



Virginia Department of
Behavioral Health &
Developmental Services

Review and Conclusion of Training

DBHDS Vision: A life of possibilities for all Virginians

Review & Conclusion

- Always assess the need for inpatient restoration
- Outcome evaluations
- Communication with the Court
- Roles of the CSB O-P Restoration Coordinator and CSB O-P Restoration Counselor
- Restoration records
- Consultation available
- Complete course evaluations, motel reimbursement form, and get your CEUs!

Always Assess the Need for Inpatient Restoration

- Client meets admission criteria of §37.2-814 (if on bond) et seq. or §19.2-169.6 (if in jail).
- While defendant does not meet above criteria, he/she evidences prominent symptoms of mental illness and is unwilling to take medications (after repeated encouragement & education).
- Client is in jail and despite repeated requests, jail will not provide defendant access to “appropriate” medications.
- Client is out on bond and there are significant concerns about medication compliance. Client refuses to cooperate with other interventions (MH Skill Building Services, PACT, etc.).

Always Assess the Need for Inpatient Restoration

- Despite compliance with medications, defendant remains symptomatic and it is felt the jail environment is exacerbating symptoms (this only applies to inmates in jail for restoration).
- Restoration efforts have been extended, the defendant is facing serious charges, and CSB/outcome evaluator cannot attest to defendant being unrestorably incompetent.
- Client suffers from major mental illness but despite encouragement and education will not fully cooperate with outpatient restoration services.

Always Assess the Need for Inpatient Restoration

Factors to consider may include, but are not limited to:

- Rate of progress – balancing progress with risk of permanent disability (particularly for those with psychotic illnesses)
- Right to speedy trial
- Right to treatment in least restrictive setting
- Seriousness of offense
- Availability of CSB/community resources
- Availability of state hospital beds and whether inpatient hospitalization is the standard of practice for the condition causing the incompetency
- Public relations issues with Courts, CWA, defense attorneys, etc.
- Cost to taxpayers

General Considerations for Not Making Recommendations for Inpatient Restoration

- Defendant's primary diagnosis is Intellectual Disability or learning disability.
- Defendant's primary diagnosis is an Axis II Personality Disorder which does not involve serious acts of self injury.
- Defendant's primary diagnosis is Dementia.
- Defendant's primary issue is ongoing substance misuse and intoxication.
- Evidence suggests defendant is malingering incompetency.
- *In high stakes cases, however, inpatient admission may be warranted regardless of presenting issues.*

OUTCOME EVALUATIONS

- Per §19.2-169.2 – CSB Director (or designee) shall obtain an evaluation that comports with requirements of §19.2-169.1.
- As such, the outcome evaluation shall be authored by individuals who meet the requirements of §19.2-169.1 (A):
 - Psychiatrist or Clinical Psychologist (which in VA means a licensed clinical psychologist), and
 - Qualified by training and experience in forensic evaluation – generally completion of 5 Day Basic training at ILPPP or having obtained waiver of this requirement through DBHDS (for those who were trained and/or have experience outside of Virginia).

OUTCOME EVALUATIONS

- Qualified evaluators can be found at:
<http://ilppp.virginia.edu/ExpertDirectory/Search>
- Check the box for Competency Evaluation, select your region of the state, and hit “Search.”
- Note that some CSB providers are not listed in the directory as the directory only lists those evaluators currently accepting cases and CSB evaluators (through their work at the CSB) do not accept private cases.
- As long as evaluator is qualified by degree and license, education and experience, it is OK to use them.

OUTCOME EVALUATIONS

- If CSB has qualified staff, then they can complete outcome evaluation -
 - In general terms, it is prudent to avoid dual roles and to have separate people provide actual restoration services and the outcome evaluation.
 - Ultimately it is the clinician who determines whether he or she can provide court with unbiased evaluation
- If CSB does not have a qualified competency evaluator, then the CSB must obtain the service of a qualified evaluator in the community.
- In some cases, CSBs may want to contract with the evaluator who completed the initial competency (§19.2-169.1) evaluation:
 - They already have evaluated the defendant once so they are aware of the defendant's history, presentation, and baseline.
- Arrange for evaluator to send you the outcome competency evaluation. If the qualified evaluator is not a CSB employee, the evaluator is working as a contractor for your agency; not as a court appointed evaluator. Please take the time to explain to the outcome evaluator that they are providing an evaluation service for the CSB; not directly to the court as they are accustomed.

When is an Outcome Evaluation Required?

