

**DELAWARE COUNTY
MENTAL HEALTH COURT
POLICY AND PROCEDURE MANUAL**



ESTABLISHED JANUARY 2014

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FORMS

- Form A: Mental Health Treatment Court Application**
- Form B: Agreement to Participate in Mental Health Court**
- Form C: Mental Health Court Written Colloquy**
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INTRODUCTION

In January 2014, the Delaware County Mental Health Court (MHC) was established to address more effectively the needs of participants with serious mental illness cycling through the Court and the prison system. This specialty court program represents a collaboration between the Court, Office of the Public Defender, Office of the District Attorney, Department of Human Services, the George W. Hill Correctional Facility, Office of Adult Probation and Parole Services, and community-based providers.

MISSION

The mission of the Delaware County Mental Health Court is to enhance public safety and reduce recidivism in those suffering from serious mental illness by connecting participants with community-based treatment services, as well as support systems, and find appropriate dispositions to their criminal charges by considering the participants' mental illness and the seriousness of their offense.

GOALS

The goals of the Delaware County Mental Health Court are to connect court participants suffering from serious mental illness to community-based treatment and support services. In doing so, the participants will be less involved with the criminal justice system and time spent in jail decreased by expeditiously arranging for participants with serious mental illness to utilize appropriate community-based treatment settings. Promoting employment and other evidence-based practices of recovery are utilized with each participant.

OUR PROGRAM

The Mental Health Court will accept referrals after the charges have been filed. Applications will be accepted for cases both in the Magisterial District Courts and in Common Pleas Court that are pretrial. Referrals will also be accepted for participants who are facing alleged violations of existing probation/parole sentences (Gagnon's).

Participation in Mental Health Court is voluntary. Informed consent will be obtained for requisite evaluation(s) and consideration by the court team and again if accepted into Mental Health Court.

Once a referral is made, the application will be reviewed by the District Attorney's Office, as well as Adult Probation and Parole. Updated psychiatric, psychological, and/or substance abuse evaluations should be submitted with the application. When a participant is formally accepted into Mental Health Court, they must enter a plea to certain agreed upon charges. Thereafter, the participant will proceed through the 3 phases of engagement identified in the Terms and Participation section herein. Sentencing may be deferred pending completion of Mental Health Court or probation where restrictive components may be imposed.

Upon successful completion of Mental Health Court, participants who entered by way of a diversionary case may be eligible to have their charges expunged. Those that entered as a recovery case may have a period of their supervision terminated early.

ELIGIBILITY

Due to funding concerns beyond the control by the courts and/or the county, Mental Health Court is limited to residents of Delaware County who are 18 years of age or older. To participate in Mental Health Court, the person must have a serious mental illness (SMI) diagnosis such as schizophrenia, major mood disorder, psychoses NOS, borderline personality disorder, etc. that contributed to their criminal behavior. Persons with co-occurring disorders (mental health and substance use disorder) will be considered for Mental Health Court if they meet the criteria for serious mental illness. The court prefers to address non-violent offenses, but other crimes will be taken into consideration on a case-by-case basis.

EXCLUSIONARY CRITERIA

While each case will be considered individually, the following offenses will typically be excluded from Mental Health Court:

- ✓ 3rd Offense DUIs
- ✓ Cases with excessive restitution amounts
- ✓ Sex Crimes
- ✓ Felony Crimes of violence
- ✓ Felony crimes involving a firearm
- ✓ Felony drug offenses
- ✓ Murder/Manslaughter will not be considered under any circumstances

****Participants are considered ineligible if there are any unresolved out-of-county charges. It is the responsibility of the participant's counsel to resolve those charges before a person is eligible for consideration.**

APPLICATION AND REFERRAL PROCESS

The Delaware County Mental Health Court receives referrals from a variety of sources including the participant, arresting officers, probation/parole officers, Magisterial District Judges, District Attorneys, George W. Hill Correctional Facility, and the defense bar. There are 2 types of referrals:

DIVERSION CASES

- New cases to the criminal justice system that require an admission of guilt to the charges prior to being admitted to the program. If a participant has no prior criminal history or minimal criminal history, the individual maybe eligible to have the acceptance of the plea held in abeyance while the participant completes the program. If the participant successfully completes the program, they are eligible to have the case dismissed and his or her record expunged. Otherwise, an individual may enter the program through a guilty plea, but by agreeing to participate in MHC, they may have consideration with regard to the charges they are entering a plea to, may avoid further jail time and/or a prolonged period of probation.

RECOVERY CASES

- Cases where the participant is currently under supervision with Delaware County Adult Probation and Parole Services. Upon completing all court ordered conditions and successful completion of the program, participants will be granted early termination of their period(s) of supervision.

ALL APPLICATIONS/REFERRALS SHOULD BE EMAILED TO ASSISTANT DISTRICT ATTORNEY JENNA SMITH (smithjr@co.delaware.pa.us) AND ADULT PROBATION AND PAROLE MENTAL HEALTH COURT COORDINATOR MARYELLEN HOFFMAN (hoffmanm@co.delaware.pa.us)

At the point where the application/referral is received, an initial screening will be performed to gather baseline information to present to the team. All applications/referrals will be reviewed by the team and there must be a recent psychiatric and/or psychological evaluation completed. In the event that there is no current psychiatric and/or psychological evaluation completed, the applicant's attorney will be responsible for obtaining the evaluation. After the first level of eligibility is determined, the justice related services staff will meet with the participant to begin developing a community living plan. During this meeting, consent to release/discuss the applicant's information will be obtained to allow for the exchange of information between the team and service provider(s). The referral as well the community living plan will be presented to the Mental Health Court team for review.

In addition to the community living plan, the below documentation will be submitted to the Mental Health Team:

- History of mental health treatment
- Criminal history
- Summary of charge(s)

After the plan is submitted, it will be reviewed together as a team and a determination will be made regarding admission into Mental Health Court.

