



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

August 28, 2020

**PSRB Hearing Room
2500 E. Van Buren St.
Phoenix, AZ 85008**

Members:

James P. Clark, M.D., Chairman
Michael J. Klemens, Ph.D., Vice-Chairman 📞
Susan Stevens, Esq. 📞
Paul O'Connell, M.S., M.P.A. 📞
Gwen A. Levitt, D.O. 📞

Assistant Attorney General:

Jeanne Galvin, Esq. 📞

Staff:

Hannah N. Garcia, Executive Director

Guests Present and/or Participating

Ashley Blum, Esq. 📞	James Holmes, Psy.D. 📞
Christopher Lammbeth 📞	Jandely Eich 📞
Cole Arigoni, 📞	John Blischak, Esq. 📞
Courtney Bradford 📞	Nicol Green, Esq. 📞
Diana Walayat, M.D., 📞	Nora Greer, Esq. 📞
Erin Cohen, Esq., ASH 📞	Pamala Silva
Garrett Sanders 📞	Robert Moriarty, AZ Complete Health 📞
Hallie Simkins	Sharon Campbell
Holly Geiszel, Esq. 📞	Stella Hutchinson 📞
	Tammy Wray, Esq. 📞

Telly Rivenburgh ☒

☒ Participated Telephonically

Call To Order:

James Clark called the meeting to order at 1:00 p.m. and read the Executive Session Confidentiality Statement:

“Minutes of and discussions made in executive session are required by law to be kept confidential and shall not be communicated to any person outside this meeting room, except to members of the Board, a person who is the subject of the discussion pursuant to Arizona Revised Statutes (A.R.S.) § 38-431.03(A)(1), the Auditor General in connection with an audit authorized by law, and the Attorney General. This means that persons present during an executive session of the PSRB may not disclose any information regarding the executive session or discuss those proceedings with any person who was not also present at the executive session.”

Dr. Clark swore in individuals who anticipated testifying.

Statutory Hearings:

Garrett Taylor Sanders – PSRB No. 18-06

Garrett Sanders was present telephonically, and through counsel, Tammy Wray, who participated telephonically. The statutory hearing was held from 1:05 p.m. to 1:48 p.m. pursuant to A.R.S. § 13-3994 (H). The PSRB’s jurisdiction ends September 13, 2020; ASH is recommending discharge to a 24-hour flexcare facility.

Erin Cohen, Esq., ASH attorney, stated that ASH requires that Mr. Sanders be discharged on a date certain rather than allowing his discharge to a residential setting in the community up to five business days prior to the PSRB’s jurisdiction expiration date.

Tammy Wray, Esq., attorney for Mr. Sanders, recommended discharge on September 9th, 2020. However, if an opening in a flexcare facility were to occur on a different date, it was suggested that the Board may have to call a special phone conference call meeting on either September 4th or September 8th to make a new motion for a change in his discharge date.

There was much discussion by Ms. Wray, Ms. Cohen, Jeanne Galvin, and Board members regarding the matter of discharge on a date certain vs. discharge up to five business days prior to September 13th.

Gwen Levitt, D.O., inquired about the possibility of discharging Mr. Sanders to a “stepdown unit” while he waits for an opening in a flexcare facility. Ms. Wray argued against this because Mr. Sanders would then be exposed to individuals who are more acutely ill and this might undermine his current stable remission.

Mr. Arigoni indicated he would continue to work on identifying an opening in a flexcare facility as soon as possible and stay in communication with all parties.

James Clark noted that Mr. Sanders is on a high dose of lithium with a level of 1.2 meg/L. Given the high summer heat in Phoenix, he asked if Mr. Sanders had been educated on the importance of hydration as well as signs and symptoms of lithium toxicity. Dr. Walayat indicated he had been educated.

After further discussion, a motion was made by Susan Stevens, seconded by Gwen Levitt, and passed unanimously to allow the PSRB’s jurisdiction over Garrett Sanders to expire with no further action based on the evidence presented by the ASH treatment team. And to direct the Arizona State Hospital’s treatment team to release Garrett Sanders to a residential facility on September 9, 2020.

