


Community Based Competency Restoration

NASMHPD Forensic Division Annual Meeting
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- Rodney K. Miller, Ph.D., Wisconsin
- Neil Gowensmith, Ph.D., Hawaii
- Sally Cunningham, MSW, Florida
- Karen Bailey-Smith, Ph.D., Georgia

Community Based Competency Restoration – NASMHPD Survey Results

Neil Gowensmith, PhD
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September, 2009



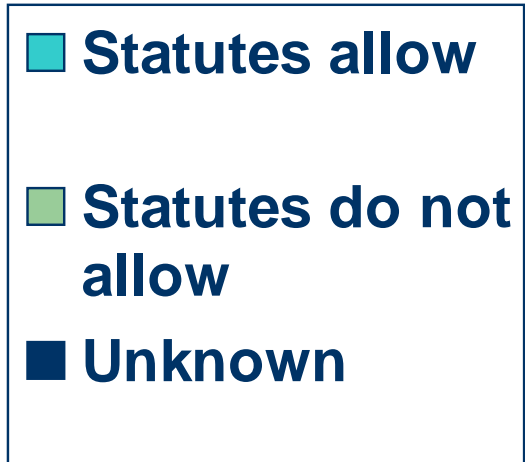
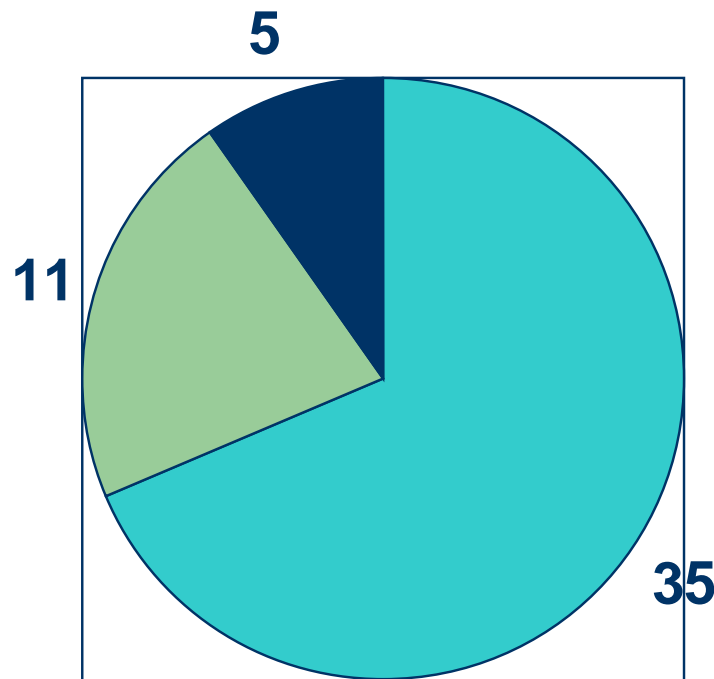
National Survey

- Community-Based Competency Restoration
 - Brief NASMHPD survey through listserve
 - Review of relevant statutes to fill in holes
 - In-depth survey for selected states with current outpatient competency restoration programs in operation (7 states thus far)

National Survey

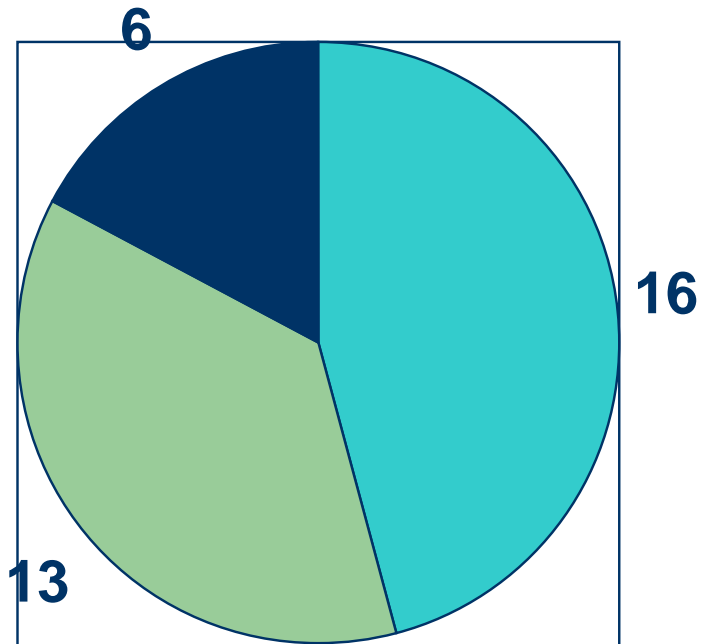
- States that CAN vs. states that DO
 - States that CAN: Those that have statutory allowance for outpatient competency restoration vs. those that don't
 - States that DO: Of those states that have a statutory allowance for outpatient competency restoration, those that have operational programs in place vs. those that don't

