

# COMPETENCY RESTORATION

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# AGENDA

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- 1:00 - 1:15 **Introduction**
- 1:15 - 3:00 **Assessment/Court Report Training & Scenarios**
- 3:00 - 3:15 **Break**
- 3:15 - 5:00 **Curriculum Training**

# RESTORATION PROGRAMMING: RECOVERY-FOCUSED

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- Utilize a strengths-based, recovery-focused approach
- NASMHPD has taken the position “... that all people served in state psychiatric hospitals should be considered to be in the process of recovery.”
- A recovery-focused approach “should be to engage the person in [his or her] care and empower [the person] to participate in making decisions about their care, with the ultimate goal of helping each person to manage his or her own illness.”
- These principles are equally applicable to persons hospitalized for competency restoration.

# RESTORATION PROGRAMMING: RECOVERY-FOCUSED (CONT.)

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- Key principles of recovery include:
  - recovery is person-driven;
  - recovery occurs via many pathways;
  - recovery is supported by addressing trauma;
  - recovery involves individual, family and community strengths and responsibility; and
  - recovery is based upon respect.
- See Technical Report #18, NASMHPD supra at note 2, citing del Vecchio, P., SAMHSA's Working Definition of Recovery Updated, (March 23, 2012) (<http://blog.samhsa.gov/2012/03/23/definition-of-recoveryupdated/#U7GRuLE861Q>)

# RESTORATION PROGRAMMING:TREATMENT PLANNING (CONT.)

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- Emphasize competency restoration as key reason for admission
- Develop treatment plan with the individual and tailor plan and interventions to the deficits affecting the individual's competence. (Procedure 2 Section 7 a)
- Review progress or lack thereof in each treatment plan at regular intervals (30 days or after each competency evaluation (Procedure 2 Section 7 e)
  - Barriers to progress must be identified and addressed in treatment plan with interventions adjusted accordingly
  - Treatment plan modifications should reflect input from group leader's progress notes

# RESTORATION PROGRAMMING:TREATMENT PLANNING (CONT.)

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- Treatment providers should consider a range of interventions including medication, education, therapies to reduce anxiety or anger, dialectical behavior therapy, positive behavior support, and cognitive remediation therapies.

# RESTORATION PROGRAMMING (CONT.)

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- For clinical or behavioral reasons, some individuals may require additional I:I instruction in order to become competent
- Programming must include a variety of modalities and formats:
  - Didactic (e.g., written legal skills curricula)
  - Experiential (e.g., roleplaying responsibilities of courtroom officials and defendant)
  - Oral and visual presentation of information (e.g., law and order video, games-competency bingo, etc.)
  - If English is not primary language, provide materials in appropriate language

# RESPONSIBILITIES OF GROUP LEADERS

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- Group leaders must be familiar with competency restoration manual
- Consider mandated training for all leaders to ensure familiarity with material as well as consistency across service delivery
- If groups are being led by unlicensed professionals, regular supervision by clinician is warranted
- Frequency of groups (i.e., at least 4 times per week for 30-45 minutes per session; more groups of shorter duration more effective). More frequent and shorter duration groups ideal for presenting specific modules as opposed to broader content
- Documentation of progress or lack thereof in medical record is warranted
  - Consider utilizing standard competency group template note

# CONSIDERATIONS FOR GROUP ASSIGNMENT

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- Level of cognitive functioning
- Current mental status (i.e., overt psychotic symptoms may interfere with ability to attend to restoration efforts)
- Size of groups (i.e., whenever possible, no more than 8-10 individuals per group and if necessary, hold shorter group sessions with fewer individuals if it is necessary to have more than 10 in a group)
- For individuals who may be either disinterested or unengaged in competency restoration efforts
  - consider 1:1 instruction initially prior to group assignment
  - engage defense attorney in encouraging participation
  - consider use of positive behavior support or alternative positive reinforcement strategies (e.g., extra gym time, extra outdoor time, etc.)

