

## Outpatient Competency Restoration

### Program Overview

#### **Background**

Nebraska Revised Statute 29-1823 sets forth that when the court finds an individual not competent to stand trial but restorable, the court commits the defendant to the Department of Health and Human Services (DHHS) for appropriate treatment to restore competency. Historically, the statute limited commitment options to a state hospital or state-owned or operated facility. In 2019, LB686 was passed and went into effect on 7/1/2021, which allowed DHHS to enter into contracts with community providers to offer outpatient competency restoration (OCR) treatment pursuant to the court approving an alternative treatment plan submitted by DHHS.

#### **Recruitment & Training of Community Providers**

- DHHS has contracts with providers in most regions of the state and is continually recruiting additional providers.
- The Public Policy Center (PPC), in conjunction with DHHS, offers trainings to contracted providers regarding competency restoration.
- Ongoing consultation and training will be offered by DHHS and the PPC throughout OCR.

#### **Criteria for Participation**

- On pre-trial release (released on bond, personal recognizance) and living in a community-based setting.
- Not posing an imminent risk of violence to self or others.
- Housing arrangements do not interfere with the ability to consistently engage in treatment.
- Substance use is not interfering with competency-related abilities.
- Willing and able to adhere to outpatient treatment recommendations, including taking psychotropic medications if medically necessary.
- Clinical condition and intellectual functioning can be adequately managed in OCR services.
- Not at risk of leaving OCR treatment without court permission.
- OCR is available and appropriate for the defendant's condition.

#### **Types of Services OCR Participants Will Receive**

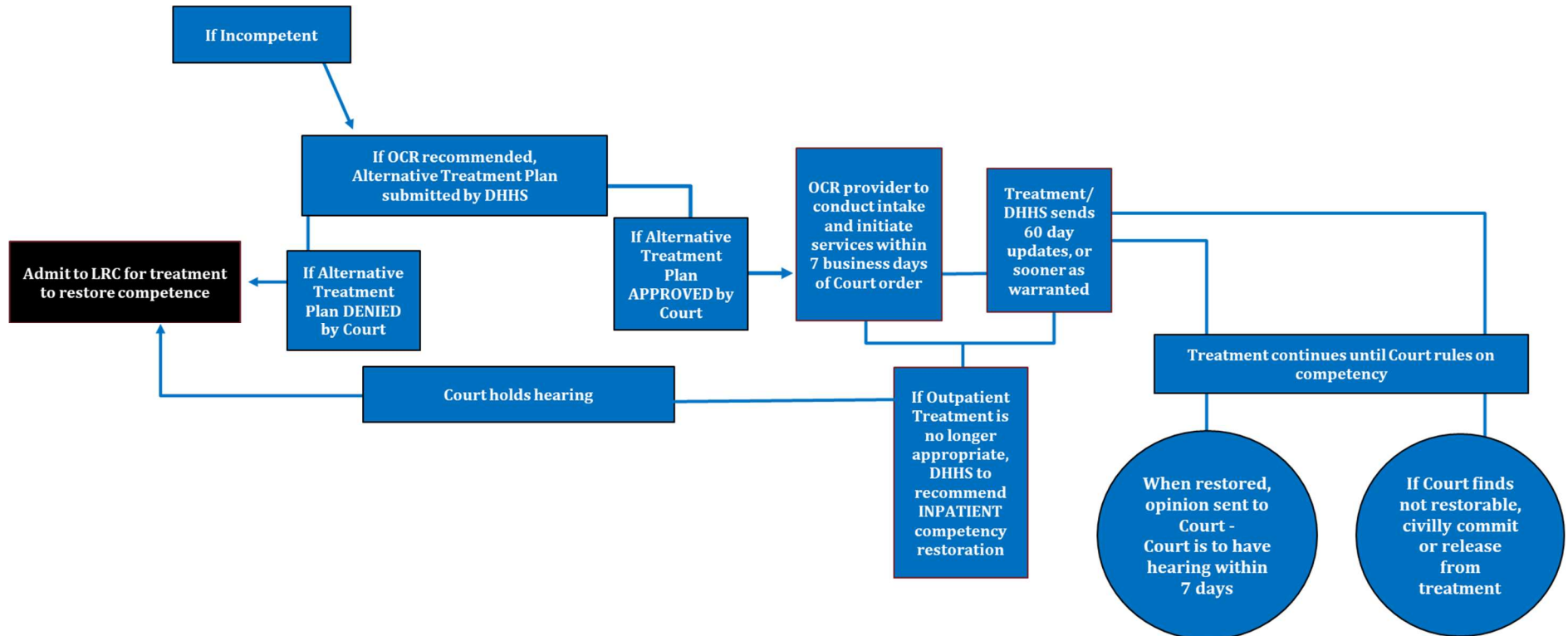
- Medication Management (as needed)
- Care Coordination, as needed (projected 3-7 days weekly)
- Competency-related Counseling, as needed (projected 2-3 times weekly)

#### **Notification of Problem Events in OCR**

- OCR provider will notify DHHS of adverse events, including the following list, within 24 hours:
  - New arrests
  - Dangerous behaviors (towards self or others)
  - New citations for felonies or misdemeanors
  - Withdrew from OCR without court's permission (missed 2 consecutive appointments without contact with OCR provider)
  - Any other incident raising concern about the appropriateness of OCR
- DHHS will revise treatment recommendations as necessary to notify the Court if OCR is no longer recommended.

## OCR Process & Logistics

- When competency evaluation is conducted by DHHS, an alternative treatment plan may be offered at the same time as the competency opinion.
- When competency evaluation is not conducted by DHHS, DHHS will screen individuals for potential participation in OCR after the agency receives the order for competency restoration.
- Per NRS 29-1823 (2)(a): DHHS will determine if treatment by a contract facility or provider is appropriate, and **the department shall file a report outlining its determination and such alternative treatment plan with the court.**
- Within 21 days of receiving a report recommending an alternative treatment plan, the court will hold a hearing to determine if such treatment is appropriate. **The court may approve or deny the alternative treatment plan.**
- If OCR is approved, all relevant records (competency evaluation, available mental health records, police reports) will need to be shared with DHHS and the contracted OCR provider.
- If OCR is approved individuals would participate in competency restoration treatment on an outpatient basis with a community provider in lieu of being placed on the waitlist for inpatient restoration.



## **OCR Contacts**

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