



Oregon

John A. Kitzhaber, MD, Governor

Department of Human Services
Office of Investigations and Training
2575 Bittern Street NE

PO Box 14250

Salem, OR 97309-0740

503-945-9495

FAX: 503-945-9893

TTY Relay: 800-735-2900

ABUSE INVESTIGATION & PROTECTIVE SERVICES REPORT

February 22, 2011

PUBLIC RECORD

SUBJECT: Investigation Report: OSH11002

Alleged Victim (AV)

Witnesses (W)s: W1 – W7

Provider: Oregon State Hospital (OSH)
2600 Center Street NE,
Salem, OR 97301

Accused Person: Mary Claire Buckley, Executive Director of the Psychiatric
Security Review Board (PSRB)
620 SW 5th Ave., Suite 970
Portland, OR 97204

Incident Date: 1/19/11

Location: OSH Salem Campus

Date Reported to OIT: 1/24/11

Date Investigation Assigned: 1/27/11

OIT Investigator: Richard Keck



ALLEGATION

It is alleged that Psychiatric Security Review Board (PSRB) Executive Director Mary Claire Buckley verbally abused OSH patient AV on 1/19/11, in violation of OAR 407-045-0430 (1) and (2)(b)¹.

INVESTIGATION PROCESS

OIT received information on 1/25/11 from W2 that on 1/19/11 PSRB Executive Director Mary Claire Buckley had a verbal encounter with AV that may have been abusive. On 1/31/11, this investigator was informed of a second interaction between Buckley and AV on 1/25/11. After interviewing AV, the second interaction was not added as an allegation to this investigation.

¹ OAR 407-045-0430 (1) states: All forms of abuse are prohibited. Staff, visitors, volunteers, contractors and their employees must continually be aware of the potential for abuse in interactions with individuals.

OAR 407-045-0430 (2) states: Listed below are examples of the type of conduct which constitutes abuse. This list of examples is by no means exhaustive and represents general categories of prohibited conduct. Conduct of a like or similar nature is also obviously prohibited. Examples include, but are not limited to:

. . . (b) Verbal Abuse: Verbal conduct may be abusive because of either the manner of communicating with or the content of the communication with individuals. Examples include yelling, ridicule, harassment, coercion, threats, intimidation, cursing, foul language or other forms of communication which are derogatory or disrespectful of the individual, or remarks intended to provoke a negative response by the individual;

In addition, OAR 407-045-0410 describes abuse of an individual living in a state hospital as "any act or absence of action by a staff or visitor inconsistent with prescribed treatment or care, that violates the well-being or dignity of the individual." OAR 407-045-0420 (2) states: "In these rules, the term "abuse" is given a broad definition because of the unique vulnerability of individuals served by the Department [of Human Services]. While some examples are listed later in these rules . . . , it must be clearly understood that all possible situations cannot be anticipated and each case must be evaluated based on the particular facts available."

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INVESTIGATION SUMMARY

Did Psychiatric Security Review Board (PSRB) Executive Director Mary Claire Buckley verbally abuse OSH patient AV on 1/19/11, in violation of OAR 407-045-0430 (1) and (2)(b)?

1. According to documentation, AV has been an OSH patient for XXX. AV has a diagnosis of XXX. AV is under the jurisdiction of the Psychiatric Security Review Board (PSRB or "the Board") for life, XXX.
2. The Board indicated in 2009 that it would only consider a placement for AV in a secure residential facility.
3. AV is considered by AV's OSH treatment team to be managing AV's mental illness successfully, and to show good insight into AV's treatment. AV resides in an OSH cottage on the OSH Salem campus. AV has unsupervised weekend visits with [family] and has attended XXX [off campus] meetings XXX unsupervised.
4. The PSRB recently approved a conditional release for AV to enter a secure residential treatment facility (SRTF). AV has been accepted into a SRTF in XXX operated by [SRTF]. AV declined this placement, in part because of AV's concerns that AV would not have unsupervised passes, and the length of AV's stay in [SRTF] is uncertain. AV's OSH treatment team, including a psychiatrist, a psychologist, and a social worker, have encouraged AV to accept the placement into the [SRTF facility], but have also supported AV's decision to decline the placement and wait to see if the PSRB will approve a less restrictive placement .
5. AV has expressed concerns to OSH staff, including the OSH Superintendent, that if AV declines the placement at [SRTF], AV could be "reverse transferred" from the cottages back to a hospital ward, and lose AV's off-campus privileges. AV has been described as anxious and nervous about what might happen to AV in the near future. AV's treatment team has told AV that a reverse transfer and loss of AV's off-campus privileges is a possibility.
6. Mary Claire Buckley has been the Executive Director of the PSRB for almost twenty years. She helps prepare the Board for upcoming hearings and helps familiarize the Board with particular patients and OSH policies. Buckley has access to patient records, including mental health assessments.
7. She is familiar with AV's situation, and was told in January 2011 that AV was declining a placement with the [SRTF facility]. Buckley was also told that AV's team warned AV of a possible reverse transfer back to the hospital wards as a consequence of AV's refusing the [SRTF] placement.

