



Psychiatric Security Review Board

2500 East Van Buren Street
Phoenix, Arizona 85008
PH: (602) 220-6037
FAX: (602) 220-6028

DOUGLAS A. DUCEY, GOVERNOR
JAMES P. CLARK, M.D., CHAIRPERSON
www.azdhs.gov/psrb

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES June 30, 2017

Members:

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

Assistant Attorneys General:

Thomas Raine, Esq., for the Psychiatric Security Review Board
Louis Caputo, Esq., for the Arizona State Hospital

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Aaron Nelson, ASH	Illyra Vote, ASH
Alexandra Martinez, ASH	Jandely Eich, ASH
Andrew J. Blischak, Esq.	Jill Manahan
Brenda Wise, AHCCCS	Johanna Lippert, ASH
Brian Beckett, La Frontera	Julie Jackson, ASH
Brian Bohan, Esq., Pinal County Deputy Public Defender	Kennedy C. Klagge, Esq., Yavapai County Deputy Public Defender ☎
Chester B. McLaughlin, Esq. ☎	Laxman Patel, ASH
David Joslyn, ASH	Lindsay Werkheiser, ASH
David Mitchell	Lindsey Arendt, ASH
Dawood Mulla, ASH	Manuel Gray, La Frontera
Diane Wagner, ASH	Mary Montgomery, ASH
Emily Heath, ASH	Monika Yedegar, ASH

Nicole Floyd, ASH
Phillip Brei, ASH
Raul Placencio
Robert J. Trebilcock, Esq.
Samantha Miller, ASH
Samantha O’Neal, AHCCCS
Scott Norman, ASH

Sergio B. Chavez, ASH
Stacey Heard, Esq., Pinal Deputy County
Attorney
Steven Dingle, ASH
Telly Rivenburgh, Cenpatico
Todd Reynolds, ASH
Yvette Vera, Cenpatico

☎ Participated Telephonically

Call To Order:

James P. Clark called the meeting to order at 1:01 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.”

Dr. Clark swore in individuals who anticipated testifying.

Statutory Hearings:

Raul Armando Placencio – PSRB No. 12-02

Raul Placencio was present with his attorney, Brian Bohan, who appeared on behalf of assigned attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:03 p.m. to 1:11 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Placencio requested permission to travel out of state.

Mr. Placencio had a death in the family and requested permission to travel to New Mexico from June 30 to July 3 to attend the funeral. Dr. Clark said that since his discharge from ASH, Mr. Placencio has been stable and compliant with treatment. Brian Beckett, Mr. Placencio’s case manager, said the treatment team supports his request for travel. Dr. Klemens and Mr. Beckett discussed the possibility of requiring a urine drug screen upon Mr. Placencio’s return. Stacey Heard from the Pinal County Attorney’s Office was present and said her office has no position on the request and is happy to know Mr. Placencio is doing well. Mr. Bohan informed the Board of two corrections on the motion.

After discussion, a motion was made by James P. Clark, seconded by Paul O'Connell and passed unanimously to approve the request, as amended, for Mr. Placencio to travel to New Mexico from June 30th to July 3rd and to complete a urine drug screen by July 5th.

The Board offered Mr. Placencio and his family condolences and wished him safe travel.

Gary Williard Schlee – PSRB No. 12-10

Gary Schlee was present with his attorney, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:12 p.m. to 1:17 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended that Mr. Schlee continue at his current level of conditional release.

Kennedy C. Klagge was teleconferenced in to the hearing. Mr. Schlee is currently on conditional release to the Hospital, Phase One, Level Two, which is off-grounds privileges with ASH staff, and ASH recommended that he continue on that privilege level. Ms. Klagge commented that her client is doing well and defers to ASH's recommendation. Dr. Clark asked if Mr. Schlee's variable participation in programming had improved. Dr. Mulla said that Mr. Schlee continues to do well on and off grounds. Dr. Mulla clarified for Dr. Shankar that ASH is not recommending Mr. Schlee move to Phase Two because community supports for Mr. Schlee have not yet been established.

