



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD ADMINISTRATIVE MEETING OPEN SESSION MINUTES

August 13, 2018

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

Members:

James P. Clark, M.D., Chairperson
Chandrika Shankar, M.D., Vice-Chairperson 🗨️
Susan Stevens, Esq.
Paul O'Connell
Michael J. Klemens, Ph.D. 📞 ⌚

🗨️ Absent

📞 Participated by telephone
⌚ Left the meeting at 2:55 p.m.

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Ashley Blum, Maricopa County Deputy Public Defender
Catherine Dahlquist, Office of the Auditor General
Dale Chapman, Office of the Auditor General
Jeffrey Gove, Office of the Auditor General
Tammy Wray, Maricopa County Deputy Public Defender

Call To Order:

James P. Clark called the meeting to order at 1:05 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.”

Discussion, Consideration and Possible Action Related to:

Executive session pursuant to A.R.S. § 38-431.03(A)(2) to discuss confidential information for an update from the Auditor General’s Office regarding the Sunset Review:

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 1:08 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 1:54 p.m.

Application for a hearing before the PSRB:

Jaime Shapiro read from her memo to the Board and recommended that the Board defer this item to a future meeting.

PSRB will consider whether to amend conditional release to the community orders to reflect Mercy Care:

Ms. Shapiro explained that that all three Regional Behavioral Health Authorities (RBHAs) in Arizona are undergoing changes in October, and recommended that the Board defer any changes until then. The Board decided to revisit this in the fall.

Review of individuals who did not update their emergency contacts:

Ms. Shapiro informed the Board that one individual did not update their emergency contacts and asked guidance on how they wish to proceed. Tammy Wray stated that it was her client and he said he mailed the document. Dr. Clark instructed Ms. Shapiro to keep him apprised.

Update on Status of Manahan v. PSRB – LC-2018-00217-001:

Mr. Raine gave the Board a verbal update regarding the judicial review.

Requirement of outpatient residential placement staff knowing the whereabouts of GEI individuals at all times:

Dr. Clark explained the impracticality of the standard condition of requiring residential staff to know the whereabouts of GEI individuals at all times when the residential facility is staffed less than 24 hours per day. Dr. Klemens stated that if it’s not posing an issue now, it might be best to strike the language moving forward. Mr. Raine pointed out that if the care

that is being provided to its individuals in the community is acceptable to the Board then the orders are acceptable as currently written. Discussion ensued and the Board directed Mr. Raine and Ms. Shapiro to gather more information with regard to the spectrum of services provided by different sixteen hour facilities, and to whom. He added that the safest course of action for the Board should presume that each setting is the least restrictive, and if the Board feels an individual requires more oversight then further restrictions should be written into an order of conditional release. Ms. Shapiro commented about a worst case scenario, such as, if an individual whose order does contain the language in question and the individual decompensates and commits a violent act. She asked where the responsibility would lie. Discussion ensued. The Board decided to defer this topic until Board staff can research further.

Executive Session Pursuant A.R.S. § 38-431.03(A)(3) for Legal Advice and Discussion, Consideration and Possible Action Related to:

Request from Tammy Wray to redact personal information from public records:

Mr. Raine opined that the agenda item as written indicates that this item can be held in executive session only, and recommended it be discussed in a call to the public.

Call to the Public:

Ms. Wray discussed her request that the Board redact personal information from public records, and expressed concern for victims, in particular, having access to information like GEI individuals' addresses. Extensive discussion ensued regarding each item Ms. Wray listed in her motion, existing processes in place regarding redaction of identifying information from public records requests, and administrative challenges. Ms. Wray argued that the Board should follow Superior Courts' terms of probation that do not contain similar information and remains enforceable. Dr. Clark suggested that the matter be set for a future administrative meeting so Mr. Raine can provide written legal guidance. Mr. Raine said the Board's most critical mandate is public safety, and orders specify restrictive terms so the Board can enforce them. Dr. Klemens pointed out that addresses are listed in public domains and questioned what the difference would be.

A motion was made by James Clark, seconded by Susan Stevens, and passed 3 – 0 to direct Mr. Raine and Ms. Shapiro to research further in order to explore where changes can be made while the orders can remain enforceable and thorough.

Executive Session Pursuant A.R.S. § 38-431.03(A)(3) for Legal Advice and Discussion, Consideration and Possible Action Related to:

Risk assessments:

Mr. Raine stated that Steven Dingle, Chief Medical Officer of ASH, stated in a phone call to Dr. Clark that the State Hospital was reluctant to provide risk assessments to the Board. However, in a later conversation with Louis Caputo, ASH's Assistant Attorney General, Mr. Raine was informed that ASH would be providing risk assessments. Mr. Raine clarified that Mr. Caputo did not specify if the risk assessments would be provided when there was no recommendation for an increase of privileges. Dr. Clark stated that if the Board felt that it needed a risk assessment for a particular case, he would be willing to continue that hearing until one is received. Mr. Raine's understanding from discussions with Mr. Caputo is that ASH believes it's within their prerogative whether to provide a risk assessment, and if the Board feels that more information is needed to fulfill its statutory mandate to protect the public, it is appropriate to continue a hearing until sufficient information is received evidencing that the person is not a risk to public safety.

Individualized contact to Board members from ASH Staff:

Dr. Clark said that initially, the phone calls between himself and Steven Dingle were an effort to improve communication and rapport. However, during the last phone call with Dr. Dingle and Laxman Patel, Dr. Dingle was upset that the Board went against ASH's recommendation. Dr. Clark gave the Board members a brief history of the relationship between ASH and PSRB.

Review of Board's response to consumer complaint:

A motion was made by James Clark, seconded by Susan Stevens, and passed 3 – 0 to recess into executive session at 3:04 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

After discussion in executive session, the Board reconvened in open session at 3:23 p.m.

Identification of Future Agenda Items:

- Requirement of outpatient residential placement staff knowing the whereabouts of GEI individuals at all times.
- Request to redact information from PSRB public records.
- RBHA changes.

Adjournment:

The Board meeting was adjourned at 3:25 p.m.