"Phase" in the Restoration Process		Outcome Evaluation Required?
<u>Assessment Phase</u> – initial appointment, information collection, pre-test, and pre-restoration plan	<ul style="list-style-type: none">• Defendant does not show for appointments	No
	<ul style="list-style-type: none">• Defendant cannot be located	No
	<ul style="list-style-type: none">• Defendant is in another CSB jurisdiction while on bond or in jail	No
	<ul style="list-style-type: none">• Defendant is clearly in need of inpatient restoration	No

When is an Outcome Evaluation Required?

“Phase” in the Restoration Process	Outcome Evaluation Required?	
<p><u>Restoration Phase</u> - post-assessment process; the restoration plan has been developed and implemented</p>	<ul style="list-style-type: none"> • Regardless of whether the person becomes competent, the defendant cooperates with the restoration process and restoration services are provided with minimal complications (this is the majority of cases) 	Yes
	<ul style="list-style-type: none"> • The defendant begins restoration services then disappears and can't be located 	No
	<ul style="list-style-type: none"> • The Court holds a hearing and nolle prosses the case before you have concluded restoration 	No
	<ul style="list-style-type: none"> • The defendant is transferred and is now incarcerated outside of the CSB's jurisdiction before restoration is concluded 	No
	<ul style="list-style-type: none"> • The defendant begins restoration services but becomes so psychiatrically unstable that they must be hospitalized immediately 	No

WRITTEN COMMUNICATION WITH THE COURT

- Letter to judge should be factual, reference court order, reference steps taken, recommendations, and the reason you have reached this recommendation.
- Use sample letters in the training binder (tab 3) to help formulate letters to the court, but individualize as necessary. Call DBHDS for consultation if needed.
- Always copy the Commonwealth Attorney and defense attorney on letter (and any communication) sent to Judge.
- **Many judges will not accept phone calls about particular cases as this can be considered ex-parte communication which is prohibited.**

Role of the CSB O-P Restoration Coordinator

- Each CSB is very likely to receive a court order for adult O-P restoration pursuant to §19.2-169.2.
- Because the CSB is court ordered to provide a specific service, the CSB should identify a staff person who is or will become sufficiently knowledgeable of the relevant code sections, the restoration process, the court's expectations and DBHDS guidelines for payment.
- Each CSB should identify an O-P restoration coordinator. Depending on each CSB's situation, this staff person can also be the staff person who directly provides the restoration services to the defendant (restoration counselor).

Role of the CSB O-P Restoration Coordinator

The CSB O-P restoration coordinator is responsible for:

- Setting up a system within the CSB to identify a §19.2-169.2 court order so that the order will be directed to them.
- Responding to the CSB's responsibility to implement the court order once received, to include:
 - Reviewing information and obtaining information that is still needed
 - Assigning staff member for restoration services (restoration counselor)
 - Identifying the expiration of the court order and next hearing date
 - Monitoring the CSB's response time to the court
 - Monitoring the provision of restoration services, troubleshooting problems and facilitating additional services as needed
 - Responding to the judge with copies to the CWA and defense attorney within an appropriate timeframe with appropriate language in the response letter.
 - If DBHDS reimbursement is sought, knowing the guidelines regarding payment and submitting appropriate paperwork (see tab 5 of training binder)
 - Attending training opportunities regarding adult O-P restoration and communicating same opportunities to other CSB staff who provide restoration services.

Role of the Restoration Counselor

- “Teacher” of restoration to competency concepts and requirements.
- “Linker” to necessary psychiatric services for restoration to competency.
- “Collector” of information in order to get the best picture of the defendant and how best to provide restoration services.
- “Collaborator” with essential service providers/supports to obtain and monitor necessary information.
- “Referral Agent” to needed CSB/BHA & community support services.
- “Neutral” – not working for the prosecutor or defense attorney.

Restoration Records

- When services are over, this should be documented. Remember, however, that the defendant may still need other CSB services.
- Restoration services often involves collecting collateral records from other health care providers. These documents should be clearly marked and are subject to limits on re-release.
- If your agency also completed Sanity Evaluation (very rare occurrence), be aware there are special protections on these evaluations and they need to be kept separate from other clinical assessments with notation of restrictions on re-release.
- Outcome evaluations are protected and should not be released without proper signed consents, court orders, or when allowable under HIPAA standards.

Questions and Final Comments

Final questions from the audience and final comments from the trainers?

Before you leave:

- Please remember to complete the course evaluation form and return to DBHDS staff
- If you are eligible for motel reimbursement, please remember to complete and the green reimbursement to DBHDS staff
- Please pick up your CEU paperwork from DBHDS staff
- Please note the trainer contact information on the next page, should you have questions at a later date

Trainer Contact Information