A motion was made by Susan Stevens, seconded by Michael J. Klemens and passed unanimously to approve ASH's recommendation that Gary Schlee continue on the current levels of release, based on the evidence presented by the Arizona State Hospital's treatment team that Mr. Schlee's mental disease or defect continues to be in stable remission and is no longer dangerous if he remains a resident of the Arizona State Hospital and is compliant with the terms of conditional release.

Juan Corea – PSRB No. 11-05

Juan Corea was present with his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 1:18 p.m. to 1:22 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction ends on July 31, 2017 and ASH recommended a court-ordered evaluation for civil commitment.

Susan Stevens asked the Board's attorney if the PSRB has the authority to order conditions of a patient's jurisdiction expiration, as it pertains to the "Plan B" narrative in the report submitted by ASH. Thomas Raine advised that the Board is limited to statutory authority and anything beyond ordering an evaluation for civil commitment is beyond their scope.

The Board, Sergio Chavez and Telly Rivenburgh briefly what services Mr. Corea will receive when discharged from ASH.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed unanimously to order the Pima County Attorney to initiate civil commitment proceedings for Juan Corea pending the expiration of the PSRB's jurisdiction based on the evidence presented and that the Arizona State Hospital's treatment team be allowed to conditionally release Mr. Corea to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Christopher Shane Fortier – PSRB No. 15-05A

Christopher Fortier was present with his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 1:23 p.m. to 1:25 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Jaime Shapiro informed the Board that Mr. Fortier was sentenced separately in two counties and asked if, at the end of the first sentence, would the Board hold an expiration hearing at that time. Mr. Raine said while his first inclination was no, he would conduct further research.

A motion was made by Paul O'Connell, seconded by Susan Stevens and passed unanimously to deny conditional release for Christopher Fortier based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Fortier did not prove by clear and convincing evidence that he no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that he is no longer dangerous. Christopher Fortier shall remain committed to the Arizona State Hospital.

David Andrew Mitchell – PSRB No. 01-15

David Mitchell was present with his attorney, Robert J. Trebilcock. The statutory hearing was held from 1:26 p.m. to 1:40 p.m. pursuant to A.R.S. § 13-3994(H). The PSRB's jurisdiction ends August 7, 2017 and ASH did not recommend a court-ordered evaluation for civil commitment.

Ms. Shapiro mentioned that ASH was not recommending a court-ordered evaluation because Mr. Mitchell is already under an order for treatment. Mr. Trebilcock said that his client is doing well right now and concurs with the Hospital's recommendation.

Dr. Klemens asked if the Involuntary Medical Treatment Plan (IMTP) covered just medication or all forms of treatment. Laxman Patel said it was only medication and added there might be a similar plan outside of the Hospital that can enforce medications.

A motion as made by James P. Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 1:27 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 1:39 p.m.

In open session, a motion was made by Michael J. Klemens, seconded by Paul O'Connell and passed unanimously that the PSRB allow its jurisdiction over David Mitchell expire without ordering the Cochise County Attorney to initiate civil commitment proceedings based on the evidence presented that Mr. Mitchell is currently under an order for treatment, and to allow the Arizona State Hospital's treatment team to conditionally release David Mitchell to a residential setting in the community up to five days prior to the PSRB's jurisdiction expiration date.

Jill Fraley Manahan – PSRB No. 09-10

Jill Manahan was present with her attorney, Chester B. McLaughlin, who appeared telephonically. The statutory hearing was held from 1:41 p.m. to 1:46 p.m. pursuant to A.R.S. §§ 13-3994(H) and (M), and 31-502(A)(5). ASH recommended revocation of conditional release.

Chester B. McLaughlin was teleconferenced into the hearing. Dr. Clark said that Mr. McLaughlin is new to the case and filed a motion to continue the hearing to August 2017. Mr. McLaughlin mentioned that ASH indicated that they have no objection.