Sharon Sue Campbell – PSRB No. 18-04

Sharon Campbell was present in person, and through counsel, Nora Greer, who participated telephonically. The statutory hearing was held from 1:49 p.m. to 1:55 p.m. pursuant to A.R.S. § 13-3994 (J). The PSRB’s jurisdiction ends September 2, 2020; ASH is requesting discharge with ACT supports.

Nora Greer stated that Ms. Campbell is in agreement with her report, and that she is excited to be with family and maintain her mental health.

Michael Klemens mentioned that he had seen on the report that Ms. Campbell was going to be released to live with her son and other roommates and inquired as to how many roommates there would be, and if they support her and her sobriety.

Sharon Campbell stated that the roommates would be a young couple and their daughter and that yes, they do support her and her sobriety.

James Holmes, Psy.D., stated that the treatment team believes that Ms. Campbell has great support at home and that she would succeed. The ACT supports would also provide her with additional support tools to ensure that she remains in stable remission.

After further discussion, a motion was made by James Clark, seconded by Paul O'Connell, and passed unanimously to allow the PSRB's jurisdiction over Sharon Campbell to expire with no further action based on the evidence presented by the ASH treatment team. And to allow the Arizona State Hospital's treatment team to conditionally release Sharon Campbell to a residential setting in the community up to five business days prior to the PSRB's jurisdiction expiration date.

Rickey Farrell Russell– PSRB No. 09-05

Rickey Russell was present telephonically. His counsel was not present. The statutory hearing was held from 1:56 p.m. to 2:01 p.m. pursuant to A.R.S. § 13-3994 (H). This is a two-year hearing with no recommendation.

Hannah Garcia, Executive Director, called the attorney assigned to Mr. Russell. The attorney stated that he has not represented Mr. Russell for over a year.

After further discussion, James Clark moved to table Mr. Russell's hearing to the September 25, 2020 meeting date, in order for the Executive Director to have the court assign Mr. Russell a new attorney to represent him.

Ronald Michael Motisko– PSRB No. 13-05

Ronald Motisko participated telephonically, and through counsel, John Blischak, who participated telephonically. The statutory hearing was held from 2:02 p.m. to 2:12 p.m. pursuant to A.R.S. § 13-3994 (J). The PSRB's jurisdiction ends September 11, 2020; ASH is recommending discharge to a 24-hour supervised group home.

Michael Klemens asked the treatment team if a 24 hour supervised group home would be available to Mr. Motisko on the day of his discharge.

Jandely Eich stated that it was her understanding that Mr. Motisko is in fact going to be transferred on September 11, 2020 to a 24-hour supervised group home.

After further discussion, a motion was made by Gwen Levitt, seconded by Michael Klemens, and passed unanimously to allow the PSRB's jurisdiction over Ronald Motisko to expire with no further action based on the evidence presented by the ASH treatment team. And to allow the Arizona State Hospital's treatment team to conditionally release Ronald Motisko to a residential setting in the community up to five business days prior to the PSRB's jurisdiction expiration date.

Christopher William Lambeth– PSRB No. 07-06

Christopher Lambeth was present telephonically and through counsel, John Blischak, who also participated telephonically. The statutory hearing was held from 2:13 p.m. to 2:33 p.m. pursuant to A.R.S. §13-3994 (H). This is a two-year hearing with no recommendation.

Courtney Bradford stated that Mr. Lambeth made the transition from AZ Complete Health to MercyCare in order to have access to a step-down living facility. He is looking for housing and employment in the Phoenix area. Mr. Lambeth has been very responsible and has been making progress. Josiah Nwoakwa, N.P., who prescribes for Mr. Lambeth has been cautious to take him off a certain medication since leaving ASH. Mr. Nwoakwa has repeatedly told Mr. Lambeth that he needs Board approval to make any medication changes.

James Clark stated that Mr. Nwoakwa does not need the Board's approval for medication changes, and that he is allowed to make that decision himself in order to care for his patient in the best way possible.

Courtney Bradford proposed to have Mr. Lambeth transferred to an 8-hour flex care facility in order to have a smooth transition to independent living at some point in the future.

Courtney Bradford also proposed to change Mr. Lambeth's 12-step meeting requirement from twice a week, to once a week.

