



Journey to Resilience: Outpatient Competency Restoration Program

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OCRCP Update

- The facility and program have been open since November 2023.
- As of April 2024, we had over 59 referrals, 26 of which were for restoration for out-of-custody defendants; however:
 - 16 had felony charges.
 - 2 had misdemeanors without “Use of Force.”
 - Of those 2:
 - 1 had treatment compliance issues
 - 1 did not attend their bail hearings and acquired additional charges
 - These numbers **do not include** defendants who were not referred to restoration **at all** because they did not meet outpatient criteria.

‘A very long time coming’: API launches new programs for mentally ill defendants

By Tess Williams

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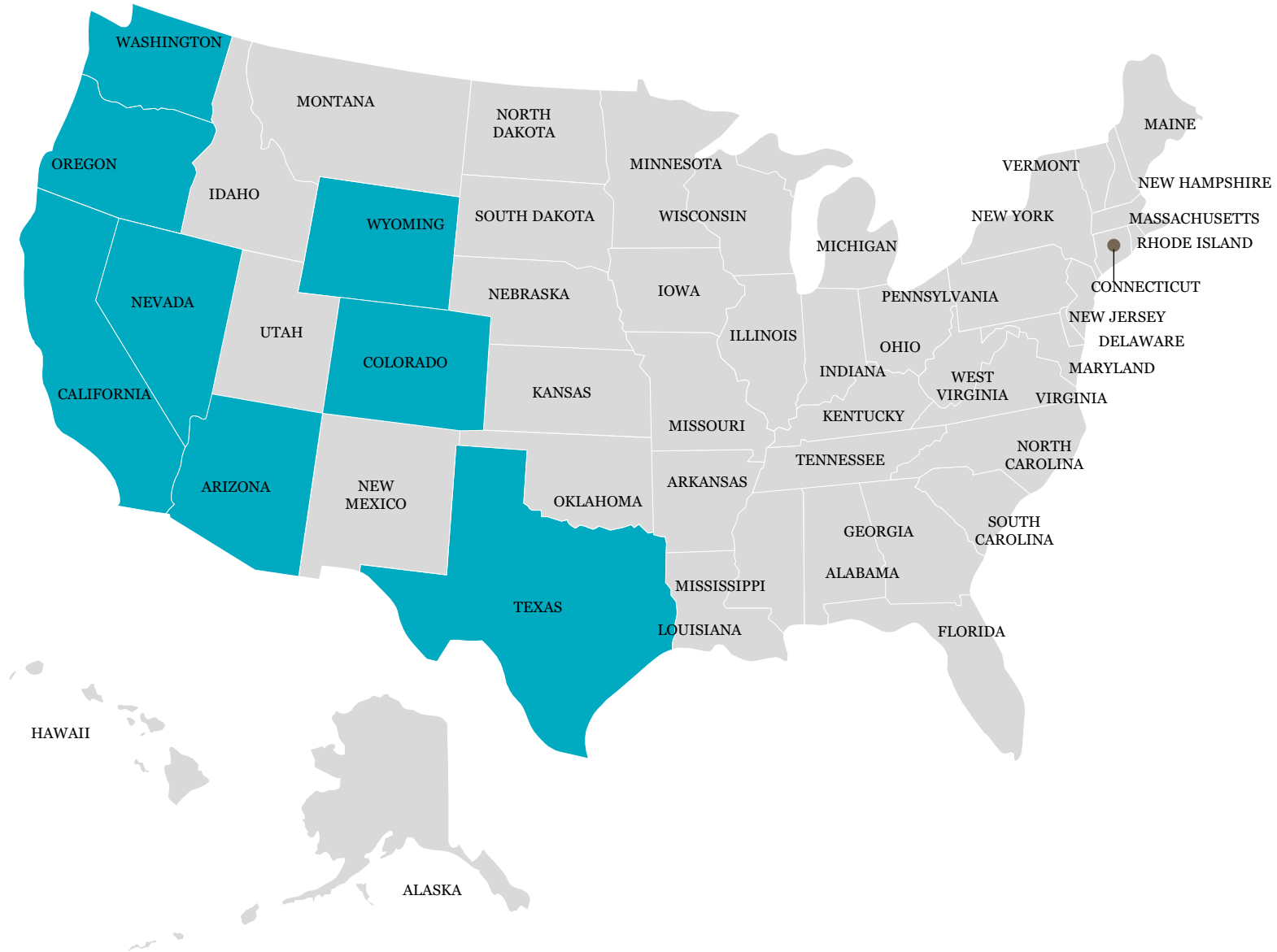
The "Journey to Resilience" Outpatient Competency Restoration Program, a clinic managed by API, is located off Gambell Street in Fairview. Photographed on Dec. 4. (Bill Roth / ADN)