RECONSIDERATION POLICY

The Mental Health Court Team will consider appropriate referrals on a case-by-case basis. There are a myriad of factors to be considered during the application/referral process. Major emphasis is placed upon the offense as charged, victim input, the impact of the participant's SMI, prior record, and likelihood of success. The information used for consideration is obtained from police reports, consultation with police and victims, criminal history records, prior treatment, mental health evaluations, and previous probation/parole records.

If a relevant party to the participant's case (defense attorney, judge, treatment provider, etc.) feels as though the team failed to consider certain factors, he/she may make a request for the case to be reconsidered. This request must be done in writing and submitted to the Office of the District Attorney and copied to the Adult Probation and Parole Office. The request must include supportive documentation and/or supportive reasoning for reconsideration. Supportive reasoning

includes but is not limited to mitigating circumstances pertaining to the crime, psychiatric/psychological reports that may not have been available to the team at the time of initial consideration, or any other relevant information that can be placed in written format.

Otherwise, the decision by the Mental Health Court Team is final.

ROLES OF THE MENTAL HEALTH COURT TEAM

JUDGE

The judge assigned to Mental Health Court heads the collaborative team. He/she will regularly review cases, statistical reports, lead the team meetings and is the final arbiter in any decision on which there is not an agreement within the team. The judge will administer graduated sanctions and incentives, based on input from the team. This will increase the participant's accountability and will also enhance the likelihood of long-term participation in treatment and recovery.

COURT COORDINATOR

The court coordinator works in close consultation with the judge. He/she will review all referrals to the court for initial eligibility, coordinates the assessment process, and coordinate/provide all information for new referrals that will be presented to the team.

DISTRICT ATTORNEY

The prosecutor reviews all new cases concerning eligibility. The eligibility assessment includes a review of the participant's criminal history, consultation with victims, and appropriate dispositions upon the entry into Mental Health Court.

As part of the team, the prosecutor monitors the participant's progress and can make recommendations regarding sanctions and incentives. In the event a participant is arrested on new criminal charges, the prosecutor will investigate the new criminal charge(s) and assesses the appropriateness of continued participation in the Mental Health Court.

PUBLIC DEFENDER/DEFENSE COUNSEL

The public defender/defense counsel represents and advises the participant in all court proceedings and is mindful of the participant's constitutional rights and the civil rights as a mental health consumer. The public defender/defense counsel seeks treatment solutions for the participant in order to minimize the exposure to incarceration, reduce the risk of re-arrest or new charges, and mitigate the consequence of a criminal conviction.

ADULT PROBATION AND PAROLE

Specialized probation/parole officer(s) will supervise the participants in Mental Health Court. He/she will work closely with the participants and provide updates to the team regarding compliance with the terms and conditions imposed by the court. The probation/parole officer(s) will focus on community involvement, community protection, meeting with participants in the community, interacting with community-based organizations, overseeing the collection of restitution that is owed to a victim, and networking with treatment/service providers.

DEPARTMENT OF HUMAN SERVICES (DHS)

A representative from DHS participates in Mental Health Court proceeding to provide additional support and oversight, insuring the provision of mental health services. The DHS representative works to facilitate collaboration between community provider agencies and the Mental Health Court team. Its role is to monitor the services provided to Mental Health Court participants, to identify additional individual support as needed, and to identify potential gaps in the service system that need to be addressed.

CORRECTIONAL FACILITY

A representative of the George W. Hill Correctional Facility participates to assist the team in the diversion of participants from the county prison to a more appropriate placement in the most effective and efficient manner possible. The representative, ideally a forensic caseworker, acts as a liaison between the correctional facility and the Mental Health Court. In this role, he/she provides relevant information regarding the conduct of the participant and treatment information. He/She meet with participants as needed. As a team member, their role is to participate while in the facility, to expedite release when possible, and to reduce recidivism within the sub-group of inmates.

COMMUNITY PROVIDERS

Participants being served by Mental Health Court will receive their treatment services in the community provider system. These providers are responsible to work consistently with Adult Probation to provide updates on the participants progress, challenges that have been encountered, and to timely keep the probation officer aware of any violations of the agreed upon plan for participating in Mental Health Court. Community providers will obtain necessary releases of information from the participants to allow the sharing of information between the Mental Health Court.

TEAM DECISION MAKING

The Mental Health Court team will meet prior to each Mental Health Court session. At these meetings the team will review all cases on the docket for that day. The review will include a clinical report from the treatment provider for each case, as well as the reports from the probation officer and the community support provider. The meeting is also used to assess the status of cases in which current treatment and supervision do not appear to be effective. Decisions are typically made by consensus. Additionally, the team addresses matters pertaining to program planning and administration, treatment and service delivery, training, policies and procedures, data collection, grants and special projects, and issues that may have arisen since the last meeting. Team members may also meet periodically to address treatment plans, community planning, funding and/or legislative processes, and to respond to problems that may arise. In addition, the team meets periodically for training and educational experiences.

TERMS OF PARTICIPATION

The Mental Health Court team will meet at least weekly to review the status of participants scheduled for court that day and any other offenders who are having difficulty in the program.

At the time of acceptance into the Mental Health Court Program, all necessary consent forms for waivers of confidentiality will be signed to allow all team members to communicate freely with each other and with the Mental Health Court participant. The treatment provider will obtain this release of information. This release of information form will extend to community-based mental health providers and if necessary, physical health providers as well. The process of Mental Health Court Program consists of 3 phases. These phases are designed to focus more on positive rewards and strengths than on sanctions, though sanctions will be delivered as necessary. While movement through the phases will be individualized, the average length of participation in the court will be 24 months. The general structure of the phases is:

PHASE 1

The following are standards for Phase I completion:

- Attend Mental Health Court weekly.
- Meet with their probation officer a minimum of once a week.
- Attend all appointments with appropriate treatment agencies.
- Follow through with treatment goals including attending appointments, taking medication, attending recovery support meetings, community service, etc.
- Demonstrate housing and financial management stability.
- Undergo urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from non-prescribed drugs.
- Make consistent payments toward court ordered restitution.
- Increase community activity through participation in volunteer activities, employment, education, and/or other training opportunities.

