



COMPETENCY RESTORATION

*People can and
do recover from
mental illness.*

*A guide to competency
evaluation and restoration*



Washington State
Department of Social
& Health Services

Transforming lives

A woman with dark hair and sunglasses on her head is sitting in a field of tall grass. She has her hands pressed against her temples, and her eyes are closed, suggesting a state of distress or mental anguish. The background is a soft-focus landscape with hills under a bright sky.

In order to have a fair trial, a person charged with a crime must understand the charges against them and be able to assist their attorney in their own defense. If either or both of these abilities seems to be lacking and it appears that the person has a mental health condition, a judge may order a competency evaluation to inform the court about the person's abilities to stand trial.

WHAT IS COMPETENCY EVALUATION?

“Incompetency” means a person lacks the capacity to understand the nature of the proceedings against them or to assist in their own defense as a result of mental disease or defect. Often, the defense or prosecuting attorney raises the question about a person's competency and whether they have a mental health condition. If the judge orders a competency evaluation, a trained evaluator will conduct an assessment. The majority of these competency evaluations are done by a Department of Social and Health Services employee known as a forensic evaluator.

The forensic evaluator's role is to assess and inform the court about the person's abilities to understand their charges, the court process, and/or if the person has the ability to assist in their trial defense as a result of living with a mental health condition. A judge makes the final decision about whether the person meets the legal criteria for competency to stand trial. The legal definition of competency to stand trial is found in the Revised Code of Washington 10.77.010(15).

This work is overseen by the DSHS Behavioral Health Administration's Office of Forensic Mental Health Services.

WHAT IS COMPETENCY RESTORATION?

In Washington state there are two settings in which competency restoration is provided. Inpatient restoration is provided in state hospitals or residential treatment facilities. Outpatient restoration is provided in the community by contracted behavioral health providers.

If a judge determines that a person does not understand their charges, the court process, and/or lacks the ability to assist in their defense because of a mental health condition, competency restoration services may be ordered. For clarification, people in competency restoration programs have not been convicted of a crime. Therefore, they are considered pre-trial detainees. If found competent, they may stand trial on their current charge(s) that brought them into the legal system. Inpatient competency restoration services may be completed at a state hospital or a residential treatment facility. Outpatient competency restoration programs are currently available in the Spokane County region (Spokane, Pend Oreille, Stevens, Ferry, Adams, Lincoln counties), the Southwest region (Clark, Skamania, Klickitat counties), Pierce County, King County, Thurston County, Mason County, and the Salish region (Jefferson, Clallam, and Kitsap counties).

Outpatient Competency Restoration Program (OCRP)

OCRP moves individuals from jails, restoration treatment facilities, or from the community when released on personal recognizance, into community-based restoration services provided by contracted behavioral health agencies. OCRP is meant for people who are not considered a high security risk and are likely to be successful in services in the community.

A person can be ordered into OCRP for up to 90 days for a misdemeanor order and up to one year for felony orders. If the person is making considerable progress in competency restoration, they can be referred for a competency evaluation prior to the end of their court-ordered period for competency restoration. In situations when this is not the case, the person will undergo a competency evaluation towards the end of the court-ordered period. In some cases, depending on the charge(s), a person may be court-ordered into a second and/or third period of competency restoration.

OCRP uses the Breaking Barriers Competency Restoration Program to assist individuals in becoming competent. The program facilitates medication management, individual and group psychoeducational and psychosocial therapies, and connects people to Forensic Housing and Assistance through Peer Services (FHARPS) if unstably housed, Forensic Projects for Assistance in Transition from Homelessness (FPATH) if eligible, outpatient mental health treatment and outpatient substance use disorder treatment, among other community-based services as needed. Individuals in OCRP spend approximately 10 hours per week in restoration programming.

Each OCRP provides, at a minimum, one Breaking Barriers master instructor (licensed mental health professional), one Breaking Barriers subject matter expert (non-licensed mental health professional), one certified peer counselor and a part-time prescriber. These staff work closely with the DSHS forensic navigators and other service providers to ensure coordinated transition and service planning for people in the program.

Inpatient Competency Restoration

The Behavioral Health Administration (BHA) oversees the Steilacoom Unit's competency restoration residential treatment facility, and Eastern and Western state hospitals, which provide inpatient competency restoration.

All three of these facilities use the Breaking Barriers Competency Restoration Program to assist people with becoming competent. Medication may be prescribed if appropriate. The people placed at the facilities spend approximately six hours a day in group therapy.

There are prescribers on site and through telehealth who meet with and provide services on a regular schedule. Each site has therapists or social workers who facilitate therapeutic and educational groups, and assist people with discharge planning and where to find services once released from either jail, the state hospital or the facility.

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MENTAL HEALTH CARE

Mental health care plays a very important role in a person's recovery from mental illness. According to the Substance Abuse and Mental Health Services Administration:

- 43.3% of U.S. adults with mental illness received treatment in 2018
- 64.1% of U.S. adults with serious mental illness received treatment in 2018

The U.S. National Library of Medicine has a catalog of clinical research studies that have been conducted with people diagnosed with mental illness. In general, the results of these studies show that there are several effective treatments for people diagnosed with mental illness and demonstrate that treatment assists people with recovery. There are two major types of treatments which may occur concurrently or separately:

1. Medication – the classification of medication to treat people diagnosed with mental illness are typically called psychotropic medications. In competency restoration treatment, patients are assessed by credentialed staff for appropriateness of psychotropic medication.
2. Psychosocial – these treatments focus on assisting a patient with developing skills that enable the patient to perform behaviors that enhance their quality of life and improve their mental health.

COMPETENCY RESTORATION SERVICES

There are two types of interventions typically associated with competency restoration: psychotropic medication and psychosocial therapy.

People who are enrolled in competency restoration are evaluated by a credentialed provider who determines whether psychotropic medications may be beneficial and, if so, can prescribe and monitor medication.

For psychosocial therapy, a credentialed provider in collaboration with the person will determine their psychosocial needs and initiate psychosocial therapy. The psychosocial therapy can include, but is not limited to, providing education regarding the court and teaching skills to manage mental illness, reduce stress, and interact effectively with their attorney.

PERSON-CENTERED SERVICES

Competency restoration services respect the various facets of peoples' lives and accounts for each individual's experiences and needs. The person is involved in planning their services and the program provides an atmosphere of hope that they can achieve mental wellness.

QUESTIONS

Office of Forensic Mental Health Services
www.dshs.wa.gov/bha/office-forensic-mental-health-services

For care and treatment, call

Western State Hospital

253-582-8900

Eastern State Hospital

509-565-4000

Steilacoom Unit's Competency Restoration Program

253-984-5651

Recovery is Possible

www.mentalhealth.gov/basics/recovery-possible

For questions about Outpatient Competency Restoration, email:

HCAOCR@hca.wa.gov



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