What's slowing referrals?

- Lack of access for patients outside of the Anchorage Bowl
- Patients have a history of misdemeanor charges involving “Use of Force” and/or felony charges

What are other states doing?

Looking at Our Neighbors





RCW 10.77.086

(2)(a) **To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:**

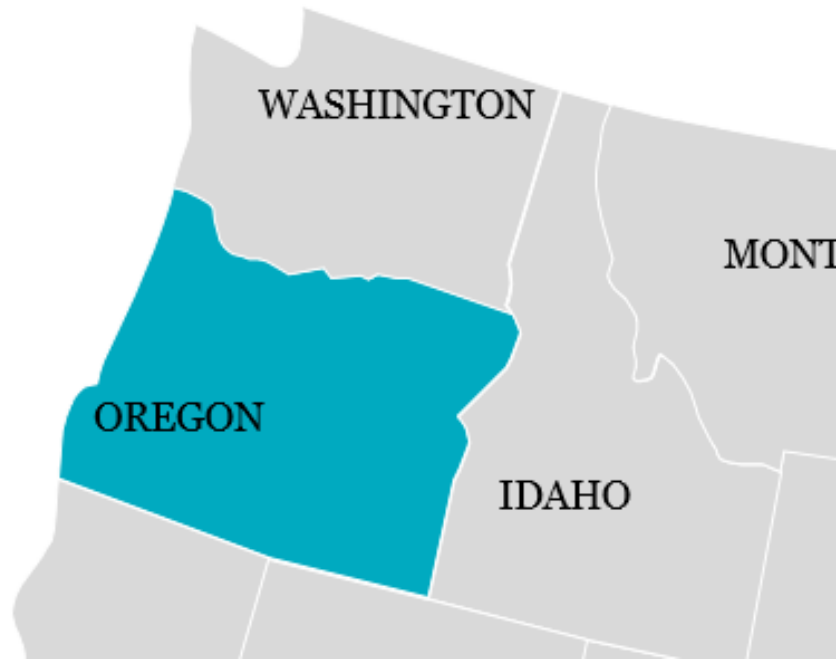
(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

(b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.



ORS 161.370

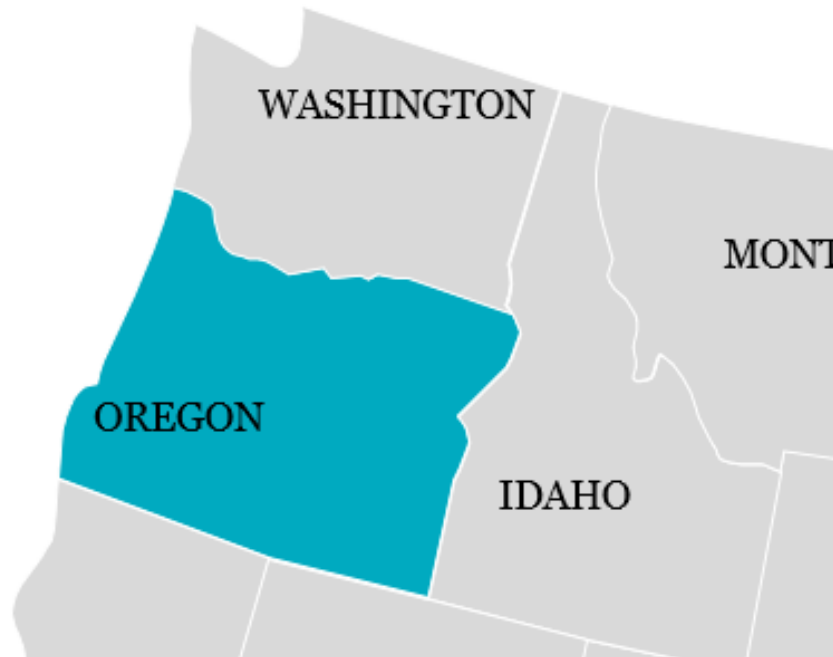
(2)(a) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended and the court shall proceed in accordance with this subsection.