After further discussion, a motion was made by James Clark, seconded by Gwen Levitt, and passed unanimously to rescind the motion to allow Mr. Lambeth move to independent living.

Another motion was made by James Clark, seconded by Michael Klemens, and passed unanimously to allow Christopher Lambeth to transition to a step-down facility and to allow him to attend a 12-step meeting once per week.

Discussion and Possible Action Related to:

A. Re-evaluating Executive Director Position:

Dr. Clark stated that he recently met with Tom Salow (ADHS Branch Chief and Hannah's Direct Supervisor) to give input regarding the Executive Director's job description and specifically, what the ED is responsible for. Dr. Clark explained that he reviewed the job descriptions for previous ED's (i.e. Sydney Vivian, Denise Dumond and Jaime Shapiro) and then updated the General Areas of Responsibility, Job Summary and specific job duties. Dr. Clark explained that ADHS is reviewing the proposed job description rewrite and that there will be a job posting for the Executive Director position next month. Dr. Clark expressed the hope that Hannah is interested in continuing in the position.

Michael Klemens suggested that the Job Summary's last sentence include the words "on Board related matters" so that it would read as follows: "The Executive Director follows the direction of the PSRB's Chair and Vice Chair, Board Members, Assistant Attorney General, and special requests on Board related matters from ASH's Chief Medical Officer (CMO).

B. District Attorney Offices and Civil Commitment Evaluations:

Dr. Clark reported that he had started an inquiry to find out where GEI individuals go in the various counties to have their civil commitment evaluation when the Board orders this at an Expiration Hearing. He had questions such as do the civil commitment evaluations take place in an inpatient or outpatient setting, how thorough are they and how much time is taken to do the evaluations. He also asked if records of the person's progress or lack of it during years of treatment at ASH was also made available to the evaluator(s).

Telly Rivenburgh commented that civil commitment evaluations take place in the following facilities in the various Counties:

Yuma-CRC Horizon
Pima-Banner South
Cochise-CRC Sierra Vista
Pinal-Desert Vista

She noted that to the best of her knowledge the evaluations are not done on an outpatient basis and that the evaluations take a minimum of three days but can take up to five to seven days.

C+D. Update from Dr. Clark regarding the PSRB's request to have a representative from ASH appear at a PSRB meeting to present a COVID-19 update as it related to the PSRB and the patients of the ASH Forensic Unit:

Dr. Clark responded to agenda items C and D together because they are somewhat related.

Dr. Clark noted that at the July, 2020 Board meeting, the Board voted to invite ASH representatives to attend a PSRB meeting for the purpose of discussing forensic unit patients and the use of passes and achieving privileges under restrictions necessitated by COVID-19. Dr Clark stated that he had been informed that representatives from ASH will not be appearing at a PSRB meeting to discuss this issue. He recalled for the Board that he and Michael Klemens had a June, 2020 phone conversation with Dr. Patel and Dr. Bowen to discuss the COVID-19 issue and its impact on passes privileges.

Dr. Clark explained that he and Michael Klemens were told that all passes for the entire campus has been put on hold due to COVID-19 and its effect on the health and safety of the entire campus, including patients, staff and all personnel.

ASH continues the hold on passes and advancing privileges given the current state of the COVID-19 pandemic. This will continue until ASH determines it is safe for everyone to resume passes and privileges.

Dr. Clark said that the Board would monitor the situation with COVID-19 and holds that have been placed on Forensic Unit patient passes and privileges. If necessary, the Board may request another phone conference call update/status report in the months ahead.

E. Final Response from Auditor General Regarding 18 Month Follow-up:

Dr. Clark reported on the conference call he and Hannah had last week with Eli Fabrega and Jeff Gove regarding the AG's 18 Month follow-up assessment of the implementation status of seven audit recommendations. Dr. Clark noted that the feedback was very positive. The AG representatives reported that, unless they were otherwise directed by the Joint Legislative Audit Committee, they have concluded their follow-up on the Board's efforts to implement the seven recommendations from the December 2018 performance audit and sunset review.

