



Psychiatric Security Review Board

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www.azdhs.gov/psrb

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

March 29, 2019

**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

Assistant Attorney General:

Thomas Raine, Esq., for the Psychiatric Security Review Board

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Aaron Nelson, ASH	Cyndi Hostetler, AHCCCS
Adelene "Wendy" Sampson	Diane Wagner, ASH
Amado Salas	Eric Miller, PSA
Amie Wisehart	Erin Nelson, ASH
Audrey Reinholz	Heather Keeton, ASH
Beth Dolobowsky, ASH	Jandely Eich, ASH
Brian Beckette, La Frontera-EMPACT	Jason Kinsman, Esq.
Brianna Miller	Jayne Blais, ASH
Cheryl Jones, ASH	Jill Early, Plan of AZ
Chester B. McLaughlin, Esq.	Lisa Barrett
Cole Arigoni, Mercy Care	Manuel Gray, La Frontera-EMPACT

Megan Sluga
Nora Greer, Esq.
Raphael Wani
Raul Placencio
Stacey Heard, Esq.

Steven Kwoh, M.D., ASH
Tahum Garland
Tammy Wray, Esq.
Telly Rivenburgh, AZ Complete Health
Wayne Phifer

Call To Order:

James 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.”

Dr. Clark swore in individuals who anticipated testifying.

Statutory Hearings:

Wayne Charles Phifer – PSRB No. 09-09

Wayne Phifer was present in person and through counsel, Chester B. McLaughlin. The statutory hearing was held from 1:06 p.m. to 1:56 p.m. pursuant to A.R.S. § 31-502(B)(4). The PSRB considered recent changes to Mr. Phifer’s residence.

Chester McLaughlin submitted to the Board a letter dated March 18, 2019, written on behalf of Mr. Phifer.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 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 1:37 p.m.

In open session, a motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to recess into executive session at 1:38 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 1:41 p.m.

In open session, Mr. McLaughlin urged the Board to approve the move to the current residence.

After discussion, a motion was made by Michael Klemens, seconded by Chandrika Shankar, and failed 2 – 1, that there be no change in status for Wayne Phifer and that he be permitted to live at the current residence.

James Clark opposed the motion and cited his concern for the stability of the residence and lack of face-to-face home visits.

Mr. Phifer stated that he and his case manager would be willing to have face-to-face home visits.

After discussion, a motion was made by James Clark to add face-to-face home visits, three times per week for the first six months, during the transition to the residence.

Discussion was held about the whether the outpatient treatment team has the resources to complete the home visits.

An amended motion was made by James Clark, seconded by Michael Klemens, to approve the current residence with face-to-face home visits completed by the treatment team twice per week for the first six months.

After discussion, an amended motion was made by Michael Klemens, seconded by Chandrika Shankar, that Wayne Phifer remains stable and not dangerous. The motion passed 3 – 0.

After discussion, an amended motion was made by Michael Klemens, seconded by Chandrika Shankar, and passed 3 – 0 to, based on evidence presented that Wayne Phifer remains in stable remission and not dangerous, approve the current residence, and add two random face-to-face home visits per week for the first six months.

Kelly Louise Blake – PSRB No. 01-10

Kelly Blake was present with her attorney, Tammy Wray. The statutory hearing was held from 1:57 p.m. to 2:03 p.m. pursuant to A.R.S. § 13-3994(H). The PSRB considered ASH's recommendation for conditional release to ASH, phase two, level three.

Ms. Wray stated that despite challenges in the last year, Ms. Blake is motivated and active in her treatment. Dr. Clark said he was impressed by the treatment plan submitted by the

Planned Lifetime Assistance Network. James Holmes added that Ms. Blake is interested in getting support from the burn victims' support groups at the County Hospital.

A motion was made by Chandrika Shankar, seconded by Michael Klemens, and passed 3 – 0 to approve Kelly Blake for conditional release to Arizona State Hospital, phase two, level three and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Kelly Blake's mental disease or defect is in stable remission and she is not dangerous if she remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

Raphael Nyagong Wani – PSRB No. 08-06

Raphael Wani was present with his attorney, Tammy Wray. The statutory hearing was held from 2:04 p.m. to 2:18 p.m. pursuant to A.R.S. § 31-502(B)(4). The PSRB considered the outpatient treatment team's recommendation for permission to travel out-of-state and that the psychiatrist is allowed to approve future out-of-state travel without the necessity of Board approval.

Ms. Wray stated that Mr. Wani continues to do well, works full time, is active in the Sudanese refugee community, and continues to administer his medications independently. She noted that Amadu Konteh, Mr. Wani's treating physician, is very much in support of being able to approve future out-of-state travel without the Board's approval in advance.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to recess into executive session at 2:08 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 2:14 p.m.

In open session, Mr. Wani explained his role as an officer of a Sudanese refuge organization and anticipated that he would travel out-of-state in service of the organization about twice per year for a duration of four days each.