Participants will be permitted to move to Phase II when they have consistently demonstrated the following:

- Attendance at all appointments with the court, the Office of Adult Probation and Parole, treatment providers and community support providers.
- A commitment to and follow through with goal plans.
- Medication compliance.
- Stability in financial management and housing.
- Remain drug/alcohol free: relapses are not necessarily cause for return to previous phase. The sanction for a relapse will be considered on an individual basis.

PHASE II

The following are standards for Phase II completion:

- Attend Mental Health Court Program every other week.
- Meet with probation officer a minimum of every two (2) weeks.
- Attend all treatment appointments
- Follow through with treatment goals including attending appointments, taking medication, and attending recovery support meetings.
- Demonstrate ongoing stability with regards to housing and financial management.

- Comply with urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from non-prescribed drugs.
- Make consistent payments towards Court ordered restitution.
- Increase community activity through participation in volunteer activities, employment, education, and/or other training opportunities.

Movement to Phase III happens when the participant has consistently demonstrated clear signs of stability in the following areas:

- Attendance at all appointments with the Court, the Office of Adult Probation and Parole, treatment providers and community support providers.
- Following through with Mental Health Court goal plan and recovery plan developed with provider.
- Stability in housing and housing management.
- Stability in financial management.
- Remaining drug/alcohol free: relapses are not necessarily cause for return to previous phase. The sanction for a relapse will be considered on an individual basis.

PHASE III

Participants will be required to meet the following standards for Phase III compliance:

- Attend Mental Health Court Program once per month.
- Meet with Probation Officer a minimum of once a month.
- Attend all appointments with appropriate treatment agencies.
- Follow through with treatment goals including attending appointments, taking medication, and attending recovery support meetings.
- Demonstrate ongoing stability with housing and financial management.
- Comply with urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from non-prescribed drugs.
- Pay all court ordered restitution.

The court team will make the recommendation and decisions regarding advancement for each phase.

TESTING AND ACCOUNTABILITY

The Mental Health Court utilizes an instant urinalysis testing system. Participants will be screened on a random basis or accordingly with their designated phase as described in the terms of participation section of this handbook. In the event a participant tests positive for an illicit/prohibited substance, the Mental Health Court team will discuss the violation with the team and the judge will hold the participant accountable and may impose sanctions.

MEDICATION ASSISTED TREATMENT/PRESCRIPTION MEDICATIONS/DRUG AND MEDICAL MARIJUANA POLICY

Participants seeking entry into the Mental Health Court are strongly encouraged due to the nature of the disease of addiction and the effects of medication on the brain to consult with their treating physician and/or psychiatrist to seek non-addictive medication with no abuse potential to treat serious health conditions. The following are procedures that participants must follow to be placed, and remain, on prescription medications and/or medical marijuana.

Participants must identify one primary health care provider (PHCP) to coordinate health care needs and sign appropriate releases for the Mental Health Court team. The PHCP will be responsible for managing all the prescription medications with the exception of those participants being treated by a psychiatrist.

Participants must notify the Mental Health Court Team if they are prescribed or administered prescription drugs, medical marijuana, or any mood altering and/or controlled substances. Participants must also provide a copy of any prescription or certification to the Mental Health Court team by the next scheduled court date and keep the medication in its original prescription container. In addition, the participant should expect verification (e.g., pill counts) to be completed by Adult Probation, either at random or regularly, if the Mental Treatment Court team feels such is necessary.

Participants must fill all of their prescription medications at one pharmacy. The participant must provide a quarterly printout documenting new prescriptions and/or refills from that pharmacy to the Mental Health Court team.

Participants may be prohibited from using medical marijuana if it substantially impacts or interferes with other therapeutic treatment needs while in the program and the need for medical marijuana does not outweigh the substantial impact and/or interference.

Participants must obtain their medical marijuana from one dispensary. The participant must provide a quarterly printout documenting medical marijuana purchases from that dispensary to the Mental Court team. Participants must consume and store medical marijuana in a manner provided by the statute. Participants should expect compliance checks of their medical marijuana by Adult Probation, either at random or regularly if the Mental Health Court team feels it is necessary.

MENTAL HEALTH COURT STANDARDS AND MEDICATIONS

The Delaware County Mental Health Court Program prohibits the use of narcotics or other prescribed drugs having the potential for abuse without the prior consent of the Mental Health Court team. Over the counter medications must also be approved for use by the Mental Health Court team to avoid any cross reactions that may result in positive drug tests. All participants are apprised of these prohibitions prior to entering the program and are responsible for notifying their physician when being treated. The physician treating the participant must understand and recognize their patient's substance abuse issues. The program will work with the physician to meet the needs of the participant while accomplishing the goals of the program.

In the event a participant has a medical procedure and the use of narcotic medications is required, the Mental Health Court team will put a plan in place with the participant and the physician and the administration/prescribing of narcotic medication will be permitted as long as the pre-approved plan is agreed upon by the participant and the physician.

THE ROLE OF INCENTIVES AND SANCTIONS

Throughout participation in Mental Health Court Program, incentives and sanctions will be used to support follow through with agreed upon goals and plans. These incentives and sanctions will be individualized according to the participant's plans, but may include the following:

Incentives

- Positive verbal feedback and/or handshakes from the judge.
- Certificates of completion at set intervals.
- Gift cards.
- Symbols of accomplishments (i.e. key chains).
- Decrease in number of required appearances in court.

Sanctions

- Essay.
- Increased appearances in court.
- Increased participation in treatment activities.
- Increased reporting to probation officer.
- Community service.
- Increased substance abuse testing.
- Incarceration.

The Mental Health Court team will determine the incentive or sanction to be used subject to the judge's final approval. The incentives are positive motivators and the sanction chosen should also serve to increase the participant's likelihood of success in the program. For example, while increased attendance at treatment or reporting to the probation officer is listed as a sanction, it is a way of increasing the support the participant needs allowing them to succeed.

