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General Operations and Procedures

Sec. 17a-581-1. Procedure governed

These rules and regulations will govern practice and procedures before the Psychiatric Security Review Board as authorized by Sections 17a-580 through 17a-602 of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-2. Definitions

(a) As used in Section 17a-581-1 through Section 17a-581-57 inclusive, the following definitions shall apply unless otherwise required by a specific statute.

(1) "PSRB" or "Board" means the Psychiatric Security Review Board of the State of Connecticut established by Sections 17a-581 of the General Statutes.

(2) "Acquittee" means any person who is found not guilty by reason of mental disease or defect pursuant to Section 53a-13 of the General Statutes and placed under the jurisdiction of the PSRB by the Court, or any person who was found not guilty by mental disease or defect, or guilty but not criminally responsible, pursuant to Section 53a-13 of the General Statutes and who, on July 1, 1985, was subject to Court supervision pursuant to Section 53a-47 of the General Statutes.

(3) "Court" means the Superior Court.

(4) "Hospital" or "hospital for mental illness" means any public or private hospital, retreat, institution, house, or place in which a mentally ill or drug dependent person is received or detained as an acquittee, but does not include any correctional institution of the state.

(5) "Mental illness" means any mental illness or mental disease as defined by the current Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association and as may hereafter be amended. This definition includes any mental illness in a state of remission which may become active with reasonable medical probability.

(6) "Danger to self or to others" means the risk of imminent physical injury to others or self, and also includes the risk of loss or destruction of the property of others.

(7) "Temporary leaves" means any period of time authorized by the Board pursuant to Section 17a-587 of the General Statutes, during which an acquittee is off the grounds of the hospital for therapeutic purposes and is not accompanied by hospital staff or an acquittee is temporarily out of the custody of the Commissioner of Mental Retardation for therapeutic purposes.

(8) "Conditional release" means release from a hospital or custody of the Commissioner of Mental Retardation with supervision and treatment provided on an outpatient basis as designated and ordered by the PSRB. A conditionally released acquittee remains under the jurisdiction of the PSRB.

(9) "Person who should be conditionally released" means an acquittee who is mentally ill or mentally retarded to the extent that his final discharge would constitute a danger to himself or others but who can be adequately controlled with available supervision and treatment on conditional release.

(10) "Person who should be confined" means an acquittee who is mentally ill or mentally retarded to the extent that his discharge or release from the hospital on conditional release would constitute a danger to himself or others, and who cannot be controlled adequately with available supervision and treatment on conditional release.

(11) “Person who should be discharged” means an acquittee who is not mentally ill or mentally retarded to the extent that his discharge would constitute a danger to himself or others.

(12) “Psychiatrist” means a physician specializing in psychiatry and licensed under the provisions of Sections 20-9 to 20-12, inclusive, of the General Statutes.

(13) “Psychologist” means a clinical psychologist licensed under the provisions of Sections 20-186 to 20-195, inclusive, of the General Statutes.

(14) “State’s Attorney” means the State’s Attorney for the judicial district wherein the acquittee was found not guilty by reason of mental disease or defect pursuant to Section 53a-13 of the General Statutes.

(15) “Superintendent” means any person, body of persons or corporation, or the designee of any such person, body of persons or corporation, which has the immediate supervision, management and control of a hospital for mental illness and the acquttees therein.

(16) “Quorum” means a majority of Board members.

(17) “Statutory hearing” or “hearing” means a procedure of the Board which is conducted as a contested case pursuant to Chapter 54 of the General Statutes in which an application for temporary leave, conditional release, confinement, modification or revocation of conditional release, discharge, continued confinement or a review of status pursuant to Sections 17a-580 through 17a-602, inclusive, of the General Statutes is heard by the Board.

(18) “Administrative meeting” means any meeting of the Board where a quorum is present for the purpose of considering Board administrative and policy matters.

(19) “Conference” means a process other than a hearing of the Board where a quorum is present and an application for a temporary leave, an application for or motion for consideration of discharge, or a petition for order of continued commitment is considered by the Board. Conference decisions will be based upon the Board’s consideration of the administrative records from prior proceedings concerning the particular acquittee, as well as the information contained in the application, motion or petition before the Board.

(20) “Conditional Release Supervisor” means the person or agency designated by the PSRB to supervise and report to the PSRB on the progress of the acquittee and conformance by the acquittee to the conditional release plan.

(21) “Conditional Release Provider” means the person or agency designated by the PSRB to treat the acquittee while on conditional release. This person or agency shall report to the PSRB.

(22) “Mental Retardation” means mental retardation as defined in Section 1-1g of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-3. Waiver of rules

Where good cause appears, the Chair or presiding Board member may permit deviation from these rules, except where precluded by statute.

(Effective May 21, 1992)

Sec. 17a-581-4. Construction

These rules shall be construed liberally by the Chair or presiding Board member to secure a just, speedy determination of the issues presented.

(Effective May 21, 1992)

Sec. 17a-581-5. Date of filing

All correspondence, applications for hearings, orders or decisions, and notifications of hearings will be considered filed or received by the Board on the date marked received by that office, or on the date issued by that office or postmarked by that office if sent by certified mail.

(Effective May 21, 1992)

Sec. 17a-581-6. Official address

The official address of the PSRB shall be 90 Washington Street, Hartford, CT 06106.

(Effective May 21, 1992)

Sec. 17a-581-7. Chair

The Chair shall be appointed by the Governor.