A motion was made by James Clark, seconded by Chandrika Shankar, and passed 3 – 0 to approve out-of-state travel for Raphael Wani from May 22 to 29, based on the evidence presented that he remains in stable remission and is not dangerous if he continues to comply with terms of the current conditional release order.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to deny the request that the attending psychiatrist approve future out-of-state travel without the necessity of Board approval.

Tahum LeKeith Garland – PSRB No. 02-04

Tahum Garland was present with his attorney, Tammy Wray. The statutory hearing was held from 2:19 p.m. to 2:36 p.m. pursuant to A.R.S. § 31-502(B)(4). The PSRB considered ASH’s recommendation for semi-independent medication administration.

Dr. Clark explained that the recommendation states “some” medication monitoring oversight by Mr. Garland’s mother. Ms. Wray argued that during the entire course of his jurisdiction under the PSRB, Mr. Garland has always been medication compliant. It was clarified that the treatment team monitors his meds once-daily, every day.

Mr. Garland stated he will begin barber school soon and plans to obtain his GED after that. Ms. Wray explained that the request comes as an opportunity for Mr. Garland to use his evening time more with more flexibility to allow for schooling.

A motion was made by Michael Klemens to approve a reduction in medication observation from one per day to three times per week by a member of the outpatient treatment team.

Ms. Shapiro pointed out that there was a victim waiting to testify.

Audrey Reinholz was sworn in and testified that she has been fighting for twenty years to get justice for her grandson who would have been twenty years old this year. Ms. Reinholz stated that Mr. Garland should not have the opportunity to receive an education or to enjoy freedom because her grandson never had the opportunity. Ms. Reinholz added that she will continue to come before the Board each time Mr. Garland has a hearing.

Dr. Clark asked for a vote, it was seconded by Chandrika Shankar, and it failed 2 – 1.

James Clark opposed the motion based on the nature and severity of the crime, the concern for public safety and protection, the impact of Ms. Reinholz’s testimony, the inadvisability of transferring medication supervision to the family, and concern that Mr. Garland did not want to continue with twelve-step meetings, even when substance use was involved in the commission of the index crime. Dr. Clark added that twelve-step meetings help a person maintain positive relationships and make amends, which he thinks is important, as well as relating to a sponsor, and being a sponsor oneself is a real maturing process. Dr. Clark added that face-to-face contact with the treatment team, given the nature of the crime and

severity of the illness, which included a relapse of mental health a little over a year ago, is very important.

Mr. Garland stated that when his medications stopped working he contacted his treatment team immediately.

Ms. Wray stated that she is uncomfortable with Dr. Clark laying the twelve-step meeting issue at the feet of Mr. Garland because Mr. Garland has complied with all requirements imposed by the Board, and that it was the inpatient and outpatient treatment teams which recommended that that requirement be removed because of the nature of his stability. Ms. Wray added that, while Mr. Garland's mother and sister could not appear today, they and other members of his family offer a great deal of support.

Ms. Wray asked that the issue be reset when all five Board members are present. Dr. Clark said the outpatient treatment team is welcome to request a hearing.

The Board took a break from 2:36 p.m. to 2:39 p.m.

Amado Salas – PSRB No. 02-06

Amado Salas was present with his attorney, Tammy Wray. The statutory hearing was held from 2:40 p.m. to 2:52 p.m. pursuant to A.R.S. § 31-502(B)(4). The PSRB considered the outpatient treatment team's recommendation for independent living with family.

Ms. Wray stated the recommendation to reduce residential supervision is supported by his treatment team and his family. Mr. Salas's mother has monitored Mr. Salas in the past and has custody of his children and he will be spending more time with them. She added that his sister works in behavioral health and has always been active in treatment planning.

Dr. Klemens asked if there were any legal ramifications if he were to live in the same home with his children, and Ms. Wray said she was not aware of any.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to recess into executive session at 2:42 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 2:48 p.m.

In open session, a motion was made by Chandrika Shankar, seconded by Michael Klemens, and passed 3 – 0 to approve Amado Salas for independent living with family, based on the evidence presented that Mr. Salas remains in stable remission and is not dangerous.

Michelle Marie Price – PSRB No. 14-11

Michelle Price was present with her attorney, Nora Greer. The statutory hearing was held from 2:53 p.m. to 3:08 p.m. pursuant to A.R.S. § 13-3994(H). The PSRB considered ASH's treatment team recommendation for conditional release, phase one, levels one and two.

Dr. Clark clarified that the Hospital's Special Classification Committee (SCC) and ASH's administration do not support the recommendation. Dr. Bhatti stated that there is no change in his recommendation or the Hospital's position on it. Dr. Clark asked Dr. Bhatti what his understanding is as to why the recommendation is not supported by ASH administration or why the SCC made no motion when presented with the recommendation. Dr. Bhatti reiterated that there was no motion. Dr. Clark asked Dr. Bhatti if the Board is able to infer anything from the fact that SCC did not approve his recommendation, or is the SCC aware of anything that the Board should be aware of that would affect the Board's decision. Dr. Bhatti said he has no further information.