Voluntary and Involuntary Discharge from Mental Health Court

The Mental Health Court Program is voluntary. The decision to discharge a participant either voluntarily or involuntarily is made by the judge.

Diversion and Recovery Case Discharge

For the purposes of Mental Health Court, a **diversion case** is described as an alternative procedure in criminal court where the prosecution agrees to allow the Defendant to plead nolo contendere to certain charges and agrees to allow the participant to tender the plea, the acceptance of which is held in abeyance during the completion of the program. The charges

would then be dismissed if the participant successfully completes Mental Health Treatment Court.

However, with some diversion cases, a participant is required to be formally sentenced to enter Mental Health Court. With these cases, when the participant successfully completes the program, the remaining time left on the program and under supervision could be terminated. Either kind of diversion case enters the program in the Court of Common Pleas during the pre-trial process. The District Attorney's Office makes the final decision regarding case disposition and whether the disposition will be an abeyance or formal sentencing.

For the purposes of Mental Health Court, a **recovery case** involves a participant that has already been sentenced, is under probation/parole supervision, and is facing a violation of probation/parole hearing (Gagnon). The participant chooses to apply for Mental Health Court as a disposition to their violations.

VOLUNTARY AND INVOLUNTARY DISCHARGE FROM MENTAL HEALTH TREATMENT COURT:

Mental Health Treatment Court is a voluntary program. A participant can ask to be voluntarily discharged from the program at any time and will be allowed to do so after the judge makes sure that the participant is certain about the decision to withdraw. The decision to discharge a court participant involuntarily is the Judge's to make after consultation with the entire team and a court hearing at which the participant is represented by counsel. Either type of discharge from the program, voluntary or involuntary, will result in further disposition of the case, as discussed below.

Voluntary Discharge: a court participant is free to request a voluntary discharge from Mental Health Treatment Court at any time. However, diversion cases are then relisted for sentencing. The sentence given by the judge may include a period of incarceration. Recovery case Mental Health Treatment Court participants would be found in violation of probation or parole following a voluntary discharge, as successful completion of Mental Health Treatment Court is a condition of their probation or parole. They would then be resentenced on their outstanding charge of probation, parole, and/or Probation with Restrictive conditions. The sentence given by the judge may include a period of incarceration.

Involuntary Discharge: a court participant may also be discharged involuntarily for a violation of program rules and regulations and/or for new criminal charge(s). Same as above, diversion cases are relisted for sentencing following an involuntary discharge. The sentence given by the judge may include a period of incarceration. Recovery case Mental Health Treatment Court participants who are involuntarily discharged would be found in violation of probation or parole, as successful completion of Mental Health Treatment Court is a condition of their probation or parole. They would then be resentenced on their outstanding charge of probation, parole, and/or probation with restrictive conditions. The sentence given by the judge may include a period of incarceration.

GRADUATION

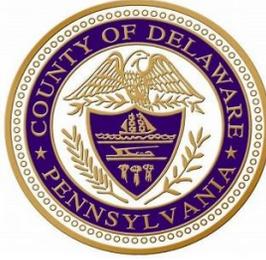
Any participant that successfully completes all 3 phases of Mental Health Court Program will be recognized during a short graduation ceremony. The Mental Health Court Team will make the determination when all program requirements have been satisfied.

Participants completing the Mental Health Court Program may have the court consider dismissing or reducing their charges for diversion cases, and having supervision terminated for recovery cases. The determination of these factors will be based on a case-by-case assessment of prior record and nature of the offenses by the judge.

CONFIDENTIALITY

The Mental Health Court Program proceedings shall be kept confidential unless otherwise ordered by the Court.

None of the proceedings, other than guilty plea, sentencing, termination, and contested sanction hearings will be held on the record. Participants will be required to sign a waiver authorizing the transfer of information among Mental Health Court Program participating agencies and/or service treatment providers, as well as mentors and other court-approved team members.



-DELAWARE COUNTY MENTAL HEALTH COURT APPLICATION-

Name: _____

Aliases/Maiden Name: _____

DOB: _____ Gender: _____ SS#: _____

Cellphone: _____ Home Phone: _____

Current Location: Incarcerated OR Community

If incarcerated, where: _____

Referral Source: Probation Officer Prison Judge Other: _____

Attorney Information and contact information: _____

Are you a U.S. Citizen: Yes or No

Do you have a valid Drivers License: Yes or No

If no, has your license been suspended: Yes or No If suspended, why: _____

What is your primary health insurance: _____

Do you have a psychological and/or psychiatric evaluation that has been completed within the last 6 months: Yes or No

If yes, please attach a copy of the evaluation and any additional mental health information to this application or email it to Assistant District Attorney Jenna Smith

(smithjr@co.delaware.pa.us) AND Probation and Parole Mental Health Treatment Court Coordinator MaryEllen Hoffman (hoffmanm@co.delaware.pa.us).

Do you have an AXIS 1 Diagnosis: Yes or No

If yes, please complete the following:

AXIS 1 Diagnosis: _____

Physician: _____

Current Medications (please list name of medication, dosage, and prescribing doctor)

MEDICATION	DOSAGE	PRESCRIBING DOCTOR

Do you have a Case Manager: Yes or No
If yes, please provide the information below.

NAME: _____

AGENCY: _____

ADDRESS: _____

PHONE #: _____

Where have you attended treatment in the past: (please list all inpatient, outpatient facilities, and halfway/recovery houses)

AGENCY	ADDRESS	THERAPIST/DOCTOR

If applicable, please provide information below related to substance use.

SUBSTANCE	FREQUENCY	AGE OF 1 st USE	LAST USE

Do you currently reside with anyone who has substance use issues: Yes or No

Have you ever or are you currently engaged in any support groups: Yes or No

Do you have a sponsor and home group: Yes or No

If yes, please provide the information below:

Name of Sponsor: _____

Name of Home Group: _____

Are you currently under Pre-Trial Bail or Probation/Parole supervision: Yes or No

If yes, what county is providing supervision: _____

Bail/PO Contact information: _____

Do you have any open cases: Yes or No *If yes, where:* _____

Do you have a history of Probation/Parole violations: Yes or No

If yes, please provide and explanation for the violations as well as what county/state provided supervision: _____

Have you ever been arrested, charged, convicted, adjudicated, cited (including Vehicle Code violations) or held by any law enforcement or juvenile authorities in the United States regardless of whether the citation or charge was "dropped" or dismissed or you were found not guilty or whether the record has been "sealed", expunged, or otherwise stricken from the court records on any occasion other than this arrest: Yes or No

Why are you applying for the Mental Health Court Program?