National Survey: States that CAN



Statutes allow	Statutes allow	Statutes prohibit
Alabama	Montana	Alaska
Arizona	Nevada	Delaware
Arkansas	New Hampshire	Kansas
California	New Jersey	Kentucky
Colorado	North Carolina	Maryland
Connecticut	Ohio	Missouri
DC	Oklahoma	Nebraska
Florida	Oregon	New Mexico
Georgia	Pennsylvania	New York
Hawaii	Rhode Island	South Carolina
Idaho	Tennessee	South Dakota
Illinois	Texas	Unknown:
Indiana	Utah	Massachusetts
Iowa	Virginia	Minnesota
Louisiana	Washington	North Dakota
Maine	West Virginia	Vermont
Michigan	Wisconsin	Wyoming
Mississippi		

National Survey: States that DO



States with programs in place	States without programs in place
Arizona	Alabama, Colorado
Arkansas	Indiana
Connecticut	Iowa
DC	Maine
Florida	Mississippi
Georgia	Montana
Hawaii	New Jersey
Idaho	North Carolina
Michigan	Oklahoma
Nevada	Pennsylvania
Ohio	Utah
Tennessee	West Virginia
Texas	Unknown
Virginia	California
Washington	Illinois
Wisconsin	Louisiana
	New Hampshire
	Oregon
	Rhode Island

National Survey: Summary

- Of 51 states, 35 currently have statutes that allow for outpatient competency restoration
- Of those 35 states, 16 currently have outpatient competency restoration programs in operation
 - Lots of room for implementation of programs
 - Enough existing programs to provide direction

Comparing programs

- Some common structural themes:
 - Explicit statutory allowance
 - Utilization of state community mental health system for outpatient services
 - State mental health agency assumes sole responsibility for unfit person
 - Violent charges and many felonies excluded
 - Specialized professionals do restoration
 - Young programs (less than 6 years)

Comparing programs

- Some common clinical themes:
 - Case management typically provided; housing, psychosocial rehab, forced meds not
 - Individual treatment typical
 - Outpatient LOS often longer than inpatient LOS
 - Less pressure
 - Can continue restoration longer
 - People returned to inpatient setting infrequently
 - Clinical instability and increasing dangerousness are reasons for recommitment to inpatient setting

Comparing programs

- Some common benefits:
 - Outpatient program frees inpatient bed space
 - Less costly than inpatient restoration
 - About 1/5 of inpatient cost
 - Less restrictive, more recovery-oriented
- Some common challenges:
 - Limited implementation within states
 - Limited by funding for staff and resources
 - Limited by poor buy-in from court and/or hospital

Contrasting programs

- Some common differences:
 - Location of restoration programming: CMHC, jail, hospital
 - Scope of program: from 1-80 participants
 - Legal status: Some on bail or bond, some merely held by mental health statutes
 - Participant population:
 - Some states have juvenile program in addition to adult
 - Some states have large percentage of DD participants


Outpatient Competency Restoration

- Email for list of relevant statutes by state

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COMMUNITY BASED TREATMENT FOR THE RESTORATION OF COMPETENCY TO PROCEED: ASSISTING THE FELONY COURTS

Sally Cunningham, Chief, Mental
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The Florida Department of
Children and Families



The Florida Statutes and the Restoration of Competency in the Community

- Community based treatment, when appropriate, is advantageous to courts, defendants, communities, and the state.
- Treatment in the community allows defendants to receive services in less restrictive settings, reduces the need for more costly treatment in secure facilities, and allows individuals to remain closer to their community support systems.
- In Florida, prior to the commitment of a defendant to a designated forensic facility, the felony courts must decide that all available, less restrictive, treatment alternatives are inappropriate. Courts have the option of ordering involuntary commitment or conditional release.

Quick Facts about Community Treatment and Restoring Competency to Proceed

- Community based mental health service delivery is decentralized in Florida. Mental health regions and circuits procure local contracts to provide treatment.
- Regions and circuits have varied services, competency training in residential settings, community mental health centers, and jails.
- Treatment for the restoration of competency to proceed is provided by different disciplines.
- Services to restore competency are paid by state general revenue dollars

Quick Facts about Community Treatment and Restoring Competency to Proceed - Continued

- The Mental Health Program Office estimates that over 600 individuals are receiving competency restoration services in the community.
- In the summer of 2008, the Program Office developed a training packet to inform judges of the recommended minimal standards for competency education, and to provide community organizations with a reference.
- The Program Office has also attempted to standardize competency evaluations and reporting by the development of a standardized report format.