Dr. Clark summarized the findings as follows:

- A.) Recommendations #1, #6 and #7 were assessed as "implemented"
- B.) Recommendation #3 was assessed as "implemented in a different manner"
- C.) Recommendation #2 was assessed as "partially implemented"
- D.) Recommendations #4 and #5 were assessed as no longer applicable.

Dr. Clark reviewed the extensive work product produced by the Board over the past 18 months in response to the 10-year Auditor General Sunset Review. The work product included:

- Definitions of common terms used in Board operations, policies, procedures, meetings and documents.
- A Psychiatric Evaluation report template
- A model Exemplary Report
- Documentation from ASH's attorney and chief compliance officer that current staff and any new hires are aware of the psychiatric report template and the guidance provided by the exemplary report.
- Updated Hearing Notification letters to incorporate the new information required by the report template
- Specified Standard Conditions of Release for CR to ASH and CR to the community
- Created a Document for new Board members on the "PSRB Process"

- Updated Board's Setting Hearings Policy
- Established what is meant by Stable Remission
- Provided guidance for when a Risk Assessment may be requested/indicated
- Created forms for Application for a Hearing, Authorization to Use and Disclose Protected Health Information Request for Reconfinement of a GEI Patient in ASH
- Established a Telephonic Participation Policy
- Established a Board Billing Policy with an explanation of what constitutes a Board Member's engagement in substantial Board activity
- Produced an Annual Report which includes both statistical and narrative information for the courts, district attorneys, legislators and Governor's Office.
- Created a Power Point Presentation on the PSRB
- Put together an educational lecture on the history of the PSRB, the GEI statute, Board Duties and Responsibilities, etc.
- Provided documentation of educational outreach efforts by the ED and Board Chairman to County psychiatry residents, victim rights advocates and coordinators through the AG's office, an ASU Law School class and ASH psychology staff
- Implemented a Records Retention Policy based on State Guidelines
- Rewrote the Executive Director's Job Description (PDQ)

Dr. Clark concluded by stating that the 18 Month Follow-up audit results acknowledged and validated the Board's work to implement the audit recommendations. He stated that the Board remains committed to meeting its statutory mandate to monitor the progress of GEI patients in treatment at ASH and in the community.

Dr. Clark further stated that recent assertions by some House Legislators during the last legislative session that the Auditor General's Sunset Review Audit of the PSRB was very negative and that the PSRB may be unable to fulfill its duties and that the PSRB has been unfairly denying patients their liberties are false. He added that the proposed legislative rewrite of the Guilty Except Insane Statute (i.e. HB2320) was, in his opinion, an overreach that went well beyond what was recommended in the Auditor General's Sunset Review Audit.

F.) Psychologists as Attendings for GEI Patients:

Dr. Clark reported on a recent conversation he and Hannah had with Dr. Patel, ASH Medical Director, regarding the roles and responsibilities of both psychologists and psychiatrists on the ASH inpatient units where GEI individuals receive treatment.

G.) Requests by Attorneys for Continuances:

Dr. Clark reported that recently there have been increased requests for continuances by attorneys. He explained that requests for continuances usually are the result of a change of attorney, vacation, or illness, the increased time to review records, awaiting the completion of a Risk Assessment or independent psychiatric or psychological evaluation, etc. Dr. Clark noted that one individual scheduled for a statutory hearing today has had ten continuances out of thirteen scheduled hearings. Dr. Clark stated that not granting an attorney's request for a continuance may leave the Board open to a charge that it is interfering with Due Process and the ability of the person's attorney to provide proper and effective legal representation.

Holly Geiszel, Esq., spoke about her experience (i.e. rationale, reasons, etc) with requesting continuances.

Dr. Clark asked for Board Member's questions or comments and said that the Board would monitor this issue to ensure that persons have their statutory hearings in a timely manner

Discussion, Amendment, and Approval of Minutes:

Open session minutes from the July 31, 2020, meeting:

A motion was made by James Clark, seconded by Paul O'Connell, to adopt the July 31, 2020 open session minutes as amended.

Identification of Future Agenda Items:

Gwen Levitt shared with the Board that she would be absent at the next Board meeting.

Adjournment:

The Board meeting adjourned 3:26 p.m.