A motion was made by James P. Clark to continue the hearing to the August of 2017 meeting and that Ms. Manahan's conditional release privileges remain in suspension until that time.

After his motion, Dr. Clark asked ASH for assurance that Ms. Manahan's conditional release privileges remain in suspension and Dr. Dingle agreed.

Michael J. Klemens seconded the motion and it passed unanimously.

Following the vote, Mr. McLaughlin said he hopes that if the Hospital feels that Ms. Manahan's privileges can be increased before the August meeting that she and the Hospital would not be precluded from requesting that the PSRB increase her privileges. Dr. Clark

assured Mr. McLaughlin that ASH would communicate the need for any change to the Board.

Discussion, Consideration and Possible Action Related to:

PSRB Conditional Release Monthly Report Form

Dr. Clark said that he had reviewed a Conditional Release Monthly Report for May that had a section in it that detailed the psychiatric presentation of the patient, and wanted this to be added to the template. Samantha O'Neal from AHCCCS was present and said the new template includes this section.

A motion was made by James P. Clark that the psychiatric presentation portion of the Conditional Release Monthly Report be included on the template. After discussion, Dr. Clark amended his motion that the monthly reports include a narrative summary of the patient's psychiatric presentation on the template. The amended motion was seconded by Michael J. Klemens and passed unanimously. The Board decided to enforce the new requirements starting with the July reports.

Waivers of Extradition and Emergency Contacts

Due to the lack of compliance with completed Waivers of Extradition and Emergency Contacts forms submitted prior from patients' discharges from ASH, Ms. Shapiro proposed that the PSRB require the completion and submission of these documents prior to the Board approving conditional release to the community. The Board agreed with the solution.

Extensive discussion among Board members, Board staff and Louis Caputo ensued as to the possibility of a patient who may lack the mental capacity to appreciate the legal significance of a Waiver of Extradition. Ms. Shapiro informed the Board that she copies the patient's defense attorney on all communications to the patient and, if indicated, a guardian as well, to help the patient understand why the document is required for community release.

Verbal update regarding per diem billing procedures

Ms. Shapiro said that she could find no example on which to model a task-based billing policy, so she reached out to the Auditor General for guidance and detailed that conversation. Ms. Stevens said because the nature of the materials review for the PSRB Board members typical Board billing procedures will not work for this Board, and Senator Yee may be able to provide feedback on how to address the billing issue.

After extensive discussion, Ms. Stevens said she would set up a meeting with Senator Yee.

Nomination and Election of a Vice-Chairperson

Dr. Clark outlined the responsibilities a Vice-Chairperson would entail. After discussion, Michael J. Klemens nominated Chandrika Shankar for Vice-Chairperson of the PSRB. Dr. Shankar said she would take time to review her existing responsibilities and the Board reset this matter for next month.

The Board took a break from 2:23 to 2:37 p.m.

Executive Session for Legal Advice from the Board's Attorney Related to:

Monitoring of persons under the Board's jurisdiction who were transferred to the Department of Corrections

A.R.S. § 31-502(B)(2) and (3)

The Board's scope of clinical review

A motion as made by James P. Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:28 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in open session at 2:59 p.m.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the May 26, 2017, meeting.

A motion was made by James P. Clark, seconded by Chandrika Shankar and passed unanimously to approve the open session minutes, as drafted.

Executive session minutes from the May 26, 2017 meeting.

A motion was made by James P. Clark, seconded by Paul O'Connell and passed unanimously to approve the executive session minutes, as drafted.

Open session minutes from the June 22, 2017, meeting.

After amendments, a motion was made by James P. Clark, seconded by Susan Stevens and passed unanimously to approve the open session minutes, as amended.

Identification of Future Agenda Items

An update from Thomas Raine regarding a draft letter notifying another agency of the PSRB's jurisdiction and Board billing procedures was placed on the July agenda.

Adjournment

The Board meeting adjourned at 3:08 p.m.