(Effective May 21, 1992)

Sec. 17a-581-8. Chair. Power and duties

The Chair shall have the power and duties established by law and such other powers and duties necessary for the performance of the office. These shall include, but not be limited to the following:

- (1) Preside at hearings or meetings.
- (2) Designate another Board member to preside when appropriate.
- (3) Make rulings on procedural matters.
- (4) Call special meetings of the Board.
- (5) Order the revocation of an acquittee's conditional release pending a hearing.

(Effective May 21, 1992)

Sec. 17a-581-9. Executive director. Powers and duties

The Executive Director, the official designate of the Board, shall officially represent the Board and shall perform other duties including but not limited to:

- (1) Supervising work operations of the Board's staff.
- (2) Preparing the budget for approval by the Board.
- (3) Implementing Board policies and decisions.
- (4) Informing the Board of the status of persons under its jurisdiction.
- (5) Presenting to the Board all matters requiring Board action.
- (6) Performing other duties as authorized or requested by the Board.
- (7) Issuing subpoenas and subpoenas duces tecum on behalf of the Board.
- (8) Signing Board Memoranda of Decision on behalf of the Board.

(Effective May 21, 1992)

Sec. 17a-581-10. Scheduling

The Board shall meet at least twice every month unless the Chair determines that there is not sufficient business before the Board to warrant a meeting at the scheduled time.

(Effective May 21, 1992)

Sec. 17a-581-11. Special meeting

The Board may hold special meetings at times and places specified by the call of the Chair or of a majority of the members of the Board.

(Effective May 21, 1992)

Sec. 17a-581-12. Agenda

The agenda for administrative meetings shall be developed by the Chair and the Executive Director prior to the meeting. Public notice shall be given in accordance with Chapter 3 of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-13.

Repealed, January 22, 1988.

Sec. 17a-581-14. Time of hearings

The types of hearings and time frame for such hearings are as follows:

(1) Initial commitment hearing pursuant to Section 17a-583 of the General Statutes. An initial commitment hearing will be held within 90 days of the order committing the acquittee to the Board's jurisdiction by the Court or, absent good cause shown, at the next regularly scheduled meeting if the Court recommends conditional release.

(2) Two-year hearing pursuant to Section 17a-585 of the General Statutes. A hearing in which the status of the acquittee is reviewed will be held not less than once every two years.

(3) Temporary leave hearing pursuant to Section 17a-587 of the General Statutes. A hearing may be held by the Board concerning a superintendent's or Commissioner of Mental Retardation's application for an order authorizing temporary leave and shall be held if requested by the State's Attorney within 10 days of his receipt of the application as sent by the PSRB.

(4) Conditional release or request for recommendation of discharge hearing pursuant to Section 17a-588 (a) and Section 17a-592 (a) of the General Statutes. An application for conditional release or recommendation of discharge pursuant to Sections 17a-588 (a) and 17a-592 (a) may be made by a party designated in those sections at any time. A hearing shall be held within 60 days but not less than 30 days from the receipt by the Board of such an application or recommendation.

(5) Conditional release hearing pursuant to Section 17a-588 (b) of the General Statutes. An acquittee, or another person acting on behalf of the acquittee, may apply for an order of conditional release once in every six month period beginning with the date of the initial commitment hearing before the Board. A hearing on a first application of this type need not be held any sooner than 90 days after the initial commitment hearing. Hearings on subsequent requests will be held within 60 days of the filing of the application.

(6) Modification of conditional release order hearing pursuant to Section 17a-591 of the General Statutes. A hearing on an application of a conditionally released acquittee or a person or agency responsible for the supervision or treatment of a conditionally released acquittee for modification of the conditional release order shall be held within 60 days of the Board's receipt of the application. Unless the conditional release order has been summarily modified pursuant to subsection (a) of Section 17a-594 of the General Statutes, an application by an acquittee for modification of a conditional release order shall not be filed more often than once every six months from the date of the filing of the next preceding application for modification.

(7) Modification or revocation of conditional release hearing pursuant to Section 17a-594 of the General Statutes. When the Board or its Chair, acting pursuant to Section 17a-594 of the General Statutes, has modified or terminated a conditional release and ordered the return of the acquittee to the hospital or to the Commissioner

of Mental Retardation, a hearing to determine the mental condition of the acquittee will be held within 30 days after the PSRB receives notice of the return of the acquittee to the hospital or to the Commissioner of Mental Retardation.

(8) Application for discharge hearing pursuant to Section 17a-593 of the General Statutes. Upon receipt of notice from the Court of an acquittee's application for discharge, the Board shall file a report on the application within 90 days to the Court. The Board may hold a hearing prior to filing its report.

(9) Continued confinement hearing pursuant to Section 17a-593 of the General Statutes. Upon receipt of notice from the Court of a petition of the State's Attorney for continued confinement, the Board shall file a report on the petition within 90 days to the Court on the petition. The Board may hold a hearing prior to filing its report.

(10) Consideration of recommendation of discharge hearing pursuant to Section 17a-592 (b) of the General Statutes. Upon deciding to consider whether to recommend the discharge of an acquittee pursuant to Section 17a-592 (b) of the General Statutes, the Board may order a hearing held and shall order a hearing held if the State's Attorney files a request for hearing with the Board within 10 days of his receipt of notification of the Board's decision to consider whether to make such a recommendation. Any such hearing shall be held within 60 days of the Board's decision to consider whether to recommend the discharge of an acquittee.

(Effective May 21, 1992)

Sec. 17a-581-15. Notice

Written notice of a hearing shall be given to the following persons or agencies within a reasonable time or as required pursuant to Section 17a-586 through 17a-602, inclusive, of the General Statutes.

