

## **Working with Individuals Found Not Responsible by Reason of Insanity (NRRI) - FAQ**

### **What does it mean for a person to be found NRRI?**

According to Nebraska Statutes, a person charged with a crime can plead Not Responsible by Reason of Insanity (NRRI).

For someone to be found insane for an offense, the individual must be found to have had a mental disease at the time of the acts charged; and (2) that this mental disease impaired his/her mental capacity to such an extent that either: (i) s/he did not understand the nature and consequences of what s/he was doing or (ii) s/he did not know the difference between right and wrong with respect to what s/he was doing. Nebraska law specifies that insanity does not include any temporary condition proximately caused by the voluntary use of alcohol or other mentally debilitating substance.

If a person is found NRRI, s/he is acquitted on the grounds of insanity and the court will determine if s/he poses a public safety risk and determine what kind of treatment s/he needs that is the least restrictive alternative consistent with public safety.

### **How long will a person have an NRRI status?**

An individual who has been found NRRI will remain under the jurisdiction of the court so long as the court finds the person remains dangerous to himself, herself, or others *“by reason of mental illness or defect.”*

### **What kind of information is included in initial reports (90-day evaluations) to the court?**

Nebraska Revised Statute 29-3701 outlines that the initial (90-day) report to the court shall address the following to the extent that the available information allows: (a) The person's psychological condition at the time of the evaluation; (b) the probable course of development of the person's condition, with special attention to the probable relationship between the person's current condition and the person's condition at the time of any omissions, threats, or overt acts establishing dangerousness, including the crime for which he or she was acquitted on grounds of insanity; (c) the probable relationship, if any, between the previous omissions, threats, or overt acts establishing dangerousness and the person's condition at the time of the omissions, threats, or overt acts; and (d) the prognosis for change in the person's condition in light of available treatment.

The statute also indicates the individualized treatment plan shall contain a statement of the nature of the specific mental and physical problems and needs of the person, a statement of the least restrictive treatment conditions necessary to achieve the purposes of the plan, a statement of the least restrictive treatment conditions consistent with the safety of the public, and a description of intermediate and long-range treatment goals and a projected timetable for their attainment.

### **What kind of information is included in subsequent reports (annual or any other report beyond the 90-day evaluation) to the court?**

Nebraska Revised Statutes 29-3701 through 29-3703 outline reporting requirements for treatment providers of NRRI patients. At least annually, or more frequently if so ordered, treatment providers provide reports to the court and prosecuting attorney (and defense attorney should the court order indicate to do so) regarding:

- Opinion about mental illness and dangerousness,
- Treatment progress of the individual found NRRI, and
- Recommendations about least restrictive treatment consistent with the individual's treatment needs and consistent with public safety.

Treatment providers must also send a report to the court and prosecuting attorney immediately if the individual fails to comply with any condition specified by the court.

Treatment providers must also send a report to the court and prosecuting attorney any time there are recommendations to change the treatment plan for the individual. This would include recommendations to change the level of care, discontinue, or add treatment services.

An NRRI Annual Report template is available and can be provided upon request.

### **How often do treatment providers need to send updates to the court?**

Treatment providers should send updates to the court on at least an annual basis unless the court orders more frequent updates to be provided. The treatment plan will be reviewed at least annually by the court. Providers should also update the court and county attorney's office as soon as possible should there be any significant change in a person's status or recommended treatment plan.

### **Who does the treatment provider contact if the client tests positive for illicit substances or substances they are not prescribed?**

If an individual tests positive for substances that are not prescribed by a doctor, the provider should check the court order for the conditions of the client's treatment and follow the court order regarding reporting a violation of the conditions.

Illicit substance use can and should be addressed during treatment, with any changes to the recommended treatment plan associated with the substance use to be sent to the court and prosecuting attorney.

### **If a client moves or their placement changes, how soon must the court be notified?**

The court should be notified as soon as possible. If the move or change in placement was initiated by the client and is inconsistent with the treatment plan ordered by the court, Nebraska Revised Statute 29-3703 indicates, *"If the person fails to comply with any condition specified by the court, the court and prosecuting attorney shall be notified forthwith."*

### **If the providers' contact information has changed how soon does the court need to be notified?**

The court should be notified as soon as possible.