# USING COMPKIT

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- Compkit is based upon a competency restoration curricula originally developed in 2005-2006 by Florida based upon a detailed analysis of data relating to defendants treated in state hospitals. Adopted and modified by a number of jurisdictions including Texas, Oregon and DC.
- Section One- Overview and detailed Table of Contents
- Section Two- Instructor's Manual for Teaching Factual Understanding
- Section Three- Instructor's Manual for Teaching Rational Understanding and Decision-making

# USING COMPKIT (CONT.)

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- Section Four: One-to-One Instruction materials
- Section Five: Documentation and sample group progress note template
- Section Six: Appendices of additional materials for instructors
- Section Seven: Handouts for Individuals
- Not all individuals will need to participate in all modules

# SECTION ONE: INTRODUCTION TO THE COMPKIT COMPETENCY RECOVERY SYSTEM

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- **Description of CompKit**
- Instructor's Materials
- Client Materials
- **Considerations for Competency Instructors**
- Instructor's Assessment of Individual Learning Needs
- Instructional Strategies
- Facilitating Learning
- **Challenges for Instructors**

# SECTION TWO: INSTRUCTORS' MANUAL FOR TEACHING FACTUAL KNOWLEDGE (13 MODULES)

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## Module 1:

- Competency Education
- Goals of competency education
- Competency education sessions
- Expectations at each session
- Factors related to limited effectiveness of competency education program
- Handling disruptive behavior in sessions

# SECTION TWO: INSTRUCTORS' MANUAL FOR TEACHING FACTUAL KNOWLEDGE (CONT)

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- **Module 2** General classification of incompetent to stand trial Individuals
- **Module 3** Competency to stand trial criteria
- **Module 4** Overview of competency to stand trial
- **Module 5** Vocabulary list for competency to stand trial
- **Module 6** Appreciation of charges
- **Module 7** Appreciation of possible penalties

# SECTION TWO: INSTRUCTORS' MANUAL FOR TEACHING FACTUAL KNOWLEDGE (CONT)

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- **Module 8** Understanding the adversarial nature of the legal process
- **Module 9** Questions about the jury
- **Module 10** Ability to manifest appropriate courtroom behavior
  - Behavior checklist (by staff)
- **Module 11** Competency education review
- **Module 12** Review of essential vocabulary for clients
- **Module 13** Competency screening test

# SECTION THREE: INSPECTOR'S MANUAL FOR TEACHING RATIONAL UNDERSTANDING AND DECISION-MAKING

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- **Module 1:** Mock trial #1
- **Module 2:** Rational decision-making vignettes
- **Module 3:** Mock trial #2
- **Module 4:** Review test
- **Module 5:** Competency Group Study Guide
  - Self-awareness
  - Legal Situation
  - Courtroom procedures
  - Courtroom behavior

# RATIONAL DECISION-MAKING VIGNETTES (EXAMPLE 1)

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- ***Vignette 2: Luke***
- Luke has been feeling scared of his mother for months. He believes that she is possessed by the Devil and will kill him tomorrow as a sacrifice. One night, Luke gets his brother's gun and shoots his mother while she is sleeping. She screams, runs to the kitchen, and calls the police. The police come and take her to the hospital where she recovers. Luke is charged with Attempted Murder.

# RATIONAL DECISION-MAKING VIGNETTES (EXAMPLE 1 CONT)

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- **Questions:**
- What should Luke tell his defense attorney about his case? What should he tell about how he was thinking and feeling? Why should he do this?
- The Prosecutor offers Luke a deal (a plea bargain) of 5 years in prison if he pleads guilty to Aggravated Assault (attacking a person with the intent to do serious harm). What should Luke consider before deciding whether to accept? Who should he talk to about this?
- To be found guilty of Attempted Murder what does the prosecutor have to prove?
- What if Luke's defense attorney recommends that he think about an NGRI plea? To have him found NGRI, what does Luke's defense attorney have to show? What should Luke consider in deciding about an NGRI plea?

# RATIONAL DECISION-MAKING VIGNETTES (EXAMPLE 2)

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- Dave is arrested by police on Sunday morning and is charged with Theft. The police say that Dave stole a car from a gas station the previous night (Saturday night) and crashed it into a telephone pole two miles from his house. The police found Dave's fingerprints on the car door and were able to track him down because he has a criminal record and a past charge for Grand Theft Auto. Dave tells police that he was home alone all night on Saturday, but Dave's neighbor told police that he saw Dave running up to his house at 2:00 a.m., one hour after the car was reported stolen. Dave claims that the police are always messing with him, trying to frame him, and that they are involved in a conspiracy to put him behind bars. Dave's neighbor is a 65-year old retired store clerk. He is not an enemy of Dave's, has no criminal record, and has no bad feelings toward him.