8. On 1/19/11 AV was running on the OSH campus with an OSH staff member. Buckley was being driven across campus by a PSRB staff member. When Buckley saw AV, she rolled down her window and made a number of statements to AV.
9. An OSH staff member with AV said Buckley yelled at AV such statements as: "I'm really disappointed in you. You'd better go to [SRTF]. If you don't, there's going to be ramifications. You'd better take that [SRTF] placement. This is your only option. There is no other option for you."
10. The staff member felt Buckley's statements were threatening and abusive. The staff member said AV said after the encounter, "If I were sick and paranoid, I would think that driver is coming to kill me." The staff member said AV told him/her later AV does not know who AV can trust and does not want to discuss the incident with W4 because of W4's relationship with Buckley.
11. AV said on 1/19/11 AV recognized the person in the car as Buckley, the Executive Director of the PSRB. AV said Buckley said to AV, "You better go to [SRTF]. You have no other option. There will be ramifications. This is your only option. We have already decided. There will be ramifications."
12. AV said the encounter with Buckley was "scary" and "intimidating." AV said AV felt "defeated," like AV was a bad person. AV said AV felt like a "piece of trash" because of the way Buckley was ordering AV around. AV said these feelings sank in more later. AV said AV felt that Buckley didn't understand AV at all. AV said AV felt like she "took my recovery away." AV said AV is still upset and still thinks about it.
13. AV knows Buckley is the Executive Director of the PSRB. AV said AV has been told Buckley has a lot of power and influence over the Board.
14. Members of AV's treatment team, including AV's psychiatrist, AV's psychologist, and AV's social worker, describe AV as having a strong ego, good family support, and a strong commitment to AV's recovery. AV's treatment team has discussed the [SRTF] placement with AV, offered advice, and has tried to support AV's decisions. These witnesses did not think AV's mental illness would be reactivated by the encounter with Buckley.
15. Some treatment team members expressed concern that Buckley's statements could undermine the perceived integrity of the PSRB and OSH administration, because of the implication that Buckley knew of behind-the-scene ramifications or consequences for AV's refusal to follow a PSRB decision. One staff said Buckley told them she could make life difficult for AV.
16. PSRB Executive Director Buckley said she was being driven across the OSH campus when she saw AV jogging and asked her driver to stop. Buckley said she called out to AV something like: "Hey AV! Go to [SRTF]!" She said her goal was

to encourage AV. Buckley said she knew AV's team, AV's lawyer, and the OSH Superintendent were encouraging AV to accept the [SRTF] placement. Buckley recalled saying things like, "Go to [SRTF]," "You really ought to go," and "The Board has already made their decision." She said she thinks she might have said something like, "By the time you wait you could have worked your way out of [SRTF]."

17. Buckley said she also said to AV something like, "I know you want a lower level of care, but that ship has sailed," or "That decision has been made." Buckley said she asked AV to at least think about the [SRTF] placement. She said AV told her AV would. Buckley said the entire encounter lasted about 30 seconds, or maybe a minute.
18. Buckley said her comment about the decision having already been made was meant only to convey the truth, because the Board decision had been made. Buckley said the Board has made it clear it will only consider a secure residential treatment facility for AV. She said the [SRTF] facility in XXX is the only secure facility near AV's family, and openings in this facility are infrequent.
19. Buckley said she does not remember if she used the term "ramifications." She said if she said something like that, she meant OSH might do a reverse transfer. Buckley said she was only repeating to AV what had been told to her. Buckley said she was trying to let AV know that OSH was considering such a move.
20. Buckley stated she knows she is the "personification" of the Board. She said she would not imply that she can influence OSH decisions regarding a particular patient. She said she does not discuss with OSH how OSH should treat a particular patient. She said the PSRB does not determine which ward a patient is in or what hospital privileges a patient has.
21. Buckley said she did not yell at AV. She said it was not her intent to intimidate AV. Buckley said she did not say anything derogatory or disrespectful to AV. She said she was trying to acknowledge that she knew what AV wanted, but what AV wanted was not realistic and was not going to happen. Buckley said she was not trying to coerce, intimidate, or threaten AV, but just to tell AV AV's plan was not realistic.
22. Buckley said she knows AV. She said [SRTF] is an opportunity for AV. Buckley said she was just another person reinforcing what AV had already been told by AV's team, the Superintendent, and AV's attorney.

CONCLUSION

The allegation that Psychiatric Security Review Board (PSRB) Executive Director Mary Claire Buckley verbally abused OSH patient AV on 1/19/11, in violation of OAR 407-045-0430 (1) and (2)(b), is **SUBSTANTIATED**.