**Who should the treatment provider contact if the client leaves treatment or the placement without permission?**

If the treatment provider believes the client is a danger to themselves or someone else, they should call law enforcement for a welfare check. Otherwise, the provider should check the court order for specifics about whom to contact if an individual elopes. If the court order does not include specific instructions, the provider should notify the court and prosecuting attorney immediately. If telephone contact is initiated with the court and/or county attorney, a follow-up written report should also be submitted.

**What should the treatment provider do if a client refuses to attend a treatment program, such as a day program, therapy, or medication management?**

If the treatment program is part of the court-ordered treatment plan, the provider should notify the court and prosecuting attorney.

**What if a program that a client is ordered to participate in does not have availability or has a start date that is several weeks after their discharge date from the Lincoln Regional Center (LRC)?**

Generally, the availability of the program is known prior to discharge from LRC and can be problem solved with the LRC treatment team prior to the discharge date. Should such a circumstance arise following discharge from LRC, treatment providers should collaborate with the treatment team at LRC to identify alternative treatment options. Providers should also notify the court of the interim plan and the expected start date for the court-ordered treatment.

**What if the client wants to work with another provider in the community or change any member of their team?**

Treatment providers should implement strategies to engage clients and create a therapeutic alliance. If a provider change becomes necessary, the provider should assist in finding a new provider and ensure appropriate services are available. The provider will then need to notify the court and prosecuting attorney in writing outlining the recommendation and information about the new provider and treatment plan. The current treatment provider should provide hand-off information to the new treatment provider regarding the client's NRRI status, the need to provide treatment updates to the court, and information about the individual's court-ordered treatment plan.

**If the client has an updated evaluation in the community that recommends a treatment that differs from the court order, does the provider need permission from the court prior to the patient beginning treatment?**

The client is ordered to follow the treatment plan adopted by the court so any changes in treatment must be consistent with what is permitted by the court order.

**Can a provider discharge an individual found NRRI from treatment for non-adherence to the court-ordered treatment plan?**

A provider may be able to discharge an individual from treatment for non-adherence to a treatment plan. Notification to the court and prosecuting attorney is always necessary when an individual is not complying with any condition specified by the court. It is recommended that all efforts are made to engage the individual in treatment while simultaneously notifying the court that the individual is not participating in treatment as expected.

## **Can a provider discharge an individual found NRRI from treatment if he/she no longer meets continued stay guidelines?**

Providers should plan for transition and discharge to other services throughout the course of an individual's treatment to ensure continuity of care and allow ample time for the court to consider recommendations for changes in the treatment plan. Any time it would be expected that a person may complete treatment within a certain timeframe, providers should be sending reports to the court and counsel outlining the future treatment recommendations (see above for information to include in progress reports) well in advance of that date and include all available information about the expected timeframe that the individual may no longer meet continued stay criteria.

Should a circumstance arise in which a provider can no longer serve an individual, the court and prosecuting attorney must be notified immediately that the court-ordered treatment plan cannot be sustained with alternative treatment recommendations and/or providers identified as appropriate.

### **Nebraska statutes:**

**29-3701 - Verdict of acquittal; probable cause hearing; finding; referral or confinement; evaluations; conditions of confinement; order; preparation of treatment plan; contents.**

<https://nebraskalegislature.gov/laws/statutes.php?statute=29-3701>

**29-3702 - Evidentiary hearing; determination; release or court-ordered treatment; personnel at facility violating order of commitment; contempt.**

<https://nebraskalegislature.gov/laws/statutes.php?statute=29-3702>

**29-3703 - Trial court; person found not responsible by reason of insanity; review records; conduct hearing; evaluation; treatment program; discharge plan; compliance with conditions; reports.**

<https://nebraskalegislature.gov/laws/statutes.php?statute=29-3703>

### **For additional information, please contact:**

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