- (1) The acquittee.
- (2) Attorney representing the acquittee.
- (3) State's Attorney.
- (4) The victim, if the Court or the Board finds that the victim requests notification.
- (5) Conditional release supervisor and provider if the acquittee is conditionally released.
- (6) Any other person requesting notification.
- (7) Hospital superintendent if the acquittee is confined in a hospital.
- (8) Commissioner of Mental Retardation if the acquittee is in custody of said commissioner.

(Effective May 21, 1992)

Sec. 17a-581-16. Information contained in notice

Written notice shall contain the following:

- (1) Statement of time, place and location of the hearing.
- (2) Statement of the issues to be considered.
- (3) Reference to the particular sections of the statutes and regulations involved.
- (4) Statement of legal authority and jurisdiction under which the hearing is to be held.
- (5) Statement of rights of the acquittee at the hearing, including the following:
 - (A) Right to appear at all proceedings, except Board deliberations.
 - (B) Right to cross-examine all witnesses appearing to testify at the hearing.
 - (C) Right to subpoena witnesses and documents as provided in Section 17a-595 of the General Statutes.

(D) Right to legal counsel and, if indigent, to have counsel provided without cost, pursuant to the provisions of Chapter 887 of the Connecticut General Statutes.

(E) Right to examine all documents and reports under consideration by the Board.
(Effective May 21, 1992)

Sec. 17a-581-17. Examination of the acquittee

Pursuant to Section 17a-596 of the General Statutes, prior to any hearing before the Board concerning discharge, conditional release or confinement of the acquittee, the PSRB, the acquittee or acquittee's counsel, and the State's Attorney may at their own expense each choose a psychiatrist or psychologist to examine the acquittee.

The examination report shall be filed with the PSRB, and shall include an opinion as to (1) the mental condition of the acquittee, (2) whether the acquittee presents a danger to self or others and the degree of any danger, (3) what type(s) of treatment and supervision the acquittee requires to be controlled.

(b) To facilitate examination the PSRB may order the acquittee temporarily confined in any hospital or other suitable facility for the purposes of examination.

(c) The State's Attorney and/or the acquittee or their counsel shall file written notice of intent to conduct an examination and file the examination report with the Board.

(d) If the acquittee is indigent, the acquittee or the acquittee's attorney may file a written request for the Board to appoint a psychiatrist or psychologist to examine the acquittee. The Board or designee shall approve or deny the request.

(Effective May 21, 1992)

Sec. 17a-581-18. Request for hearing

Any party authorized by Sections 17a-580 through 17a-602, inclusive of the General Statutes may apply for a hearing before the PSRB in accordance with Sections 17a-580 through 17a-602, inclusive of the General Statutes, by submitting an application for hearing to the PSRB office. If the application is from any party other than the acquittee, a report setting forth the facts supporting the request shall accompany such an application.

(Effective May 21, 1992)

Sec. 17a-581-19. Application for temporary leave

An application for a temporary leave shall be submitted in writing to the PSRB by the superintendent or the Commissioner of Mental Retardation when such leave would be therapeutic for the acquittee and would not pose a danger to the acquittee or others. The application shall state the purpose, the proposed conditions of the pass and be signed by the superintendent and the treating psychiatrist or the Commissioner of Mental Retardation.

(Effective May 21, 1992)

Sec. 17a-581-20. Notification to state's attorney of hospital's application or commissioner of mental retardation's application for temporary leave

Upon receipt of an application for a temporary leave pursuant to Sec. 19 of these regulations, the PSRB will notify and send to the State's Attorney a copy of the application. The State's Attorney must file a request for hearing within ten days of receipt of that notification of the application for temporary leave if he objects to the granting of temporary leave.

(Effective May 21, 1992)

Sec. 17a-581-21. Application for conditional release

An application for conditional release as provided for in Section 17a-588 of the General Statutes, shall include an application for an order for conditional release. An application by the superintendent or Commissioner of Mental Retardation or a report on an acquittee's application by the superintendent or Commissioner shall set forth the facts and a verified proposed conditional release plan if the opinion is that the acquittee is a person who should be conditionally released.

(Effective May 21, 1992)

Sec. 17a-581-22. Elements of conditional release plan

(a) A conditional release plan shall include, but not be limited to, proposals which address the following concerns:

(1) Housing: Housing must be available for the acquittee. PSRB may require 24 hour supervised housing, supervised group home, foster care, housing with relative, or independent housing.

(2) Mental Health or Mental Retardation Treatment: Mental health or mental retardation treatment, if needed, must be available in the community. The proposed provider of treatment must have had an opportunity to evaluate the acquittee and the proposed conditional release plan and to be heard before the PSRB. The provider must have agreed to provide the necessary treatment to the acquittee. The provider shall report to the PSRB on treatment progress and any changes in the acquittee's mental condition.

(3) Conditional Release Supervision: A person or agency must be available to supervise an acquittee in the community. The proposed supervisor must have had the opportunity to evaluate the acquittee, the proposed conditional release plan and to be heard before the Board. The supervisor must monitor the acquittee's compliance with the conditions of his/her release. The supervisor shall report to the PSRB on the acquittee's progress and shall report any violations to the PSRB. A proposed supervisor may be the Office of Adult Probation, a clergyman, a social service professional, staff from the Department of Mental Health, or Department of Mental Retardation or any other qualified or appropriate person or agency.

(4) Special Conditions: Special conditions may be imposed, including, but not limited to, the following: no consumption of alcohol, taking of antabuse, observation by designated individual of each ingestion of medication, submitting to drug screen tests, no driving, vocational activities, day treatment, attending school or working.

(b) In its review of a conditional release plan, the PSRB shall determine whether the concerns listed above are addressed in a manner adequate and necessary to insure public safety.

