation. Accordingly, Dr. Bort explained that this designation should not be interpreted as the person no longer needing a hospital level of care because it occurs before the Board orders a community evaluation and before any hearing before the Board, noting that the community or the Board may believe the person is appropriately placed at the hospital. Dr. Bort proposed the agency clarify what the Board means by conditional release ready in its rules.

Dr. Reichlin noted the importance of establishing that a patient has been granted the “conditional release readiness” privilege, as it has meaning to the Board, and wondered whether the hospital might call this privilege something else. Dr. Bort indicated having researched about this, but the response was that it wasn’t a priority at the moment. Per Dr. Pinals, “We may want to continue to refine those elements. I’ll put a pin in this as right now the focus is to get further recommendations finalized (which include potentially revising data needs).” Dr. Bort thought that it might be easier for the Board to come up with a new name and definition of when it considers a person to be ready for conditional release.

Ms. Nichol proposed whether any sort of list could provide additional information indicating what sorts of barriers were contributing to a particular person’s ability to achieve a conditional release, noting her impressions that those with developmental disabilities appear to have longer wait times for community placements and resources. Dr. Bort indicated that this is more difficult for the Board to track because those individuals do not come before the Board until the resources have been identified in the community and the treatment team requests the Board to order an evaluation. Dr. Bort explained her role as consultant with the OSH social

work team and Health Systems Division in resolving those barriers, but indicated she did not have a comprehensive detail as to all of the barriers at play. Ms. Nichol indicated she would like to know more about this and would follow up with Dr. Bort at a later date.

Dr. Reichlin introduced the topic of Board Discussions, led by Dr. Bort.

The Future of JPSRB: Dr. Bort provided an overview of the current status of the juvenile panel, indicating that four of the positions are filled and present at today's meeting, while the fifth position (psychologist) is vacant. Dr. Bort stated there is a potential candidate pending Senate confirmation hearings; however, was also deferring to fill the vacancy to further examine the program's longevity. Dr. Bort reminded the Board that the topic of sunseting the program has been a live issue over the past three years. She further discussed the efforts that agency management have made to outreach and educate stakeholders about the program over the past two years. Dr. Bort informed the Board that as of April 2023, there would only be two youth remaining in the program and only one new client in the past 5 years. Dr. Bort indicated that the resources required to run the program outweigh the need for the program. Dr. Bort suggested that the REI defense would remain; however, that the local court would retain jurisdiction. Dr. Bort noted this would require much discussion and legislative change over the course of the next 2 years. Dr. Bort opened the discussion to the Board members:

Dr. Newman summarized that the creation of JPSRB was partly a reaction to Measure 11 and that legislative changes to this have removed automatic adult sentences for juveniles 15 and older and opined that these changes likely further reduced the demand, use, or interest in utilizing the REI defense. Dr. Bort responded that the Board was thinking that SB1008, which removed mandatory waiver to adult court for Measure 11 crimes might actually lead to an increase in JPSRB cases; however, since it has been in effect for the past two year, this has not been the result. Dr. Newman clarified that SB 1008 permitted a judicial review as to whether a youth should automatically be transferred to adult court rather than making that transfer automatic.

Ms. Casebier noted that she has historically encouraged defense attorneys to look at the JPSRB because it offered an array the array of placement options that were available to a unique group of kids that the juvenile justice system was not designed to adequately support. Ms. Casebier found it curious that the program was not used more by other counties. She expressed concern

about DD youth and the voluntary system, wondering where these youth could be placed if there was no JPSRB. Dr. Bort indicated that the recommendation would be to create a mandatory system at the local level rather than at the state level. Dr. Bort further intimated that juvenile courts are likely to be familiar with the youth and may be in a better position to make decisions about where they would be placed compared to a state agency. Dr. Bort further indicated that the state is not able to expand development of JPSRB programs due to the small caseload.

Dr. Newman recommended agency management outreach to newly elected Governor Kotek to examine whether there is value in maintaining/preserving this program notwithstanding its underutilization. Dr. Bort ensured that this will be part of the process.

Marisha Childs expressed concern and interest in maintaining the JPSRB because leaving it to community providers might lack continuity and consistency, and community providers are already overwhelmed. She further indicated that in her experience practicing law, she did not believe that juvenile court judges would have more familiarity as to what to do with a youth. She asked if we are exchanging one problem for another. What reassurance can we give the community and the public if we take this away?

Dr. Reichlin asked if a different system of advocacy in communities is needed to address this. Marisha Childs agreed it's complex, but juvenile public defense services are very underfunded and not well supported, indicating that youth defense is often appointed to any willing attorney.

Dr. Bort replied that all of these issues are very important to consider in reaching a final decision as to whether to sunset the JPSRB. Dr. Bort explained that she was considering the sunset from a resource perspective, for example, that there are more Board members than clients and that two current Board members are conflicted from one of the cases. Dr. Bort centered the discussion on whether the Board would be in support of agency management starting to have these discussions with stakeholders, and that sunseting the Board would take several discussions over time, consideration of these various issues, and a sound alternative.

Ms. Childs and Dr. Newman expressed support to move forward with exploring sunseting versus other options.