# RATIONAL DECISION-MAKING VIGNETTES (EXAMPLE 2 CONT)

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- **Questions:**
- What evidence does the government have against Dave?
- Who would be a more believable witness, Dave or his neighbor (neighbor does not have a criminal record)? Explain.
- What if the neighbor had been a 23-year old with a long criminal record who had conflicts with Dave in the past? Explain.
- The worst penalty Dave could get is 15 years if he is found Guilty. Should he consider a plea bargain of three years in prison? Why or why not? What if Dave had five past convictions for Car Theft?
- If Dave's case goes to trial, how likely is he to win (be found Not Guilty) by claiming that he was framed? Why do you think Dave is accusing the police of framing/conspiring against him?

# SECTION FOUR: INSTRUCTOR'S MANUAL FOR ONE-TO-ONE COMPETENCY RESTORATION

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- **Working One-to-One with Individuals Overview**
- **Pocket Guide for Individuals with handouts**
  - Why are you here
  - Crimes and Penalties
  - People in the courtroom and court system
  - How should I act in court
  - Plea Bargaining
  - Overall, what do I know
  - Staying Free
  - Fast facts

# SECTION FOUR: INSTRUCTOR’S MANUAL FOR ONE-TO-ONE COMPETENCY RESTORATION (CONT)

- One-to-One Competency Workbook
- Lesson 1: Things you will want to remember about your legal case
- Lesson 2: What is incompetent to proceed.....
- Lesson 3: Understanding roles, where people sit.....
- Lesson 4: Understanding roles, what people do.....
- Lesson 5: Understanding court procedure, proceedings.....
- Lesson 6: Understanding court procedure and pleas.....
- Lesson 7: Court procedures, outcomes.....
- Lesson 8: Relating to your attorney.....
- Lesson 9: Appreciate charges.....



# SECTION FOUR: INSTRUCTOR’S MANUAL FOR ONE-TO-ONE COMPETENCY RESTORATION (CONT)

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- Lesson 10: Realistically choosing a defense.....
- Lesson 11: Appropriate court behavior.....
- Lesson 12: Sharing information with your lawyer and participating in defense strategy
- Lesson 13: Appreciate the possible penalties.....
- Lesson 14: Be able to describe relevant facts.....
- Lesson 15: Be able to challenge witnesses.....
- Lesson 16: Testify relevantly.....
- Lesson 17: Likely outcome of trial.....
- Lesson 18 Review.....



# SECTION FIVE: DOCUMENTATION

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- **Guidelines for documentation**
- **Competency Restoration Progress Note Template**

# Competency Restoration Progress Note Template

## Competency Restoration Monthly Progress Note: Template

Individual's Name:	Type of Intervention (Group Name or 1:1 education)	Treatment Provider
Date(s) of all sessions held # sessions Individual attended	Treatment Plan Goal	
Name of Charge(s) (as described by individual; use quotes if possible)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Misdemeanor or felony (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Role of participants (judges, jury, attorneys, witnesses) (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Understanding of court procedures (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Understanding of verdicts and their meaning (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Understanding of pleas (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Understanding of plea bargaining (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Understanding of rights of defendants (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/> Behavioral observations during restoration efforts		
Understanding of role of his attorney and description of relationship with attorney		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Signature:		Date



# SESSION SIX: APPENDICES

## Appendix A: Games and Other Tools for Competency Restoration Groups

- Example (Competency Matching Game)

Evidence



Police Officer



Person who asked you questions and investigated what happened

Judge



The boss in the courtroom

# SECTION SIX: APPENDICES (CONT)

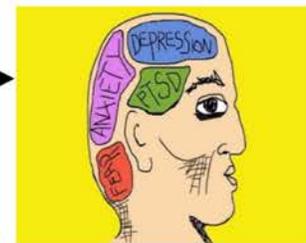
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- **Appendix B: Competency Tools for the Cognitively Impaired**
- Nonverbal Competency Packet # 1
- Nonverbal Competency Packet # 2