APPLICANT’S VERIFICATION

I hereby swear (or affirm) that I have read the above the Application for Admission to the Mental Health Court Program in its entirety and I understand its full meaning. I hereby swear (or affirm) that each answer to the above questions it true. I hereby swear (or affirm) that I fully understand that if any of the information provided above is false or misleading, my application for admission to the Mental Health Court Program will be denied and my case will be prosecuted as provided by law.

I hereby swear (or affirm) that I fully understand that providing false or misleading information may also result in my being charged and prosecuted for additional crimes, including but not limited to, Perjury, False Swearing, and/or Unsworn Falsification to Authorities.

I also swear or affirm that I have read and understand the description of the Mental Health Court Program and phases attached to this application. I have also had the opportunity to review this material and my application decision with my attorney. I understand that if this application is rejected for any reason, then my case will proceed in the standard fashion. I understand that while this application is pending, all such time is waived by me for purposes of my speedy trial rights under Rule 600. I understand that if this application is accepted, then I can either (i) agree to be admitted into this program, or (ii) decline admission.

I understand that if I fail to comply with the Mental Health Court Program for any reason that I could be removed from the program and I will be sentenced in accordance with applicable laws.

APPLICANT

DATE

ATTORNEY VERIFICATION

As the attorney for the above defendant or counsel advising the defendant on the application process, I have advised the defendant of their rights with respect to the charges against them. I have also advised the defendant of the content and meaning of the application, Mental Health Treatment Court Program and waiver of rights.

ATTORNEY

DATE

Attorney’s Name (Printed)

ID#

If you need further assistance, please contact the Mental Health Court Program Coordinator MaryEllen Hoffman or Assistant District Attorney Jenna Smith:

hoffmanm@co.delaware.pa.us
610 891-4782

smithjr@co.delaware.pa.us
610 891-5569

IN THE COURT OF COMMON PLEAS
OF DELAWARE COUNTY, PA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA v.		No.
--	--	-----

PARTICIPANT AGREEMENT

**Rules and Regulations/Agreement to Participate in Mental Health Court Program
Delaware County, Pennsylvania**

Participant: _____

Address: _____ **Phone:** _____

I have worked with the Adult Probation/Parole Office, a treatment provider, and others to make a plan for living in the community. This plan is what lets me be part of the Delaware County’s Mental Health Court (MHC). I know that if I don’t follow my plan, I may be subject to a period of incarceration, other sanctions, or discharge from the program.

____1. I will report to your probation/parole officer according to their instruction. Appointments may take place in my residence, place of employment, or the probation/parole office. If I have a problem that keeps me from making an appointment, I will call before my appointment and inform my probation/parole officer directly.

____2. I will comply with all municipal, county, state, and federal criminal laws, and abide by any written instructions of the Delaware County court or your probation/parole officer. I will notify my probation/parole officer immediately if I am arrested by and/or if I am cooperating with any law enforcement agency. I will not enter into any agreement to act as a confidential informant for any law enforcement agency without written permission from my probation/parole officer. I will abide by the rules/regulations and conditions imposed by the Court. Furthermore, I will conduct myself in a manner that I will not create a danger to the community or myself.

____3. I understand that my residence and living situation must be approved by the Office of Adult Probation/Parole and that I may not change my residence without the probation/parole office’s **prior** permission. I will live at my approved residence and will not spend the night at another person’s residence without permission from my probation/parole officer. I will contact my probation/parole

officer for approval before anyone is allowed to live with me or move into my residence. I will notify my Probation/Parole Officer prior to changing my address.

____ 4. I understand that I may be subject to the warrantless search of my person, property, vehicle or residence and the seizure and appropriate disposal of any recovered items, if it is reasonably suspected that such a search will yield evidence of a crime and/or a violation of your probation/parole.

____ 5. I understand that my daily travel is limited to the southeastern Pennsylvania counties (Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties). Any travel beyond those counties or overnight travel must be approved by your probation/parole officer prior to departure. I understand that I cannot travel outside Pennsylvania unless it is for employment, and I have received written travel permission from your probation/parole officer. Travel outside of the United States will require written approval from the visiting country's consulate, and fines, costs and restitution must be paid in full.

____ 6. I understand that if my approved residence is in another state other than Pennsylvania (e.g. Delaware-New Jersey), I cannot travel outside of that state without prior written permission.

____ 7. I know that the treatment provider and/or designated agency/person is going to connect me with help in the community. I will meet as often as they instruct me and make all appointments that are set up for me.

____ 8. I will timely follow through with obtaining new benefits or getting my benefits reinstated. If I need help, I will ask for it from my probation/parole officer and/or treatment provider and/or designated agency/ person staff.

____ 9. I will go to and participate in my approved treatment agency(s) and work with them. I know that getting help for my substance abuse, mental illness, and other issues is important to my recovery and I agree to follow the plans we make together. This includes going for therapy and/or meeting with my treatment provider and/or designated agency/person, taking my medicine as directed, seeing my psychiatrist, and comply with my treatment plan. My psychiatric medication is to be prescribed only by my psychiatrist. I understand that I must complete all court ordered treatment.

____ 10. I understand that I must timely sign-execute any releases, waivers, and/or authorizations as may be required under the Health Insurance Portability and Accountability (HIPAA) and/or otherwise pertaining to records and/or information regarding all court ordered treatment(s). Any such records and/or information will only be disseminated as needed to assure compliance with Mental Health Court.