Dr. Shankar asked if the SCC reviewed Dr. Levitt's report, and Ms. Cohen said they had not. Discussion was held about how the treatment team came to make the recommendation to the PSRB when it is ASH's policy that a recommendation not be made without the SCC's and ASH administration's approval of it.

Dr. Klemens asked if any other members of Ms. Price's treatment team were available. Heather Keeton identified herself and was sworn in. Dr. Klemens asked if she could speak to Ms. Price's readiness to be conditionally released and Ms. Keeton said she had no further information.

Discussion was held about whether ASH would notify the PSRB if the privileges would be overridden by ASH, if granted today. Ms. Cohen said ASH would notify the PSRB but she was not sure of what documentation would be provided. Mr. Raine pointed out that, for the last few years, it has been ASH's practice to notify the PSRB of a substantial or ongoing change.

Dr. Clark stated that the reports provide clear and convincing evidence that Ms. Price is in stable remission and not dangerous, and that the statute says the Board shall grant conditional release if one meets criteria.

Ms. Greer stated that the recommendation has been unchanged since last summer, and that the privileges would assist Mr. Price through recovery. Ms. Greer pointed out that Dr. Levitt's report evaluates Ms. Price as stable and not dangerous.

A motion was made by Chandrika Shankar and seconded by Michael Klemens, to approve Michelle Price for conditional release to Arizona State Hospital, phase one, level one, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Price's mental disease or defect is in stable remission and she is not dangerous if she remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

Discussion was held about the conditional release treatment plan.

Dr. Clark amended Dr. Shankar's motion to add a minimum of 10 passes must be completed and at least 120 days must elapse prior to advancement to the next privilege level. Michael Klemens seconded and, after discussion, there was no vote.

Dr. Clark called for a vote on the original motion and it passed 3 – 0.

Raul Armando Placencio – PSRB No. 12-02

Raul Placencio was present with his attorney, Jason Kinsman, who appeared on behalf of assigned attorney, Stefanie Jones-Campbell. The statutory hearing was held from 3:09 p.m. to 3:17 p.m. pursuant to A.R.S. § 31-502(B)(4). The PSRB considered Mr. Placencio's request to change his residence.

Dr. Clark clarified that Mr. Placencio moved at the end of February without the Board's approval and that there is an email from Ms. Jones-Campbell explaining the reason for the confusion about the move.

Mr. Kinsman stated that Mr. Placencio moved back into his mother's home because his apartment was beginning to deteriorate and the cost of rent was rising. It was his treatment team's belief that only a notice to the Board was required. When Mr. Placencio was notified that the Board's approval was required, he had already completed the final walk-through. Mr. Kinsman added that Mr. Placencio has lived on conditional release with his mother before, and now has more support.

Discussion was held about the Board's standard provisions surrounding address changes and Board staff stated they will work together to rearrange the provisions to minimize further confusion.

A motion was made by Chandrika Shankar, seconded by Michael Klemens, and passed 3 – 0 to approve the change of address to independent living with family for Raul Placencio, and that Mr. Placencio remains in stable remission and not dangerous if he continues to comply with the current treatment plan.

Discussion and Possible Action Related to:

Verbal update from Dr. Clark regarding his meeting at the Governor's Office:

Dr. Clark stated that he, along with Ms. Shapiro and Ms. Stevens, met with Emily Rajakovich, the Director of Boards and Commissions, Christina Corieri, Senior Policy Advisor to the Governor, and Shannon Whiteaker, Legislative Liaison for ADHS. The Sunset Review Report was discussed and the Board was advised to hold off on meeting with key Legislators for the time being. Dr. Clark stated that he was informed that Ms. Shapiro could not meet with Legislators because she is not a lobbyist and that Ms. Whiteaker would have to accompany him to any meetings with Legislators. He added that Ms. Corieri stated that it would be important for ADHS to assign a rule writer to assist the PSRB. Subsequently, Ms. Whiteaker informed Ms. Shapiro that a meeting with ADHS rule writers may not be necessary because rules are not needed. Dr. Clark concluded that the Board needs to keep Ms. Rajakovich informed every step of the way and that he felt encouraged at the end of the meeting.

Review and Approval of the 2018 Annual Report:

Extensive discussion was held about the contents of the draft report, and ultimately, the Board directed staff to include co-morbid substance abuse data.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to approve the draft report with the amendments.

Review of Draft PSRB Policies:

Mental Health Reports

Risk Assessments

Definitions

After discussion, the Board decided to revisit this item at future meeting.

Revisions of Order to Conditional Release to the Community:

Clifford Andrew Katz

Gary Willard Schlee

After discussion, a motion was made by James Clark, seconded by Chandrika Shankar, and passed 3 – 0 to adopt the proposed language in the conditional release to the community orders for Mr. Schlee and Mr. Katz.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the February 22, 2019, meeting:

Executive session minutes from the February 22, 2019, meeting:

After discussion, a motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to approve the open and executive session minutes from the February 22, 2015, meeting, as amended.

Adjournment:

The Board meeting was adjourned 4:00 p.m.