(Effective May 21, 1992)

Sec. 17a-581-23. Presiding officer

During hearings of the Board, the Chair or acting Chair shall preside. The Chair shall designate the order of presentation and questioning. The Chair shall also determine the scope of questioning and may set time limits to avoid unnecessary cumulative evidence.

(Effective May 21, 1992)

Sec. 17a-581-24. Hearings

Hearings shall be conducted as contested cases in accordance with Chapter 54 of the Connecticut General Statutes. The rules of evidence shall be as prescribed

in Section 4-178 of the Connecticut General Statutes, Section 17a-596 of the General Statutes and these regulations.

(Effective May 21, 1992)

Sec. 17a-581-25. Appearance for acquittee

An attorney who is not the attorney of record from the original Court commitment hearing shall file an appearance for the acquittee with the PSRB prior to representation of the acquittee before the PSRB.

(Effective May 21, 1992)

Sec. 17a-581-26. Legal interns

An eligible legal intern may appear before the PSRB if all applicable provisions of Sections 67 through Section 75 of the Connecticut Practice Book have been satisfied.

(Effective May 21, 1992)

Sec. 17a-581-27. Acquittee's right to representation

(a) In connection with any PSRB proceeding, an acquittee who is indigent has the right to public defender services pursuant to the provisions of Chapter 887 of the Connecticut General Statutes, without cost.

(Effective May 21, 1992)

Sec. 17a-581-28. Acquittee appearing pro se

When an acquittee waives the right to be represented at a PSRB hearing by an attorney, the Board shall take such written or oral testimony as it deems necessary and decide whether the acquittee is capable of understanding the proceedings and is capable of understanding the nature of his/her refusal to be represented by an attorney. If the PSRB determines the acquittee is not capable of appearing pro se, the Board will notify the counsel of record.

(Effective May 21, 1992)

Sec. 17a-581-29. Acquittee's right to review record; exceptions

Acquittees shall receive written notice of the hearing and directly, or through their attorney, a statement of their rights in accordance with Section 17a-580 through 17a-602, inclusive, of the General Statutes. All material which the Board intends to consider in connection with the hearing, subject to the provisions of subsection (1) below, shall be disclosed to the acquittee's attorney or the acquittee, if proceeding pro se, as soon as they are available. Materials not available prior to the hearing shall be made available to the acquittee's attorney or the acquittee, if not represented, at the hearing.

(1) All material which is in the possession of the Board and is relevant and pertinent to the acquittee and issues before the Board shall be made a part of the record unless an objection to any such material is raised by a party before the Board and sustained by the Chair or acting Chair.

(2) Any material excluded from the record by reason of an objection which is sustained pursuant to subsection (1) may be marked for purposes of identification and shall be separated from the record material.

(Effective May 21, 1992)

Sec. 17a-581-30. Evidence considered, admissibility

The PSRB shall consider and make part of the administrative record all evidence available to it which is material, relevant and reliable. Such evidence may include, but is not limited to:

- (1) The record of trial.
 - (2) Information contained in the acquittee's Court file.
 - (3) Information supplied by the State's Attorney or any interested party, including the acquittee.
 - (4) Information concerning the acquittee's mental condition.
 - (5) The entire psychiatric and criminal history of the person, including pertinent motor vehicle records.
 - (6) Psychiatric or psychological reports concerning the acquittee ordered by the Board or ordered by the Court.
 - (7) Psychiatric or psychological reports concerning the acquittee written by the psychiatrist or psychologist chosen by the State's Attorney or the acquittee.
 - (8) Testimony of witnesses.
- (Effective May 21, 1992)

Sec. 17a-581-31. Objections to evidence

Objections to evidence may be raised by any party to a Board hearing. The Chair or acting Chair shall rule on questions of evidence.

(Effective May 21, 1992)

Sec. 17a-581-32. Motion practice

Any party bringing a motion before the Board shall submit five copies of the motion and memorandum of law to the Board and one copy to each party of record one week prior to the hearing date on which the motion will be heard.

(Effective May 21, 1992)

Sec. 17a-581-33. Executive session

The Board may go into Executive Session, closing the meeting or hearing to the public upon an affirmative vote of two-thirds of the Board members present and voting for a specified purpose allowed under Chapter 3 of the Connecticut General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-34. Minutes and transcriptions

(a) Minutes shall be kept which reflect Board action taken at an administrative meeting and any decision made at a conference or hearing of the Board.

(b) All Board hearings, except Board deliberations, shall be recorded by manual or electronic means which can be transcribed. Such recordings shall be the only record of the hearings made by the Board.

(c) A transcript of the recorded proceedings shall be made available at cost to a party to the proceedings upon request.

(Effective May 21, 1992)

Sec. 17a-581-35. Witnesses and documents; subpoena

(a) Documents or physical evidence may be subpoenaed as provided in Section 17a-595 of the General Statutes, at the request of any party to the hearing upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, or upon the Board's own motion.

(b) Witnesses shall be subpoenaed by the Board or its designated representative at the request of any party or upon the Board's own motion.

(c) Witnesses with a subpoena other than the parties or state officers or state employees shall receive fees and mileage, as prescribed by law, for witnesses in

civil actions. If the Board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to such witness shall be reimbursed by the Board.

(d) If any person, agency or facility fails to comply with a subpoena issued by the Board or fails to testify regarding any matter on which he may be lawfully interrogated, the Board or its designated representative shall apply to a judge of the Superior Court in order to compel obedience by proceedings for contempt as provided in Section 17a-595 (d) of the General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-36. Testimony given on oath

The PSRB shall take testimony of a witness upon oath or affirmation of the witness administered by an authorized person.

(Effective May 21, 1992)

Sec. 17a-581-37. Standards and burdens of proof

(a) The standard of proof on all issues at hearings of the PSRB shall be the preponderance of the evidence.