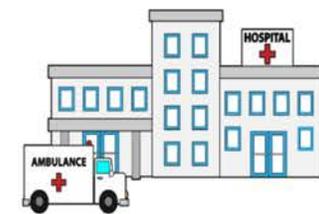
# Nonverbal Competency Packet example



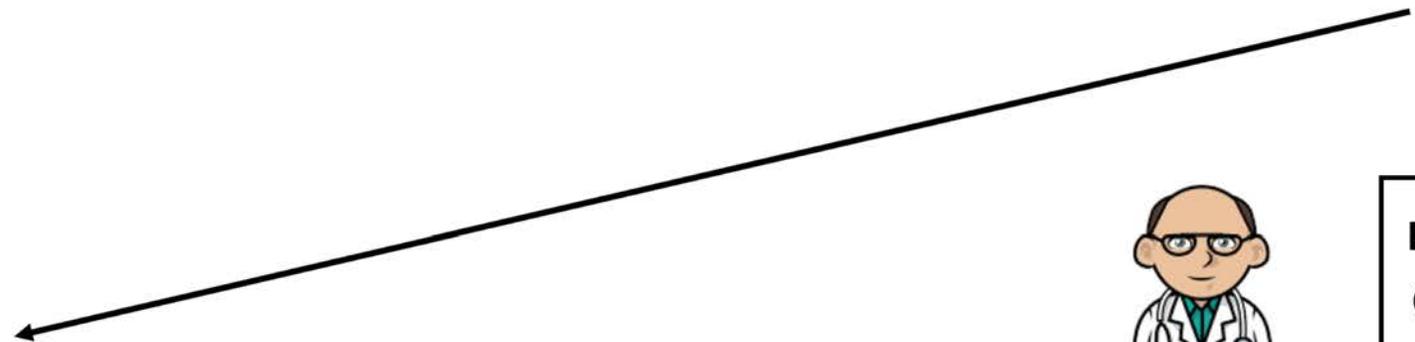
Arrest



Mental Health Concern



Evaluation



If Person is **UNLIKELY** to become competent to stand trial

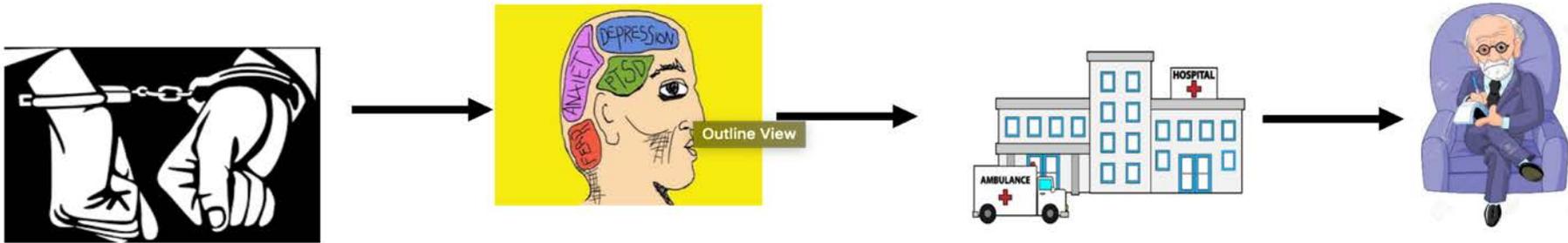


**JACKSON HEARING**



Treatment

**Possible Civil Commitment as an inpatient or outpatient**  
**\*\*Reviewed at set times:**  
\_\_\_\_\_



Arrest

Mental Health Concern

Hospital

Evaluation

Once found  
Competent-  
one can  
enter a plea

Guilty

**Give up:**  
1. \_\_\_\_\_  
2. \_\_\_\_\_  
**Get:**  
\_\_\_\_\_

NOT GUILTY  
OR  
NGBRI OR  
Guilty but  
Mentally Ill





**Judge's Duties:**

- 1.
- 2.
- 3.



**Jury's Duties:**

- 1.
- 2.
- 3.

