

## ORDER OF THE COURT: MENTAL HEALTH DIVERSION



Name: \_\_\_\_\_

Case No/s: \_\_\_\_\_

THE COURT grants mental health diversion (MHD) with the following FINDINGS AND ORDERS. The combination of the recommended treatment plan and the court's orders constitute the MHD "assigned program."

- The court has received the completed "Agreement to Provide Mental Health Treatment and Progress Reports" from the defendant's treatment providers (prescriber and therapist) **WHICH MUST BE ATTACHED TO THIS ORDER**.
- Criminal proceedings in this matter are postponed and MHD is granted for a period of up to 24 months (felony cases) and 12 months (misdemeanor cases).
- The MHD time period is subject to modification by the court, but for no longer than two years in felony cases and one year in misdemeanor cases on condition that the defendant obey all of the orders of the court and comply with the recommended treatment plan (i.e., the MHD assigned program).
- The defendant agrees to comply with the MHD assigned program including but not limited to the terms listed in the "Mental Health Diversion Recommended Treatment Plan" **WHICH MUST BE ATTACHED TO THIS ORDER**.
- The defendant agrees to consent to the sharing of information, including but not limited to, medical and psychological records, progress reports, toxicology results and/or medication evaluations between the court, Sonoma County Behavioral Health, Probation, and the defendant's treatment providers.
- The defendant agrees to provide completed copies of the court's universal progress report (UPR) at every court date. UPR's must be completed by each of the defendant's treatment providers (e.g. prescriber and therapist). If the treatment provider will not complete the UPR, it is the defendant's responsibility to obtain copies of the defendant's treatment records and to bring them to every court date.
- The defendant may not *self-initiate* a change in treatment providers without advising and discussing it with the court first.
- If an unanticipated change in treatment arises (e.g. because of loss of insurance, or the treatment provider is no longer able to treat the defendant), the defendant will advise the court at the next court date.

THE COURT FURTHER FINDS that there is a nexus (to the case or individual defendant) and/or a *compelling necessity* for these additional terms to be part of the MHD assigned program to achieve the objectives of MHD including the needs of the defendant and the interests of the community.

- Obey all laws.
- Appear at all times and places, as ordered by the court.
- Do not use or possess controlled substances without a valid prescription, alcohol, or marijuana, including synthetic cannabinoids, even with a valid 215 card (unless your prescriber advises the court in writing on the Medication Recommendation form that marijuana is not contraindicated for your diagnosis and mental health medication).
- Participate, as directed, in drug testing for accountability, to support efforts in remaining clean and sober as part of mental health treatment, and to avoid negative interactions with psychotropic medication.
- Do not own, possess, or use any dangerous or deadly weapons, firearms, or ammunition.
- Submit to warrantless search and seizure of person, property, personal effects, or vehicle at any time of the day or night by law enforcement.
- Submit to warrantless search and seizure of residence at any time of the day or reasonable hour of the night by law enforcement.

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- \_\_\_\_ Make full restitution, as ordered. All restitution requests and/or modifications are requested to be made to the court by at least 30 days before the completion of MHD. A defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
- \_\_\_\_ Failure to complete the terms and conditions of the MHD assigned program as ordered by the court may result in modification of the MHD assigned program, escalated treatment directives, and possible termination of the grant of MHD.
- \_\_\_\_ Comply with any orders of the court that are associated with your charged crime(s), including (criminal protective orders, stay away orders, etc.): \_\_\_\_\_
- \_\_\_\_ Other: \_\_\_\_\_

**ACCEPTANCE BY DEFENDANT:** I understand that my records are protected under the Federal regulations governing Confidentiality of Medical, Alcohol and Drug Abuse Patient records, 42 CFR part 2, and cannot be disclosed without my written consent unless otherwise provided for in regulations. I agree to provide that consent and execute any further Releases of Information necessary regarding the reporting of my progress as a condition of MHD. I also understand that I may revoke this consent at any time except to the extent that action has been taken based on it, and that in any event, this consent expires automatically upon the court's acknowledgement of successful completion and dismissal of criminal allegations or the court's ruling of termination of MHD court. If my consent is revoked, I understand that I must appear at the next scheduled court date and may be subject to termination from MHD and my criminal proceedings will be resumed.

I have received a copy of this Order Granting MENTAL HEALTH DIVERSION, understand each of its terms and conditions, and agree to abide by them. Regardless of successful completion of MHD, the arrest upon which the MHD was based may be disclosed by the Department of Justice in response to a peace officer application request and that, notwithstanding successful completion of MHD, I am not relieved of the obligation to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in Penal Code section 830.

Dated: \_\_\_\_\_ Defendant's Signature: \_\_\_\_\_

**Defense Attorney Statement:** I am the attorney of record for the above-named defendant. I have explained this form and each of the above rights addressed to the defendant and have discussed the facts, consequences, including immigration consequences, and possible defenses to the charge(s) with the defendant. I concur with the defendant's waiver of rights and entry into this MHD agreement.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

**Certificate of Interpreter:** I declare that I translated the entire contents of this form from English to \_\_\_\_\_ in the presence of and directly to the defendant in this case and that the defendant wrote on this document in my presence.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

THE COURT FINDS that the defendant has been advised of, fully understands, and voluntarily waives all the defendant's constitutional and statutory rights including the right to a speedy trial. The court finds that the defendant is statutorily eligible for a grant of mental health diversion. The court further finds that the defendant is a person who consents to a grant of mental health diversion. Upon successful completion of MHD, the court shall dismiss the pending charge(s) in this case pursuant to Penal Code section 1001.36.

It is so ORDERED.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
Judge/Commissioner of the Superior Court