____ 11. If applicable, I will make every effort to obtain and maintain employment and support your dependents. If I am employed, I will notify my Probation/Parole Officer of the name, address and phone number of my employer. I will notify my probation/parole officer within seventy-two (72) hours if I change my employment.

____ 12. I will abstain from the use, unlawful possession, or sale of controlled substance, as defined within the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. Section 780-101 et.seq. as amended to date) and all non-prescribed mind-altering substances. I understand that I must notify the Mental Health Treatment Court Team as to any prescribed and/or over the counter medications that I may use while in the program, including medical marijuana. I will notify the Mental Health Treatment Court Team as to any prescribed medications that may be

narcotic or habit forming. I will also notify the Mental Health Treatment Court team of any over the counter medications I have taken or take while in the program. If my Physician requires me to take any prescribed narcotic, pain, and/or potentially addictive medication including medical marijuana, I may have to obtain a legitimate doctor's note describing my need for such treatment. I further agree to sign release of information for my Mental Health Treatment Court Team to have the ability to communicate with any prescribing physician. I will not take anyone else's prescribed medication. I will notify my Probation/Parole Officer and/or treatment team if my medication (s) are changed.

_____ 13. I understand that I am not permitted to abuse, misuse or distribute my prescribed medications. I will not consume alcoholic beverages of any kind. I will avoid all alcohol containing products, including alcohol in foods, hygiene products or over the counter medications containing alcohol, eg. mouthwash, NyQuil, cough medicine/syrups or hand sanitizers. I understand that OBSERVED urine testing is mandatory and that testing is done to ensure compliance of treatment program and rules and regulations. I understand that I must be present and prompt at the appropriate testing time. I shall refrain from frequenting unlawful or disreputable places, including but not limited to bars and liquor stores and shall not associate with disreputable individuals.

_____ 14. I understand that I may not possess/consume alcohol and may not enter a bar, tavern, or food service establishment that does not offer dining in an area separate and apart from any bar area. You understand that your probation/parole officer or my community helpers may ask me to give a urine specimen and/or breathalyzer test at any time.

_____ 15. I will request that, if possible, my prescription medication be non-narcotic and non-addictive and will notify my probation/parole officer and treatment team prior to consuming and/or using any prescribed medication or any over the counter medication. If my physician requires me to take any prescribed narcotic, pain, and/or potentially addictive medication, I may have to obtain a note from the prescriber describing my need for such treatment. I will not take anyone else's prescribed medication. I will notify my probation/parole officer and/or treatment team if my medication(s) are changed.

_____ 16. Should I dispute the drug testing results, they have the right to have the lab retest the sample upon paying the retesting lab fee, \$50.00 dollars. I understand that the fee must be paid within twenty-four (24) hours of notification to the participant of the positive test. This will be at my expense and paid prior to the retesting. I understand that if the test is confirmed positive, I will face additional sanctions by the court. If I attempt, at any time, to submit a fake urine sample I can and will be prosecuted.

_____ 17. I will see my medical doctor when I am supposed to and remain compliant with what he/she instructs me to do in order take care of my body.

_____ 18. When I am in the courtroom, I will not talk during court proceedings, I will not bring food or drinks into the courtroom, I will stay until the Judge dismisses me, I will not use profanity and I will be on time.

_____ 19. I will be supervised by the Mental Health Court Program **UNTIL FURTHER ORDERED BY THE COURT.**

____ 20. I understand that attendance at scheduled court session and/or review hearings is mandatory. It is my responsibility to know the date and time of my court sessions. I understand that absence from, or rescheduling of, a court session WILL NOT be allowed unless an emergency exists, or I get approval through the court, and I understand that tardiness WILL NOT be tolerated.

____ 21. I agree to participate in the Delaware County Mental Health Court Program for a period of time specified by the court and understand that this time period will be a minimum of twenty-four (24) months. I agree to participate in any education, treatment and/or rehabilitation program ordered by the court and agree to abide by any additional terms or conditions as indicated by the court. I agree to complete all treatment, to be compliant with taking prescribed medication (if deemed necessary) and to participate in related programs to the satisfaction of the court.

____ 22. I will not own, use, and/or possess any type of firearm, look alike firearm, lethal weapon, explosives, and/or ammunition. I understand that hunting is prohibited.

____ 23. I understand I must pay all fines, costs restitution and may have a mandatory monthly supervision fee of \$40.00 a month.

____ 24. I understand that if I successfully complete all program phases, live a law-abiding life, and demonstrate a successful reintegration into the community, I will be eligible to graduate.

____ 25. Other special condition of the program: _____

I understand that if I leave the Commonwealth of Pennsylvania at any time I may be directed to return to Pennsylvania. I know that I may have a right to insist that Pennsylvania extradite me from any state where I may be found. This is commonly called the right to extradition. I also understand and acknowledge that I agree to return to Pennsylvania when ordered to do so. Therefore, I agree that I will not resist or fight any effort by any state to return me to Pennsylvania and **I AGREE TO WAIVE ANY RIGHT I MAY HAVE TO EXTRADITION. I WAIVE THIS RIGHT FREELY, VOLUNTARILY, AND INTELLIGENTLY.**

I hereby acknowledge that I have read, or have had read to me, the foregoing conditions of the Mental Health Treatment Court Program, and that I fully understand them and agree to follow them. I fully understand the penalties involved should I, in any manner, violate them. I understand the Judge and/or Hearing Officer will be notified when I do not follow the foregoing conditions.

Signature of Participant

Date

Defense Attorney

Date

Court Coordinator/Probation/Parole Officer

Date

COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

: CP-23-CR-_____ - _____

V.

MENTAL HEALTH COURT PROGRAM WRITTEN PLEA COLLOQUY

INSTRUCTIONS

TO DEFENDANT:

Read this statement carefully and review it with your lawyer. It is IMPORTANT that you understand, agree with and answer truthfully everything contained in this document. If you do not agree to all the terms and conditions set forth in this colloquy, then you will not be admitted into the Mental Health Court Program. If you understand and agree with what is written in a paragraph of this document, place you initials on the line provided. If you do not understand and agree with what is said in a paragraph, DO NOT PLACE YOUR INITIALS on the line provided, and tell the judge what you do not agree with or understand.