(b) On any hearing held pursuant to a request, petition or application, the burden of proof shall be upon the party who has submitted the request, petition or application.

(c) In any hearing held upon the Board's own motion, any party seeking a change in an existing order or the current status of an acquittee shall have the burden of proof.

(Effective May 21, 1992)

Sec. 17a-581-38. Burden of going forward

The party which has the burden of proof shall also have the burden of going forward with the evidence.

(Effective May 21, 1992)

Sec. 17a-581-39. Continuance of hearing

Upon the request of any party, or on its own motion, the Board may, to obtain additional information or testimony or for other good cause shown, continue a hearing for a reasonable period of time not to exceed 60 days.

(Effective May 21, 1992)

Sec. 17a-581-40. Use of restraints

(a) The Board prefers to have acquittees appear at hearings without physical restraints. If, in the judgment of the acquittee's physician, the acquittee might need restraining, the Board prefers to have staff attending the hearing with the acquittee rather than use of physical restraints. However, the final decision on use of restraints lies with the physician.

(b) Any attorney objecting to the acquittee appearing with restraints at the hearing may raise the issue and ask for testimony from the physician.

(Effective May 21, 1992)

Sec. 17a-581-41. Principal issues before the board

At any hearing before the Board, issues considered shall be limited to those relevant to the purposes of the hearing and included in the notice of hearing. A request to raise new issues shall be made to the Board in writing ten days prior to the hearing. If the Board at its discretion grants a request to raise new issues, it

may continue the hearing to consider the issues and obtain additional evidence and testimony.

(Effective May 21, 1992)

Sec. 17a-581-42. Victim statement

The victim, as defined by Section 17a-601 of the General Statutes, shall have the right to be present at any hearing, and to make a statement at the hearing, expressing his/her opinion(s) on the matter before the Board. The victim may submit such a statement in writing prior to the hearing to be entered into the record if the victim is not present at the hearing.

(Effective May 21, 1992)

Sec. 17a-581-43. Application to reopen a hearing or reconsider a decision

A party may apply to the PSRB for the reopening of a previously closed proceeding or reconsideration of a decision for good cause shown within 10 days of the issuance of a memorandum of decision. Upon such application the Board at its discretion may reopen any matter previously closed and vacate any order made thereon.

(Effective May 21, 1992)

Sec. 17a-581-44. Confinement in maximum security

The Board may order a person confined in a maximum security setting if the Board finds that the acquittee poses a danger to self or others such that a maximum security setting is required.

(Effective May 21, 1992)

Sec. 17a-581-45. Decision

(a) A quorum of the Board shall be present and voting for the purpose of rendering a decision.

(b) A majority of concurring votes (affirmative or negative) is required to make a Board decision.

(c) Any Board member not present for the hearing may participate and vote on the decision after stating that he has read the entire hearing transcript and all hearing exhibits.

(Effective May 21, 1992)

Sec. 17a-581-46. Memorandum of decision

(a) All decisions of the PSRB shall be written and signed by the Chair or the Executive Director on behalf of the PSRB.

(b) Each memorandum of decision shall state the Board's findings of fact, conclusions of law and order.

(c) All memoranda of decision shall be mailed, certified mail, return receipt requested to all parties in the case.

(Effective May 21, 1992)

Sec. 17a-581-47. Appeals of decisions

Any Board order of confinement or conditional release issued pursuant to Section 17a-584 (2) or (3) of the General Statutes, and any Board order concerning an application for temporary leave issued pursuant to Section 17a-587 of the General Statutes, may be appealed to the Superior Court pursuant to Section 4-183 of the Connecticut General Statutes. The Board shall give notice of the right to judicial review to the acquittee, counsel for the acquittee and the State's Attorney.

(Effective May 21, 1992)

Sec. 17a-581-48. Conditional release acceptance by acquittee

The acquittee must sign an agreement to a conditional release order before such an order is in effect.

(Effective May 21, 1992)

Sec. 17a-581-49. Out-of-state conditional release order

The Board may consider and approve a conditional release plan which permits the acquittee to reside out of state.

(Effective May 21, 1992)

Sec. 17a-581-50. Enforcement of board orders

The Board may apply to the Court for an appropriate order of enforcement when its directive to an agency or person is not followed.

(Effective May 21, 1992)

Sec. 17a-581-51. Affidavit recommending order of termination of conditional release

Upon the recommendation of the staff of the PSRB and receipt of an affidavit specifying noncompliance with an order of the Board or a change in the acquittee's mental status, the Chair or the Board may order the person returned to a hospital or custody of Commissioner of Mental Retardation for evaluation and treatment through an order of termination of conditional release.

(Effective May 21, 1992)

Sec. 17a-581-52. Reasonable grounds for termination of conditional release

Reasonable grounds for termination of a conditional release include, but are not limited to:

- (1) The acquittee has violated terms of the conditional release plan.
- (2) The acquittee's mental condition has changed.
- (3) The acquittee has absconded from the Board's jurisdiction.
- (4) The community resources required by the conditional release order are no longer available.

(Effective May 21, 1992)

Sec. 17a-581-53. Procedure for execution of revocation order

After an order of termination has been signed by the Chair or the Board, the written order is sufficient warrant for any peace officer to take the acquittee into custody and transport the acquittee as directed by the order. Written orders of termination shall be executed by a sheriff, a municipal police officer, a constable who performs criminal law enforcement duties, an adult probation officer appointed under Connecticut General Statutes, Section 54-104, or any other peace officer as defined in Section 53a-3 (9) of the Connecticut General Statutes.