Outpatient Competency Restoration: Wisconsin Programs

Rodney K. Miller, Ph.D., ABPP

Forensic Director
State of Wisconsin



Law Changes – Wisconsin

- Previous law only allowed restoration on an inpatient basis at one of the state psychiatric hospitals
- The law was changed to allow a community based option beginning in June 2008
- Statutory wording was changed such that the person was still committed to the Department but the Department could determine where restoration services could be provided

Wisconsin Statute 971.14(5)(a)

- If the court determines that the defendant is not competent but is likely to become competent within the period specified in this paragraph if provided with appropriate treatment, **the court shall suspend the proceedings and commit the defendant to the custody of the department of health services for the department to determine whether treatment shall occur in an appropriate institution designated by the department, or in a community-based treatment conducted in a jail or a locked unit of a facility that has entered into a voluntary agreement with the state to serve as a location for treatment, or as a condition of bail or bond, for a period of time not to exceed 12 months, or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less.**

Reasons for the Change – Wisconsin

- Better for the client – certain individuals do not need inpatient services and to have to come inpatient is very disruptive to their lives
- Allows management of inpatient beds – saves inpatient beds for those who need inpatient and a bed shortage existed at the time
- Cost effective – able to be done for a fraction of the cost of inpatient

Development of the Program

- While the statute allows outpatient state-wide, it was decided to begin on a smaller scale in the counties accounting for the most referrals
- Thus have this option available currently in SE counties (Milwaukee and surrounding area) and Dane County (Madison)
- Have presented to the courts as an option and invited referrals

Development – Continued

- Contracted with a Provider, with whom we have a long standing relationship, to provide the services
- Includes restoration services, psychiatric and medication as needed, and case management oversight
- Also includes all evaluations as required in statute
- State funds all services and provides oversight and monitoring

Development – Continued

- Also developed a treatment manual for providers with materials for patients – thanks to Florida for the CompKit, much of which was used in the development of the manual
- Use same curriculum inpatient or outpatient and thus have standardized treatment in all settings

Selection Criteria

- While have not per se excluded any crimes, generally are looking at defendants with less serious charges
- Person must have stable living circumstances (our program does not provide housing for instance)
- Person must be sufficiently psychiatrically stable to make outpatient feasible
- Person must obviously be cooperative and actively participate

Process

- Contracted evaluators who do the initial competency evaluations do a screen for appropriateness
- If the person appears to be a candidate – the contracted provider is notified and does a more in depth assessment
- Case manager also assesses living situation, etc.
- If appropriate, then the court is informed, the court's agreement obtained and the person enrolled in treatment

Process – continued

- The provider meets with the patient, currently on an individual basis – typically four times a week
- Case management and other services are provided as indicated
- Regular reports are sent to the court
- If the person becomes unstable, does not cooperate, or otherwise is assessed as a risk, the person will then be moved to the inpatient setting
- Services continue until restored, the maximum time is met, or it is clear that the person is un-restorable

Data


- Thus far 11 have completed the program
 - 8 successfully restored
 - 1 found non-restorable
 - 2 needed to go inpatient
- One person found non-restorable awaits a hearing
- Four currently involved
- Five being evaluated for participation

Data - continued

- Typical candidates have had some cognitive delays as a factor in their incompetency – thus the psycho-educational component is important
- Average time to restore has been about 4 months
- Hard to estimate costs – very roughly appears to be around \$3,000 per client per month – thus very roughly \$12K per client total
- Compare this to a range of \$80 to \$100k for inpatient

Community Based Competency Restoration – Hawaii's K-Fit Program

Neil Gowensmith, PhD
Forensic Services Director
State of Hawaii
September, 2009



Hawaii's K-Fit Program: Development

- Hawaii statute section 704-406 allows for release to community if dangerousness can be safely managed
- Historically statute has rarely been used because there has been no formal program in operation in which to place unfit persons
 - September 2007: Formal program implemented
 - State program, not a county program

Hawaii's K-Fit Program: Components

- 5 bed cottage
- CMHC services (Kalihi CMHC, hence “K-Fit”)
 - Case management
 - Psychiatry
 - Fitness restoration (individual and group)
- Clubhouse
- MI/SA services: private contractor



Hawaii's K-Fit Program: Cottage



Hawaii's K-Fit Program: Referrals

- Referrals can come from state hospital or directly from court (bypassing hospital)
 - In reality, all referrals have come from hospital
- Eligibility criteria
 - Non-violent misdemeanors and felonies
 - Willing to take medication
 - Restorable

Hawaii's K-Fit Program: Restoration

- Programming borrows heavily from Florida CompKit, with local adaptation
- Restoration classes and treatment provided by licensed practitioners and pre-doctoral interns
- Evaluated every 30 days for progress
- Independent court-ordered exam ordered when progress has been made or will not be made
- Problems can result in revocation and return to state hospital (initiated by Office of Prosecuting Atty)

Hawaii's K-Fit Program: Data

- Program in operation for 2 years
- 16 total participants
- 95% found fit
- 1 elopement, no hospitalizations or arrests
- Average LOS: 101 days to restoration
- Hospital bed days saved: 1500+
- Cost savings to date: \$750,000

Hawaii's K-Fit Program: Challenges and Responses

- Low numbers of referrals from state hospital
 - In the time elapsed between referral and court hearing to change venue for restoration, person often became fit
 - Created expedited KFit hearings at District Court
- Statutes governing community fitness vague
 - In direct contrast to our Conditional Release laws
 - Do not describe process or structure for outpatient restoration, time limits for restoration, or revocation procedures
 - Proposing legislative changes

Hawaii's K-Fit Program: Challenges and Responses

- Limited implementation
 - Oahu county only
 - Resources and staff limit expansion of program
 - Neighbor islands need similar options
 - Providing materials and classes to all CMHCs statewide