

MENTAL HEALTH DIVERSION CALENDAR PROTOCOL

I. APPLICATION IN THE ALPHA COURT

- A. Defendant signs HIPPA and BH waivers and the Application and Waiver form
- B. Counsel files at the earliest point possible the HIPPA and BH waivers and the Application and Waiver form
- C. Alpha Court:
 - a. Takes time waivers from the defendant
 - b. Sets the matter for a Assessment Report and Treatment Plan (AR/TP) Hearing
 - i. Court refers case to BH for a current AR/TP (even if other assessments exist, including a 1368 report)
 - ii. BH will determine whether any prior assessment can be used for a Treatment Plan
 - c. Put Defendant's contact information on the Clerk's Minutes (BH will need it for appointments)
 - d. Alpha Court can summarily deny the application

II. PROCEDURAL STEPS FOR REFERRAL BY THE ALPHA COURT TO BEHAVIORAL HEALTH (BH)

- A. Court Clerk will Fax to BH at (530) 538-7949 the:
 - a. Application and Waiver form
 - b. Minutes or Notice with: AR/TP Hearing date, referral for AR/TP, *and* Defendant's contact information
 - c. Signed HIPPA and BH waiver forms
- B. BH Will Conduct an AR/TP interview with the Defendant:
 - a. In Custody: BH will arrange the interview to take place in the jail with a BH clinician
 - b. Out of Custody: Court orders Defendant to Call BH* at (530) 538-7950 and Make and Keep an Appointment
* Call the Wednesday after the court date (give ▲ detail handout)

III. ASSESSMENT REPORT AND TREATMENT PLAN (AR/TP)

- A. Assessment Report (AR) will:
 - a. Be in writing by a Qualified Mental Health Expert (QMHE)
 - b. Show a current Diagnosis of a DSM V condition allowed by the code
- B. Treatment Plan (TP) will:
 - a. Be in writing
 - b. Describe nature and intended duration of Treatment
 - c. Name the Treatment Provider
 - d. Opine the Defendant would benefit from the plan
 - e. Agree to provide progress reports in writing to the Court and counsel and District Attorney
- C. AR/TP Is Sent *by* BH to:
 - a. Defense Counsel
 - b. District Attorney

IV. ASSESSMENT REPORT AND TREATMENT PLAN (AR/TP) HEARING IN THE ALPHA COURT

- A. *Defense* Will File:
 - a. The AR/TP produced by BH
 - b. Cover Sheet Identifying date of AR/TP, Name of Clinician, Diagnosis, Crime Charged, Stage of the Case
 - c. Other Statutory Factors:
 - i. The facts of the crime
 - ii. Criminal History of the defendant
 - iii. Any source of Formal Supervision
 - iv. Housing during treatment
 - v. Prior Mental Health Treatment history
- B. District Attorney Will Be Given Time to then File:
 - a. Agreement or Opposition
 - b. Victim impact or view
 - c. Danger to the community concerns
 - d. Any of the items above (IV.A.c.i-v.)
- C. When all of the above is on file, the Alpha Court will either deny the application or set the matter in the MHD court for a Prima Facie and Suitability Hearing

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V. AT THE PRIMA FACIE HEARING IN MENTAL HEALTH DIVERSION (MHD) COURT

- A. Court Hears Argument

- B. If Court Finds a Prima Facie Showing of Likelihood to be Placed on MHD
 - a. the case remains in MHD Calendar for Suitability Hearing and Orders
 - b. Prima Facie and Suitability hearings can be held simultaneously

- C. If NO Prima Facie showing made, the case returns to the Alpha Court

VI. MHD CALENDAR: 1ST TUESDAY OF EACH MONTH

- A. Schedule
 - a. Start Date: 8/6/19
 - b. Felonies will be calendared for the morning
 - c. Misdemeanors will be calendared for the afternoon (to avoid mixing less severe with more severe)
- B. If Accepted
 - a. Court will issue written orders with terms and conditions and set reviews
 - b. If VA services are the treatment plan, reviews will go to the Veteran's Treatment Court
 - c. If defendant is on Collaborative Court Probation, reviews will go to that calendar
 - d. Restitution Hearings will be heard in MHD, if accepted there

- C. If NOT Accepted in the MHD Calendar or Terminated after acceptance
 - a. Case returns to the Alpha Court
 - b. No re-application absent substantial change in circumstances

VII. TEAM APPROACH

- A. The District Attorney will have a dedicated MHD Calendar Prosecutor
- B. The Public Defender will have a dedicated MHD Calendar Attorney
- C. Counsel will vet new cases as early as possible to determine if MHD will be sought or opposed
- D. Counsel will coordinate with their colleagues in the Alpha Court departments
- E. Behavioral Health will provide a Liaison in the courtroom to assist with referrals
- F. Behavioral Health will provide a clinician to do assessments and treatment plans for defendants who qualify for Behavioral Health services whether the defendant is in custody or out of custody and will provide the assessments, treatment plans, and periodic reports in writing to the Alpha and MHD court. Private Pay will be determined during the AR/TP process and handled through subsequent MHD orders
- G. Private attorneys and private pay providers are eligible to apply for diversion as well

VIII. MHD CALENDAR POPULATION GOALS

- A. Individuals who will respond to treatment as evidenced by:
 - a. Success on treatment previously and current crime is aberrant behavior
 - b. Latent MH with only recent discovery of the condition and little to no MH history
 - c. Not previously subject to formal supervision or services
 - d. Have good insight into their mental illness
 - e. Seeking housing
 - f. Willingness to engage in substance abuse treatment
 - g. Willingness to take medication; successful history of taking medication

- B. Crime Type is not precluded by PC 1001.36