(Effective May 21, 1992)

Sec. 17a-581-54. Preparation of conditional release plans

When hospital staff or Commissioner of Mental Retardation feels that an acquittee is ready for conditional release, it is the responsibility of the hospital or Commissioner to develop the plan and confirm all elements of the plan.

(Effective May 21, 1992)

Sec. 17a-581-55. Reports

(a) The superintendent of any hospital for mental illness in which an acquittee has been confined or Commissioner of Mental Retardation with whom an acquittee

has been placed pursuant to order of the Board, or the person or agency responsible for the supervision or treatment of a conditionally released acquittee, shall submit to the Board at least every six months a written report with respect to the mental condition of the acquittee. Such reports shall include but are not limited to: the acquittee's current mental condition, diagnosis, medication, current treatment, status regarding danger posed to self or others, long-term treatment plans and any recommendations for any modification of the existing Board order.

(b) PSRB shall furnish copies of the report pursuant to subsection (a) to the counsel for the acquittee and the State's Attorney.

(c) The superintendent of any hospital for mental illness in which an acquittee has been confined or Commissioner of Mental Retardation with whom an acquittee has been placed pursuant to order of the Board, or the person or agency responsible for the supervision or treatment of a conditionally released acquittee, shall submit any reports on an acquittee as deemed necessary by the Board.

(Effective May 21, 1992)

Sec. 17a-581-56. Transfers by department of mental health or department of mental retardation

(a) In the absence of an order of the Court or the Board, no acquittee shall be involuntarily transferred from a nonmaximum security setting to a maximum security setting unless the continued presence of the acquittee in a nonmaximum security setting poses an immediate threat to the safety or well-being of any person.

(b) The PSRB will hold a hearing on a transfer of an acquittee for whom a maximum security confinement order has not been issued by the Court or the Board which results in the confinement of the acquittee in a maximum security setting in the following cases:

(1) A hearing will be held at the next regularly scheduled PSRB meeting date following a transfer if the acquittee does not voluntarily agree to the transfer and sign a waiver to a hearing.

(2) A hearing will be held if the acquittee who voluntarily agreed to the transfer and waived the initial hearing remains in maximum security confinement for more than six months.

(3) A hearing will be held if within the first six months of maximum security confinement an acquittee who voluntarily agreed to the transfer requests a transfer to a less restrictive setting and the Department of Mental Health staff or Commissioner of Mental Retardation does not recommend such a transfer.

(c) The Department of Mental Health or Commissioner of Mental Retardation will inform the PSRB in writing of all transfers of acquittees within seven days.

(1) If an acquittee is voluntarily transferred to Whiting Forensic Institute, a copy of the voluntary consent and hearing waiver statement must be forwarded to the PSRB within seven days.

(2) Notice to the PSRB of an involuntary transfer to Whiting Forensic Institute must be made by the next working day.

(3) Transfers between hospitals of the same restrictive setting type may occur without any PSRB action. PSRB must be notified of the transfer within seven days.

(d) Where an acquittee has an order from the Court or the PSRB specifying confinement in a maximum security setting that acquittee cannot be transferred without approval of the PSRB or the Court.

(Effective May 21, 1992)

Sec. 17a-581-57. Notification of AWOL

The superintendent or Commissioner of Mental Retardation shall immediately notify the PSRB of an acquittee going AWOL, i.e. being out of the custody of the hospital or being out of the custody of the Commissioner of Mental Retardation without permission.

(Effective May 21, 1992)

Sec. 17a-581-58. Petitions for declaratory rulings**(a) Scope.**

(1) These regulations set forth the Psychiatric Security Review Board's rules governing the form and content of petitions for declaratory rulings, and Board proceedings on such petitions. Petitions for declaratory rulings may be filed on: (A) The validity of any regulation of the Board, and (B) The applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision, as defined in Connecticut General Statutes, Section 4-166 (3), on a matter within the jurisdiction of the Board. Any petition for a declaratory ruling not falling in one of these two categories shall be rejected in writing by the Board as not being the proper subject for a petition for a declaratory ruling.

(b) Form and Content of Petitions.

(1) General. All petitions for declaratory rulings shall be addressed to the Executive Director of the Board, and either mailed or hand delivered to the Board's office. All petitions shall be signed by the person filing the petition, unless represented by an attorney, in which case the attorney may sign the petition. The petition shall include the address of the person filing the petition, and the address of the attorney, if applicable.

(2) Petitions on Validity of Regulation. A petition for a declaratory ruling on the validity of a regulation must contain the following:

(A) The section number and text of the regulation;

(B) The specific basis for the claim of invalidity of the regulation; and

(C) An argument by the petitioner in support of the claim of invalidity, with a suggested remedy.

Any petition filed which merely requests a ruling of the validity of a regulation, without a detailed claim of invalidity, shall be rejected by the Board as incomplete.

(3) Petitions on Applicability of Statute, Regulation, or Final Decision to Specific Circumstances. A petition seeking a declaratory ruling on the applicability of a statute, regulation or final decision on a matter within the jurisdiction of the Board to specified circumstances shall contain the following:

(A) The specific statute, regulation, or final decision upon which the ruling is sought;

(B) A brief explanation of why the petitioner believes that the particular statute, regulation, or final decision is within the jurisdiction of the Board;

(C) A detailed description of the specified circumstances upon which the petition is based; and

(D) An argument by the petitioner as to why the petitioner believes that the particular statute, regulation, or final order either is or is not applicable to the specified circumstance.

Any petition failing to identify the statute, regulation, or final decision in question, or failing to adequately describe the specified circumstances will be rejected in writing by the Board as incomplete.