By placing my initials at the places provided, I am stating that I have read, understood and followed these instructions.

TO DEFENDANT’S LAWYER:

You must explain the content and meaning of this written colloquy to the defendant. If, after you explanation, the defendant does not understand or agree with something, he/she should not initial that paragraph and you must inform the judge of this fact.

Defendant’s Signature

Defense Attorney’s Signature

_____ 1. I understand that participation in the Mental Health Court Program is completely voluntary, and that I may withdraw from the program at any time.

_____ 2. I understand that acceptance into and satisfactory completion of all Mental Health Court Program requirements will offer me an opportunity to avoid incarceration.

_____ 3. I understand that acceptance into and satisfactory completion of all Mental Health Court Program requirements offers me an opportunity to have other Delaware County criminal cases for which I am actively serving a sentence of probation and/or parole permanently closed.

_____ 4. I understand that my successful completion of all Mental Health Court Program requirements on **Docket #(s):** _____ is a condition of any Delaware County case for which I am currently on probation and/or parole.

_____ 5. I understand that if for any reason I am terminated from the Mental Health Court Program for failure to successfully complete all program requirements, including my voluntary withdrawal from the program, then the following will occur: (a) If my plea was tendered and taken under advisement, the court will (i) accept my nolo contendere/guilty plea; and (ii) sentence me on the charges for which I pled nolo contendere/guilty; and/or (iii) find me in violation on the case(s) identified above in **paragraph four (4)** of this colloquy. If my plea was tendered and I was sentenced, the court will (i) find me in violation of the intermediate punishment sentence; (ii) re-sentence me on the charges for which I pled guilty; and (iii) find me in violation on the case(s) identified above in **paragraph four (4)** of this colloquy.

_____ 6. I understand that the sentence imposed as a result of my termination from the Mental Health Court Program may be a term of incarceration up to the statutory maximum for each offense consecutive to each other, and consecutive to the cases listed above in paragraph four (4).

_____ 7. As a condition to my admission to the Mental Health Court Program, I hereby knowingly, voluntarily and intelligently waive my right to be sentenced within ninety (90) days of entering this plea.

_____ 8. As a condition to my admission to the Mental Health Court Program, I hereby knowingly, voluntarily, and intelligently waive my right to withdraw the nolo contendere plea and/or guilty plea should I be terminated from the Mental Health Court Program.

_____ 9. I understand that the primary purpose of the Mental Health Court Program is treatment and rehabilitation, and therefore any statements made by me with respect to my illegal use of controlled substances and/or alcohol while participating in this program shall not be used against me in any subsequent related proceedings. These include statements made to the Mental Health Court staff, statements made in open court during court proceedings, statements made to the Office of Adult Probation/Parole and/or statements made to any treatment provider during the treatment phase of this

program. However, any statements made by me, which refer to, unrelated criminal activity and which are not related to participation in the Program may be admissible in other criminal proceedings.

_____ 10. I understand that I have the right to be represented by counsel while participating in the Mental Health Court Program. However, my right to counsel is limited to the following: My decision to apply and participate in this program, and Counsel may appear on my behalf at Mental Health Court team meetings and court review sessions and/or hearings. No motions or legal argument may be presented at these court review sessions and/or hearings. Counsel may assist me in communicating with the judge, but may not speak for me. I am required to personally respond to questioning by the judge at all court review sessions and/or hearings. Counsel may also advise me as to whether to voluntarily withdraw from Mental Health Court Program and assist me in that process. Counsel may represent me at any court review session and/or hearing where termination is being considered. Counsel may advocate for my continued participation in the Program. Counsel will represent me at any sentencing hearing if I am removed from the Mental Health Court Program.

_____ 11. I understand that drug and alcohol test results obtained through the Mental Health Court Program will be used only to assist the court and treatment providers in evaluating my progress and may be used by Mental Health court to determine whether I am progressing satisfactory, whether the treatment plan needs modification, whether to impose sanctions within the program, and whether I should be terminated or graduate from the Mental Health Court Program. I understand that under no circumstances will such test results be used as evidence of a new crime, or in another manner not consistent with the treatment and rehabilitation goals of the Mental Health Court Program.

_____ 12. I understand that any adulterated test results will be considered as a positive test for alcohol or drugs, and I will be subject to a sanction/removal for that adulteration.

_____ 13. I understand that the Mental Health Court Program may test blood, urine, perspiration, saliva and/or breath for drugs and alcohol. These tests can include, but are not limited to urine test strips, sweat patches, various breathalyzers (including portable breath tests) and various electronic monitoring devices.

_____ 14. I understand that part of the Mental Health Court Program is community supervision by local police. This means that law enforcement may be advised of my participation in the program and asked to (i) confirm my compliance with curfew, and (ii) report any suspicious activity to the court.

_____ 15. I understand that any tests and monitoring are conducted at the sole discretion of the Mental Health Court Program. No particular test or monitoring device may be requested by any participant. I agree that these tests and monitors are presumed valid, and with the exception of the

challenge procedure contained in this colloquy. I agree that I will not appeal, or in any other way legally contest any test or monitor results. Should I disagree with any such result, with the exclusive exception of the challenge procedure set forth below; I agree that my only remedy is to withdraw from the Mental Health Court Program. **I UNDERSTAND THAT IF I OTHERWISE LEGALLY CONTEST OR APPEAL ANY TEST OR MONITOR RESULT THAT ACTION WILL CONSTITUTE GROUNDS FOR IMMEDIATE REMOVAL FROM THE PROGRAM.**

_____ 16. I understand that I may challenge the results of any drug or alcohol test performed by a probation/parole officer by immediately requesting that the sample be tested by a laboratory designated by the Office of Adult Probation/Parole and paying a testing fee in the amount of fifty dollars (\$50.00). I understand that should the laboratory result confirm the test result, I will be subject to an additional sanction by the court and/or removal from the Mental Health Court Program for my lack of honesty in failing to acknowledge the drug or alcohol use detected by the test. I understand that should the laboratory retest show the initial test result to be in error no sanction will be imposed, and my testing fee will be returned or applied to outstanding fines/costs. **I UNDERSTAND THAT ONLY LABORATORY TEST AUTHORIZED BY THE COURT OR ADULT PROBATION WILL BE CONSIDERED IN THE MENTAL HEALTH COURT PROGRAM.**

_____ 17. I consent to the search of my person, my residence, and any electronic device that I utilize upon request/demand by the Office of Adult Probation/Parole.