(b) After making the determination under paragraph (a) of this subsection, the court shall receive a recommendation from a community mental health program director or the director's designee, and from any local entity that would be responsible for treating the defendant if the defendant were to be released in the community, concerning whether appropriate community restoration services are present and available in the community.

(c) If the parties agree as to the appropriate action under this section, the court may, after making all findings required by law, enter any order authorized by this section. If the parties do not agree as to the appropriate action, the court and the parties shall, at a hearing, consider an appropriate action in the case, and the court shall make a determination and enter an order necessary to implement the action. In determining the appropriate action, the court shall consider the primary and secondary release criteria as defined in ORS 135.230, the least restrictive option appropriate for the defendant, the needs of the defendant and the interests of justice. Actions may include but are not limited to:

(A) Commitment for the defendant to gain or regain fitness to proceed under subsection (3) or (4) of this section;

(B) An order to engage in community restoration services, as recommended by the community mental health program director or designee, under subsection (6) of this section;



ORS 161.370 Continued

(3)(a) **If the most serious offense in the charging instrument is a felony, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age, if the court makes the following findings:**

(A) The defendant requires a hospital level of care due to public safety concerns if the defendant is not hospitalized or in custody or the acuity of symptoms of the defendant's qualifying mental disorder; and

(B) Based on the findings resulting from a consultation described in ORS 161.365 (1), if applicable, from any information provided by community-based mental health providers or any other sources, and primary and secondary release criteria as defined in ORS 135.230, the appropriate community restoration services are not present and available in the community.

Cal. Pen. Code § 1001.36



(a) On an accusatory pleading alleging the commission of a misdemeanor or felony offense not set forth in subdivision (d), the court may, in its discretion, and after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant pursuant to this section if the defendant satisfies the eligibility requirements for pretrial diversion set forth in subdivision (b) and the court determines that the defendant is suitable for that diversion under the factors set forth in subdivision (c).

(b) A defendant is eligible for pretrial diversion pursuant to this section if both of the following criteria are met:

(c) For any defendant who satisfies the eligibility requirements in subdivision (b), the court must consider whether the defendant is suitable for pretrial diversion. A defendant is suitable for pretrial diversion if all of the following criteria are met:

(d) A defendant may not be placed into a diversion program, pursuant to this section, for the following current charged offenses:

- (1) Murder or voluntary manslaughter.
- (2) An offense for which a person, if convicted, would be required to register pursuant to Section 290, except for a violation of Section 314.
- (3) Rape.
- (4) Lewd or lascivious act on a child under 14 years of age.
- (5) Assault with intent to commit rape, sodomy, or oral copulation, in violation of Section 220.
- (6) Commission of rape or sexual penetration in concert with another person, in violation of Section 264.1.
- (7) Continuous sexual abuse of a child, in violation of Section 288.5.
- (8) A violation of subdivision (b) or (c) of Section 11418.