Executive Director Decision-Making on Medication Observation: Dr. Bort explained that individuals conditionally released from the hospital are required to have the ingestion of medications be observed *by staff*. Dr. Bort informed the Board of a slight loophole in this process that the agency needed to close: Dr. Bort requested the Board clarify as to whether she has discretion to make an exception to observed medication ingestion for the purposes of the client taking an overnight pass with an authorized other. Dr. Bort explained that without that authority, clients would not have the opportunities to take overnight passes without a Board review if they had this condition. Dr. Bort explained she already has authority to approve clients to self-administer their medications. The Board unanimously voted to grant the executive director the authority to approve an authorized other to observe medication ingestion (Ms. Boyd was not present for this vote).

Recruitment of Future Board Members: Dr. Bort stated that Dr. Buchanan's first term is due to expire in June 2023, and that her intention is to remain on the Board no longer than the end of the year. Dr. Bort further informed the Board that Ms. Elmer will end her second term appointment in June 2024 and both Dr. Reichlin and Ms. Nichol will end their second term appointments in June 2025. Dr. Bort framed the challenges with Board recruitment, highlighting that board membership was not only limited by the credentials required for the specific positions, but also by the vast demands, small pay, and high-risk decision making that is a reality for prospective Board members. Dr. Bort added the additional challenge of recruiting a more diverse Board, as it related to the agency's affirmative action plan. Dr. Bort asked the Board to provide feedback as to the barriers of recruiting their successors.

Dr. Newman shared recruitment concerns with respect to medical professionals, noting that mental health resources are grossly underserved and that recruiting psychiatrists is particularly challenging right now given the high demand for their services. He recommended recruiting individuals who see providing public service as part of their work.

Ms. Childs agreed with the challenges from the perspective of defense attorneys, who are also in very high demand, noting two competing interests: not enough money and too much need. Ms. Childs indicated that she was uniquely interested because she no longer practices law full time and opined how challenging it might be to recruit someone working full time who is

maxed out with the demands of attorney services. Ms. Childs committed to assisting the agency with identifying her successor.

Ms. Elmer recalled that when she applied, there were several other applicants for the probation officer position. Dr. Bort agreed, that in her review of applicants, the probation officer for the adult panel had historically generated several candidates.

Dr. Bort stated that there were less than a handful of candidates for the other adult panel positions (psychiatrist, attorney, psychologist and public member). Notably, Ms. Duke was the only person who formally applied for the public member position.

Dr. Reichlin commented that the credentialed positions are hard to fill it's because we're looking for zebras—individuals with a particular and peculiar interest in doing this type of work.

Ms. Nichol agreed with Dr. Reichlin and further added that she feels privileged to perform this role because she can afford to donate her time. She added that many people who might want to be on the Board and are qualified might not have that same privilege. She said it is important to look hard at streamlining processes to make the position more manageable. Ms. Nichol suggested that the entire Board focus on leaving the Board a better Board than when they found it in terms of making the workload manageable.

Priorities for 2023:

1. **Agency Director Expectations:** Dr. Bort outlined Governor Kotek's agency director expectations for all state agencies. Dr. Bort informed the Board that the agency is already meeting several of these expectations and noted areas of focus included updating the Board's strategic plan, succession training and planning, developing a Diversity, Equity, and Inclusion Plan, updating the agency's emergency preparedness plan, improving Board onboarding processes, and professional development for new employees and managers.
2. **OHA-PSRB Strategic Plan:** Dr. Bort shared the developing partnership with newer members of the Health System's Division, Megan Harper and Ben Teese. Dr. Bort introduced the inter-agency strategic plan being developed to better track the shared work between the agencies and provided a link to the working draft.

3. **PSRB End of Jurisdiction Protocol**—Dr. Bort discussed this earlier in the meeting.
4. **Updating OARs**—as discussed previously in the meeting.

After reviewing the above, Dr. Bort invited Board members to share other Board priorities for 2023.

Dr. Reichlin summarized the court room management training that was conducted by Judge Patricia McGuire earlier in the day. Dr. Reichlin described the training as “eye opening” and “helpful,” suggesting that the training that was provided will help the Board think about how the Board can get their work done in responsible and efficient way, work with all of the participants including parties, witnesses, and patients so that all matters can be heard on the same day that they are on the schedule and avoid continuances. Dr. Reichlin opined that the presentation provided a template to help the Board create plans for the future to help troubleshoot and introduce new ideas to our hearing days. Dr. Reichlin tied the Board’s potential achievement of improving docket management to better recruitment of future Board members.

Ms. Elmer echoed that the training was valuable and noted the advice received that the Board adhere to the docket time allotted and hold everyone accountable to those timeframes.

Ms. Nichol agreed and noted that the training reaffirmed the Board’s priority of providing due process and what that means for the Board members in their fact-finding role. She explained that due process for the factfinder was giving the same due process to all hearings no matter what time of the day they are scheduled.

Dr. Reichlin added other specific take-aways from the training included integrating breaks into the docket and ensuring good communication with the parties so that they are able to help Board develop the docket to achieve maximum efficiency.

Dr. Reichlin noted that the Board will be looking to integrate this training into practice in the near future.

Hearing no other comments from Board members regarding priorities, Dr. Bort next turned to the Board's proposed schedule for May-August. She proposed scheduling the Board's next quarterly meeting for April 19th - 8:30-10am, noting that all Board members need to be present to approve the temporary rules that Deputy Standiford presented at today's meeting. Board members agreed with the proposed date for the next meeting.

Before ending the meeting, Dr. Bort introduced Megan Harper, the Operations Policy Analyst for OHA, to the Board.

Dr. Reichlin asked whether there were any public comments. No public comments were heard.

Dr. Reichlin adjourned the meeting.