Mary Claire Buckley has been the Executive Director of the Psychiatric Security Review Board (PSRB) for many years. The PSRB approves the placement of patients under its jurisdiction, and as a result, has a significant impact on the lives of many patients. AV will be under the jurisdiction of the PSRB for the rest of AV's life. Buckley acknowledges that she is the "personification" of the PSRB at the state hospital.

On 1/19/11, while visiting OSH, Buckley encountered patient AV while driving by AV on the OSH campus and exhorted AV to change AV's mind about declining a placement in a secure facility that had been approved by the PSRB. An OSH staff witness to the encounter felt Buckley was threatening and abusive. This witness knows AV and was concerned about the impact on AV. AV said the encounter was scary and intimidating. AV felt Buckley didn't understand AV and treated AV badly by simply ordering AV around. AV felt AV's recovery was undermined by her action.

The Oregon Administrative Rules prohibit verbal abuse of OSH patients by staff, visitors, volunteers and contractors, stating verbal conduct may be abusive in either the manner of communicating or the content of the communication. Examples given include yelling, ridicule, harassment, coercion, threats, intimidation, or other forms of communication which are derogatory or disrespectful of the individual.

The manner of Buckley's communication with AV was a violation of the abuse rules. Buckley was described as yelling at AV, and ordering AV around. Such conduct directed toward a hospital patient in a public setting is disrespectful. In addition, the content of the communication was coercive and, according to AV, "scary and intimidating." Buckley told AV there would be "ramifications" for AV's decision. In this context, and in light of the position of authority Buckley holds regarding AV, her statements would reasonably appear to be more a threat than helpful counsel.

Buckley said she had AV's best interests in mind. She believed the placement is AV's only option for a placement off the OSH campus, and AV's decision to decline the opening is not the best decision for AV. However, Buckley's statement that she was just another voice giving AV the same advice is not an acceptable explanation for her actions. It is undermined by the statement of a staff witness who indicated Buckley told them she could make life difficult for AV if AV did not choose the placement. AV's treatment team is charged with giving AV advice in a therapeutic setting, listening to AV's concerns and providing support, even if AV makes decisions they disagree with. In contrast, Buckley was simply telling AV what to do, which undermines the treatment goal of helping AV make AV's own decisions and accept consequences. Buckley could have also undermined AV's faith in the fairness of the PSRB and OSH systems, by implying AV will suffer ramifications for refusing the placement and defying the Board.

Buckley has a unique position of authority as the PSRB executive, one that is well known by OSH patients. She should know that her opinions expressed directly to a patient carry an unusually heavy impact. Buckley's direct or abrupt manner, even if well-intentioned as she described, contributed to the impact of the encounter. Buckley also knows, or should know, AV's diagnosis of XXX. Telling AV there will be ramifications for AV's decisions, when AV has been told there would not be ramifications, implies that

hidden forces are at work. As a psychiatric patient, AV ought not to have been addressed in this way.

It must be noted that this is an unusual instance of verbal abuse, and is mitigated to a certain extent. Verbal abuse is usually committed when the speaker directs obviously derogatory or demeaning language at the patient, or threatens the patient with physical harm. In a typical situation, there is little doubt about the emotional impact the words would have on the patient or on any person. Here, Buckley believes she had AV's best interests in mind. Her words were not in and of themselves demeaning or derogatory. She said she thought she was helping AV avoid a mistake.

Buckley felt she was simply telling AV the truth. This can be compared to a staff telling a patient if he/she refuses oral medication he/she will be forcibly injected. This might intimidate or humiliate a patient, but can also be the truth about the consequences of his/her actions. Such a statement is not in itself verbal abuse, even if the client feels threatened or intimidated. However, the manner of delivering the truth to a patient can be abusive, based on the context and the way a patient is addressed.

A consideration of the impact of the verbal abuse on a patient is not included in the administrative rule, but is a factor in all abuse allegations. AV's treatment team members do not, in general, believe AV will be adversely affected by Buckley's statements in the long term, although a more vulnerable patient could have been. AV's adverse feelings could be characterized as being discouraged about the possibility of the Board ever approving a less restrictive placement. Nevertheless, AV was affected by Buckley's actions and indicated AV felt demeaned and defeated like AV was a bad person, and said AV felt like a "piece of trash." By AV's report, it still upsets AV.

Buckley's conduct was an instance of poor judgment. She was also disrespectful of the patient, yelled at AV in public, and was clearly coercing or ordering AV, rather than counseling in talking with AV. Her conduct fits within the description of verbal abuse of a patient.

Based upon all of the available evidence, the allegation is substantiated.

REQUIRED ACTIONS

None.

Submitted by: Richard Keck, Investigator
Approved by: Simon Turner, Chief Investigator

RK:m