Cal. Pen. Code § 1370

...(F) **A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others.** If the court places a defendant charged with a violent felony on outpatient status, as specified in Section 1600, the court shall serve copies of the placement order on defense counsel, the sheriff in the county where the defendant will be placed, and the district attorney for the county in which the violent felony charges are pending against the defendant.



TX 46B.0711

(b) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as a **Class B misdemeanor** and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant, the court shall:

- (1) **release the defendant on bail or continue the defendant's release on bail; and**
- (2) **order the defendant to participate in an outpatient competency restoration program for a period not to exceed 60 days.**

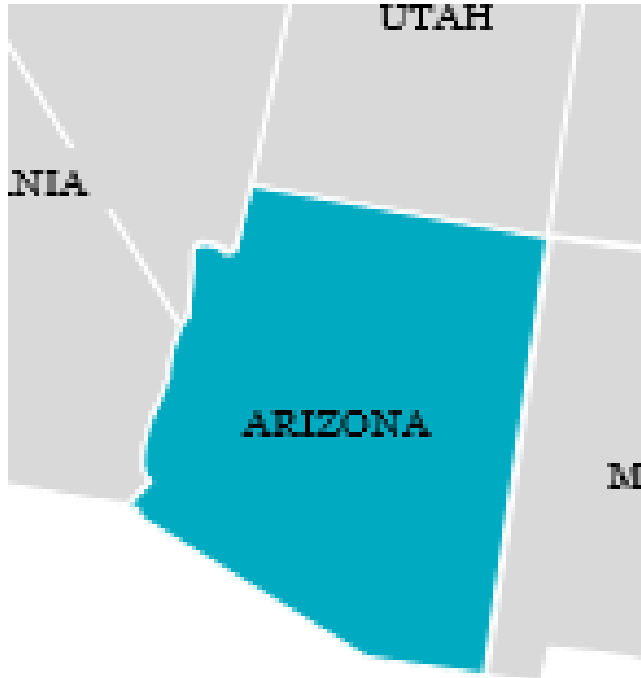


TX 46B.072

(a-1) Subject to conditions reasonably related to ensuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant charged with an offense punishable as **a felony or a Class A misdemeanor** and found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial, and an appropriate outpatient competency restoration program is available for the defendant, the court:

- (1) **may release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a felony or may continue the defendant's release on bail; and**
- (2) shall release on bail a defendant found incompetent to stand trial with respect to an offense punishable as a Class A misdemeanor or shall continue the defendant's release on bail.

(b) The court shall order a defendant released on bail under Subsection (a-1) to participate in an outpatient competency restoration program for a period not to exceed 120 days.

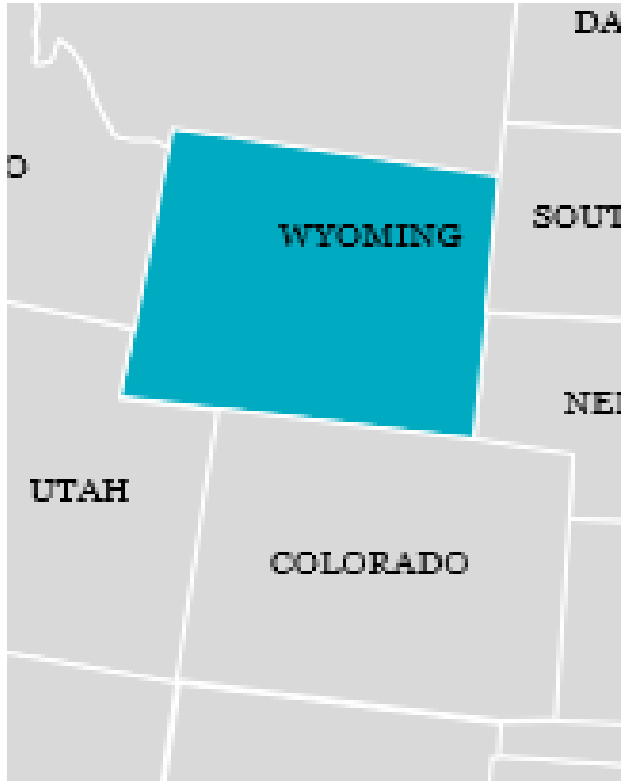


AZ 13-4512

A. The court may order a defendant to undergo out of custody competency restoration treatment. If the court determines that confinement is necessary for treatment, the court shall commit the defendant for competency restoration treatment to the competency restoration treatment program designated by the county board of supervisors.