(c) **Notice.**

The agency shall within thirty days after the receipt of such petition provide written notice of the filing of the petition (1) to all persons required by any law to receive notice, (2) to all persons who have requested notice of the filing of such petitions on the subject matter of the petition, and (3) to all persons who have requested notice of the filing of any such petitions with the agency. The notice required by this subsection shall not be required where the agency has rejected the filing of a petition as inappropriate or incomplete in accordance with subsections (a) or (b) of this section.

(d) **Rights of Persons to Proceeding.**

(1) Petitioner as Party. The petitioner is automatically a party to any proceeding on the petition by virtue of having filed said petition, and need not seek designation as a party from the Board.

(2) Additional Parties. Any person, whether or not they have received notice of the petition, may file a petition to become a party within forty-five days from the date of filing of the petition. If the petition to become a party sets forth facts demonstrating that the petitioner's legal rights, duties or privileges will be specifically affected by the declaratory ruling to be issued, the Board shall grant the petition and designate the petitioner as a party.

(3) Intervenors. Any person, whether or not he or she has received notice of the petition, may file a petition to become an intervenor within forty-five days from the date of filing of the petition. If the petition sets forth facts demonstrating that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceedings, the Board shall grant the petition and designate the petitioner as an intervenor. In addition, any person who files a petition for party status who fails to make the requisite demonstration for party status, may be granted intervenor status. If the Board conducts a hearing, it has the discretion to limit the participation of intervenors in such hearing, including the rights to inspect and copy records, to introduce evidence and to cross-examine, so as to promote the orderly conduct of the proceedings.

(e) **Agency Proceedings on Petitions.**

(1) Agency Action. Within sixty days after the filing of a complete petition for a declaratory ruling, the Board shall do one of the following, in writing:

(A) Issue a declaratory ruling in accordance with the request in the petition containing the names of all parties to the proceeding, the particular facts upon which it is based, and the reasons for the conclusions contained therein;

(B) Order that the matter be the subject of a hearing as a contested case;

(C) Notify the parties that a declaratory ruling shall be issued by a date certain;

(D) Decide not to issue a declaratory ruling and initiate regulation-making proceedings; or

(E) Decide not to issue a declaratory ruling, stating the reasons for its action.

(2) Notice. A copy of all rulings or actions taken under subsection (e) of this section shall be promptly delivered to the petitioner and other parties personally or by United States mail, certified or registered, postage prepaid, return receipt requested.

(3) Hearing. If the Board conducts a hearing in a proceeding for a declaratory ruling, the provisions of subsection (b) of Connecticut General Statutes, Section 4-177c, Section 4-178 and Section 4-179 shall apply to the hearing.

(4) Effective Date. Declaratory rulings shall be effective when personally delivered or mailed or on such later date specified by the Board in the ruling except that for

purposes of any appeal from the declaratory ruling, the date of personal delivery or mail shall control.

(5) Contested Case Appeals. Declaratory rulings shall have the same status and binding effect as an order in a contested case, and shall be a final decision in a contested case for the purposes of appeals in accordance with Connecticut General Statutes, Section 4-183.

(6) Failure to Act. If the Board does not issue a declaratory ruling on a complete petition within 180 days after the filing of the petition, or within such longer period as agreed to by the parties, the Board shall be deemed to have decided not to issue a ruling.

(7) Record. The Board shall keep a record of the proceeding as provided in Connecticut General Statutes, Section 4-177.

(Effective July 2, 1993)

Sec. 17a-581-59. Personal data

(a) Definitions.

(1) The following definitions shall apply to these regulations:

(A) "Category of Personal Data" means the classifications of personal information set forth in the Personal Data Act, Connecticut General Statutes, Section 4-190 (9).

(B) "Other Data" means any other information which because of name, identifying number, mark or description can be readily associated with a particular person.

(C) "Agency" means Psychiatric Security Review Board.

(2) Terms defined in Connecticut General Statutes, Section 4-190 shall apply to Section 17a-581-59 of these regulations.

(b) General Nature and Purpose of Personal Data Systems.

(1) The Psychiatric Security Review Board maintains the following personal data systems:

(A) Acquittee records.

(i) Acquittee records are maintained under the authority of Connecticut General Statutes, Sections 17a-581 through 17a-602.

(ii) Acquittee records are maintained for the purpose of carrying out the agency responsibilities pursuant to Connecticut General Statutes, Sections 17a-580 through 17a-602.

(iii) Records are maintained in both automated and manual form.

(iv) All records are maintained at the office of the Psychiatric Security Review Board, 86 Cedar Street, Hartford, CT 06106.

(v) The Executive Director of the agency is the official responsible for maintaining the records.

(vi) The following categories of personal data may be maintained in acquittee records: medical, psychiatric, psychological, emotional condition and history, criminal history, family and personal history, finances, education and work history, court files.

(vii) The following categories of other data may be maintained in acquittee records:

(aa) Transcripts of Psychiatric Security Review Board hearings

(bb) Memoranda of Board Decisions

(cc) Counsel of record

(dd) Addresses

(viii) Routine sources of information retained in acquittee records are: the Department of Mental Health, hospitals, courts, the Department of Public Safety, State's Attorneys, Public Defenders.

(ix) Persons on whom records are maintained are acquittees as defined by Connecticut General Statutes, Sections 17a-580 and 17a-602.

(x) All the requests for personal data shall be directed to the Executive Director of the agency at 90 Washington Street, Hartford, CT 06106.

(xi) Acquittee records are routinely used for the purposes of evidence at board hearings, to make decisions regarding the placement of acquittees, and to monitor acquittees.

Users include the employees of the Psychiatric Security Review Board, the board members, the counsel for the acquittee, State's Attorney or employees of that office and others authorized by law.

