



Oregon

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TO: Rep. Jason Kropf, Chair
Rep. Willy Chotzen, Vice Chair
Rep. Kim Wallan, Vice Chair
Members of House Judiciary Committee

FROM: Alison Bort, PhD, JD, Executive Director
Psychiatric Security Review Board

RE: House Bill 2471 – No Position

The Oregon District Attorneys Association introduced HB 2471, which seeks to limit the application of the guilty except for insanity defense to an "independent sufficiency test" following the Oregon Supreme Court's decision in *State v. Meiser*, 372 Or 438 (2024) (hereinafter, *Meiser IV*). While the Psychiatric Security Review Board (PSRB) is neutral on what the appropriate standard should be for the application of the insanity defense, it believes it is necessary to provide informational, written testimony to ensure the legislature is informed of the potential practical implications of this proposed change on the PSRB's operations.

The GEI statutory framework is often discussed in terms of a "front door" and "back door." The "front door" refers to the criteria by which a Circuit Court finds an individual guilty except for insanity and places them under the PSRB's jurisdiction. This is distinct from the "back door," which refers to the criteria the PSRB uses to determine whether an individual continues to meet the standards for remaining under jurisdiction or should be discharged.

Complexities related to this statutory framework have long been recognized by the legislature. From 2019 to 2021, at the request of the PSRB, Senator Floyd Prozanski convened a workgroup to address concerns related to the criteria for both entering and exiting PSRB jurisdiction. The workgroup's findings were compiled into the [PSRB Work Group Final Report December 2021](#), which offers valuable insights and recommendations on these issues, including the evaluators' perspective on the challenges inherent in assessing qualifying mental disorders. The PSRB remains engaged in this work and is actively reviewing how case law, such as *Meiser IV* and another body of caselaw referred to as *Rinne*,¹ applies to its jurisdiction (the back door). Indeed, the Board is in the process of developing administrative rules to clarify the standard used in determining the extent to which a qualifying mental disorder must contribute to a person's risk of substantial danger to others, thereby justifying the continuation of jurisdiction.

¹ See, *Rinne v. PSRB*, 299 Or. App. 275 (2019); *Rinne v. PSRB*, 297 Or. App. 549 (2019); and *Rinne v. PSRB*, 326 Or. App. 777 (2023). Notably, in the 2023 *Rinne* case, the Court of Appeals applied its reasoning in *State v. Meiser*, 323 Or App 674 (2023), which was later overturned by *State v. Meiser*, 372 Or 438 (2024) (a.k.a., *Meiser IV*).

While the statutes governing the front door under ORS 161.295 and the PSRB's discharge statutes under ORS 161.351 are distinct, the PSRB requests consideration that, without explicit clarification in the statute or on the record, changes to the front door criteria with the passing of HB 2471 could lead to unintended convergence with the PSRB's back door criteria. For instance, defendants who assert the insanity defense under the current framework—where the "as a result of" standard offers more flexibility in defining qualifying conditions—might later argue for discharge by the Board using the more restrictive independent sufficiency test proposed by HB 2471.

While the Board remains bound by the distinct statutes that govern the back door process and do not believe that a discharge would be mandated due to the passing of HB 2471, we urge the legislature to consider a clarification that the changes proposed by HB 2471 are intended solely for the front door and should not impact the PSRB's discharge criteria. This clarity is particularly important given the demographics of the PSRB's current caseload. While a thorough review of forensic evaluations would be necessary to provide precise metrics, it is important to note that the majority of individuals under PSRB jurisdiction are affected by comorbid diagnoses that include non-qualifying conditions.

In conclusion, the PSRB urges the House Judiciary Committee to consider HB 2471 within the broader context of the statutory scheme and should HB 2471 pass, to make clear that it does not have an effect on PSRB's discharge criteria.

Thank you for considering this information and please let me know if I can provide any further information about the PSRB. I can be contacted at 503-229-5596 or at alison.bort@psrb.oregon.gov.