...D. In determining the type and location of the treatment, the court shall select the least restrictive treatment alternative after considering the following:

1. Whether confinement is necessary for treatment.
2. The likelihood that the defendant is a threat to public safety.
3. The defendant's participation in and cooperation during an outpatient examination of competency to stand trial conducted pursuant to section 13-4507
4. The defendant's willingness to submit to outpatient competency restoration treatment as a condition of pretrial release, if the defendant is eligible for pretrial release.



WY 7-11-303

...(c) Written reports of the examination shall be filed with the clerk of court. The report shall include:

(i) Detailed findings;

(ii) An opinion as to whether the accused has a mental illness or deficiency, and its probable duration;

(iii) An opinion as to whether the accused, as a result of mental illness or deficiency, lacks capacity to comprehend his position, to understand the nature and object of the proceedings against him, to conduct his defense in a rational manner, and to cooperate with his counsel to the end that any available defense may be interposed;

(iv) Repealed By Laws 2009, Ch. 31, 2.

(v) **A recommendation as to whether the accused should be held in a designated facility for treatment pending determination by the court of the issue of mental fitness to proceed...**



NRS 178.425

... 3. If the court finds the defendant **incompetent but not dangerous to himself or herself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or the Administrator's designee as an outpatient for treatment**, if it might be beneficial, and for a determination of the defendant's ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for any periodic appearances before the Administrator or the Administrator's designee.



Colo. Rev. Stat. § 16-8.5-111

(b)(I) **If the defendant is on bond or summons, the court shall order that restoration to competency take place on an outpatient basis**, unless the department recommends inpatient restoration services pursuant to section 16-8.5-105(5)(e)(II).(II)(A) If the defendant is in custody and the recommendation is for outpatient restoration services, the court shall consider the release of the defendant on bond consistent with article 4 of this title 16 and the Colorado rules of criminal procedure.(B) As a condition of bond, the court shall order that the restoration take place on an outpatient basis. Pursuant to section 27-60-105 , the department is the entity responsible for the oversight of restoration education and coordination of all competency restoration services. As a condition of release for outpatient restoration services, the court may require pretrial services, if available, to work with the department and the restoration services provider under contract with the department to assist in securing appropriate support and care management services, which may include housing resources. The individual agency responsible for providing outpatient restoration services for the defendant shall notify the court or other designated agency within twenty-one days if restoration services have not commenced.

Current Requirements

- Charge is a misdemeanor AND does not involve “Use of Force”
- Patient has no history of felony charges (convicted or not)
- Patient is psychiatrically stable (their symptoms are not so severe that they are unable to care for their basic needs of health and safety in the community)
- Patient is treatment-compliant (including medication-compliant if applicable)
- Patient does not have current suicidal ideation/intent
- Patient is not at a heightened risk of harming others (endorsing homicidal ideation or engaging in aggressive/assaultive behaviors due to symptoms of mental illness)

Proposed Requirements

- **Charge is a misdemeanor or a low-level, non-violent felony (i.e., DUI, fraud, first degree stalking, theft of a firearm, evidence tampering)**
- **Patient has no history of high level or violent felony charges**
- Patient is psychiatrically stable (their symptoms are not so severe that they are unable to care for their basic needs of health and safety in the community)
- Patient is treatment-compliant (including medication-compliant if applicable)
- Patient does not have current suicidal ideation/intent
- Patient is not at a heightened risk of harming others (endorsing homicidal ideation or engaging in aggressive/assaultive behaviors due to symptoms of mental illness)

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