_____ 18. I understand that if I am removed from the Mental Health Court Program and sentenced, I am not entitled to any sentence credits except actual time spent in custody in jail.

_____ 19. I understand that the Mental Health Court Program requires me to move through several phases of treatment and supervision. Depending on my ability to remain substance free and compliant with the Mental Health Court Program during these phases, I may complete the Program in eighteen (18) months.

_____ 20. I understand that if I enter Mental Health Treatment Court by way of a guilty plea, and I meet all the requirements for graduation, the court may terminate my supervision prior to my maximum date.

_____ 21. I understand that if I enter Mental Health Treatment Court by way of a plea that is held in abeyance, and I meet all the requirements for graduation, the court will dismiss the charges for which my guilty plea was held in abeyance. This means that I can never be charged with the same criminal incident again. Upon successful completion, the participant can file a

motion for expungement. Should the motion for expungement being granted, the court will then enter an order expunging my record with respect to the case.

_____ 22. The conditions of the Mental Health Court Program include the imposition of sanctions and incentives designed to help motivate me to succeed in my recovery efforts. Possible sanctions include but are not limited to the following: community service; house arrest; curfew; writing essays, spending time in the jury box observing Mental Health Court proceedings; and short-term incarceration, etc. I waive any and all due process rights I may have pertaining to the imposition of sanctions that do not result in my termination from the Mental Health Court Program.

_____ 23. I understand that upon recommendation of the Mental Health Court Team, I may be terminated from the Mental Health Court Program at the discretion of the court. I will have counsel with me to assist me at any sentencing proceeding.

_____ 24. I hereby waive any right to file a legal challenge to the court’s decision to remove me from the Mental Health Court Program or the removal procedure, provided that I have notice of the hearing and an opportunity to be represented by counsel at said hearing.

_____ 25. If I am removed from the Mental Health Court Program, I will be scheduled for a sentencing hearing at which time I will be sentenced in accordance with the applicable law. I hereby waive my right to have a Pre-sentence Investigation Report prepared in advance of sentencing.

_____ 26. I understand that in addition to any program requirements set forth in this colloquy I must successfully complete (i) all Mental Health Court Program requirements set for by the Office of Adult Probation/Parole, and (ii) any term or condition imposed by the Mental Health Court judge.

I UNDERSTAND THAT I MAY NOT FILE A LEGAL CHALLENGE OR APPEAL ANY CONDITION OR SANCTION IMPOSED BY THE COURT IN THE PROGRAM, OTHER THAN THROUGH THE CHALLENGE PROCESS FOR DRUG TESTING OR MONITORING SET FORTH HEREIN. I UNDERSTAND THAT MY ONLY REMEDY TO AVOID THE IMPOSITION OF A CONDITION OR SANCTION IS TO VOLUNTARILY WITHDRAW FROM THE PROGRAM AND BE SENTENCED ACCORDINGLY.

_____ 27. I have had enough time to fully discuss my decision to enter Mental Health Court and everything contained in this colloquy with my lawyer, and by placing my initials on all the lines provided, I am saying that I understand agree with, and answered truthfully everything contained within this colloquy.

Date

Signature of Defendant

STATEMENT OF DEFENDANT'S ATTORNEY

I represent the Defendant in the above-captioned case. I have explained the rights in this document to the defendant and I am satisfied that the Defendant understands these rights.

Date

Signature of Attorney

ID#

Delaware County Mental Health Court

Phase 1 Goals

Name: _____

Staff: _____ Date Reviewed: _____

Review each Goal with Staff and Initial you understand the expectation

_____ I will attend Mental Health Court every other week or as ordered.

_____ I will report to my Probation Officer at a minimum of once per week.

_____ I will follow through with the treatment goals developed in partnership with the Mental Health Court and the recommendations from my treatment.

_____ I will cooperate, as needed, with a volunteer mentor.

_____ I will comply with urine drug screens as requested.

Client Signature

DATE

Delaware County Mental Health Court

Phase 2 Goals

Name: _____

Staff: _____ Date Reviewed: _____

Review each Goal with Staff and Initial you understand the expectation

_____ I will attend Mental Health Court every other week or as ordered.

_____ I will report to my Probation Officer regularly as directed.

_____ I will attend all appointments with appropriate treatment agencies.

_____ I will continue to actively carry out the plans developed by the Mental Health Court team and recovery plans (developed with treatment provider).

_____ I will demonstrate continued abstinence from drugs and alcohol.

_____ I will demonstrate consistent payment of all applicable restitution I may owe.

_____ I will work with my Probation Officer to identify something important to accomplish during Phase III that I was unable to previously accomplish due to my addiction or mental health diagnosis.

Client Signature

DATE

Delaware County Mental Health Court

Phase 3 Goals

Name: _____

Staff: _____ Date Reviewed: _____

Review each Goal with Staff and Initial you understand the expectation

_____ I will attend Mental Health Court once per month.

_____ I will report to my Probation Officer at least once per month.

_____ I will attend all appointments with appropriate treatment agencies.

_____ I will remain committed to the plan developed for me by the Mental Health Court team and my treatment provider.

_____ I will demonstrate continued abstinence from drugs and alcohol.

_____ I will demonstrate ongoing stability regarding housing and financial management.

_____ I will work with my Probation Officer to accomplish a goal that I was unable to previously accomplish due to my addiction or mental health diagnosis.

_____ I will complete any remaining conditions that were ordered by the court for this case.

Client Signature

DATE