(xii) Acquittee records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes, Section 11-8a, a copy of which is available from the Psychiatric Security Review Board office during normal business hours.

(B) Victim Notification Records.

(i) Victim notification records are maintained under the authority of Connecticut General Statutes, Section 17a-601.

(ii) Victim records are maintained for the purpose of carrying out agency responsibilities pursuant to Connecticut General Statutes, Section 17a-601.

(iii) Records are maintained in both automated and manual form.

(iv) All records are maintained at the office of the Psychiatric Security Review Board, 86 Cedar Street, Hartford, Connecticut 06106.

(v) The Executive Director of the agency is the official responsible for maintaining the records.

(vi) The following categories of personal data may be maintained in victim notification records: medical records, police investigation records.

(vii) The following categories of other data may be maintained in victim notification records:

(aa) Addresses

(bb) Phone numbers.

(viii) Routine sources of information retained in victim notification records are the Superior Court and State's Attorneys.

(ix) Persons on whom records are maintained are victims as defined by Connecticut General Statutes, Section 17a-601.

(x) All requests for personal data shall be directed to the Executive Director of the agency at 90 Washington Street, Hartford, CT 06106.

(xi) Victim notification records are routinely used for the purpose of notifying victims of hearings, board actions and the escape of acquittees. The users of the victim notification records are the employees of the Psychiatric Security Review Board and other persons authorized by law.

(xii) Victim notification records are retained in accordance with a records retention schedule adopted pursuant to Connecticut General Statutes, Section 11-8a, a copy of which is available from the Psychiatric Security Review office during normal business hours.

(C) Maintenance of Personal Data.

(i) Personal data shall not be maintained unless relevant and necessary to accomplish the lawful purposes of the agency. Where the agency finds irrelevant or unnecessary public records in its possession, the agency shall dispose of the records in accordance with its records retention schedule and with the approval of the Public Records Administrator as per Connecticut General Statutes, Section 11-8a, or, if

the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Connecticut General Statutes, Section 11-8a.

(ii) The agency shall collect and maintain all records with accurateness and completeness.

(iii) Insofar as it is consistent with the needs and mission of the agency, the agency, wherever practical, shall collect personal data directly from the person to whom a record pertains.

(iv) Agency employees involved in the operations of the agency's personal data systems will be informed of the provisions of:

(aa) The Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197;

(bb) The agency's regulations adopted pursuant to Connecticut General Statutes, Section 4-196;

(cc) The Freedom of Information Act, Connecticut General Statutes, Sections 1-7 through 1-21k; and

(dd) Any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the agency.

(v) All agency employees shall take reasonable precautions to protect personal data under their custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(vi) The agency shall incorporate by reference the provisions of the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, and regulations adopted thereunder in all contracts, agreements or licenses for the operation of personal data system or for research, evaluation and reporting of personal data for the agency or on its behalf.

(vii) The agency shall have an independent obligation to insure that personal data requested from any other agency are properly maintained.

(viii) Only agency employees or their lawful representative who have a specific need to review personal data records for lawful purposes of the agency shall be entitled to access to such records under the Personal Data Act, Connecticut General Statutes, Section 4-190 through 4-197.

(ix) The agency shall keep a written up-to-date list of individuals entitled to access to each of the agency's personal data systems.

(x) The agency shall insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(xi) The agency shall insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(xii) With respect to automated personal data systems:

(aa) The agency shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(bb) To the greatest extent practical, the agency shall require visitors to such area to sign a visitor's log and permit access to said area on a bona-fide need-to-enter basis only.

(cc) The agency, to the greatest extent practical, shall insure that regular access to automated equipment is limited to the operations personnel.

(dd) The agency shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(D) Disclosure of Personal Data.

(i) Within four business days of receipt of a written request therefore, the agency shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the agency maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(ii) Except where nondisclosure is required or specifically permitted by law, the agency shall disclose to any person upon written request all personal data concerning that individual which is maintained by the agency. The procedures for disclosure shall be in accordance with Connecticut General Statutes, Sections 1-15 through 1-21k. If the personal data is maintained in coded form, the agency shall transcribe the data into a commonly understandable form before the disclosure.

(iii) The agency is responsible for verifying the identity of any person requesting access to his/her own personal data.

(iv) The agency is responsible for ensuring that disclosure made pursuant to the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(v) The agency may refuse to disclose to a person medical, psychiatric or psychological data on the person if the agency determines that such disclosure would be detrimental to that person.

(vi) In any case where the agency refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197.

(vii) If the agency refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the agency shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the agency shall disclose the personal data to such person; if nondisclosure is recommended by such person's medical doctor, the agency shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197.

(viii) The agency shall maintain a complete log of each person, individual, agency or organization who has obtained access or to whom disclosure has been made of personal data, together with the reason for each such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(ix) When an individual is asked to supply personal data to the agency, the agency shall disclose to that individual, upon request:

(aa) The name of the agency and division within the agency requesting the personal data;

(bb) The legal authority under which the agency is empowered to collect and maintain the personal data;

(cc) The individual's rights pertaining to such records under the Personal Data Act, Connecticut General Statutes, Sections 4-190 through 4-197, and agency regulations;

(dd) The known consequences arising from supplying or refusing to supply the requested personal data; and

(ee) The proposed use to be made of the requested personal data.

(E) Contesting the Content of Personal Data Records.

(i) Any person who believes that the agency is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the agency for correction of said Personal data.

(ii) Within 30 days of receipt of such request, the agency shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the agency shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(iii) Following such denial by the agency, the person requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the agency's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Effective July 2, 1993)