If all \_\_\_\_\_<sup>3</sup>  
jurors cannot  
agree, it is  
called a  
\_\_\_\_\_, and  
is  
\_\_\_\_\_

What is it called  
the jury trial has  
no jury? \_\_\_\_\_  
\_\_\_\_\_

**Jury Verdict**

↓  
**Guilty**

↓  
**Not Guilty By Reason of  
Insanity (NGBRI) or Guilty  
but Mentally Ill (sentenced  
and sent to hospital or jail)**

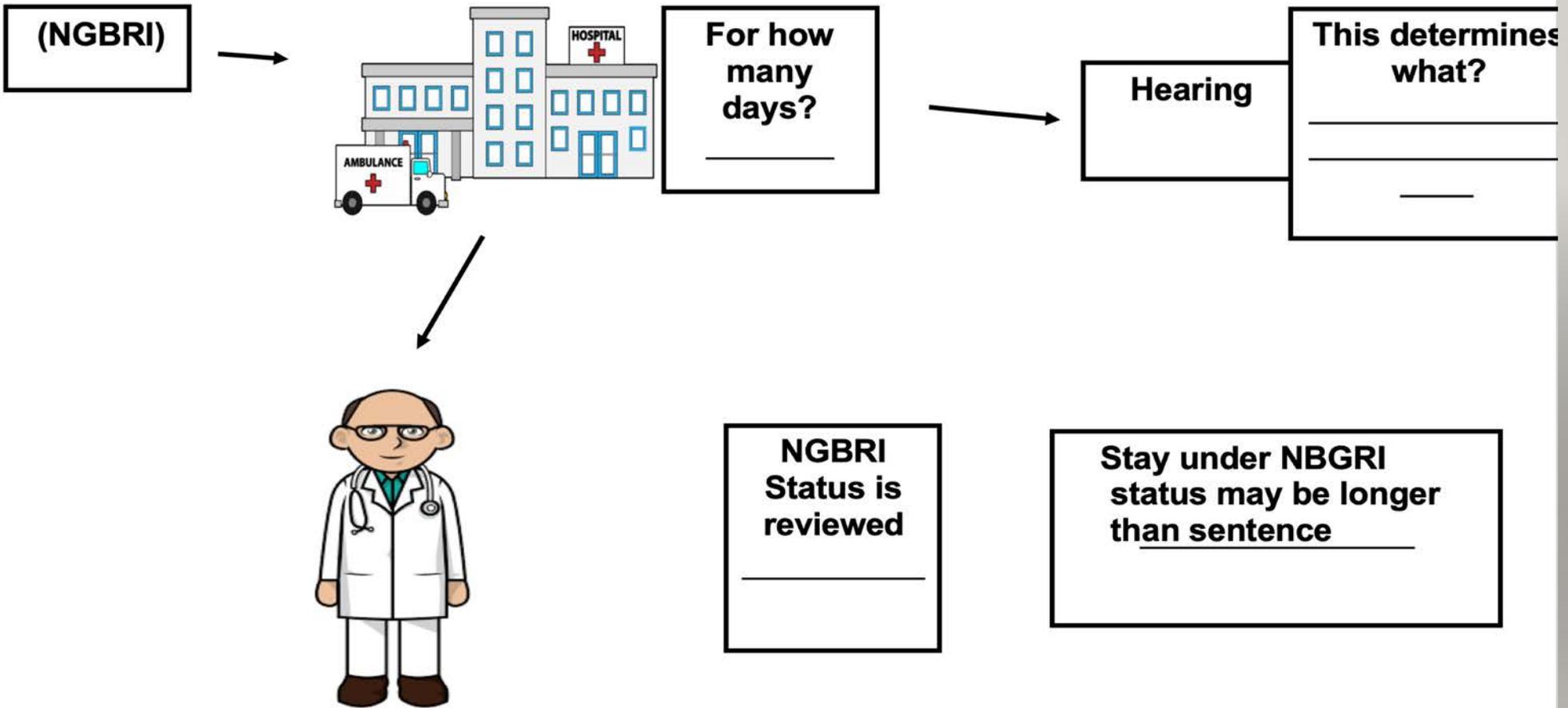


**0**

- 1.
- 2.
- 3.
- 4.
- 5.

**Not Guilty**





# SECTION SIX: APPENDICES (CONT)

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- **Appendix C: Additional Competency Resource Materials**
- Competency Movies
- Competency Study Guide -6<sup>th</sup> Grade reading level
- Competency Study Guide -3<sup>rd</sup> Grade reading level

# SECTION SEVEN: HANDOUTS FOR INDIVIDUALS

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- Competency Handout for Individuals (chart)
- Competency Questions for Inpatient Restoration
- Competency Study Guide
- Competency Pocket Guide (with tests)
- Staying Free Handout
- Plea Bargains Handout
- Fast Facts Brochure

# QUESTIONS?

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- **Compkit and handouts will be available electronically**