



## **7.2.32 MENTAL HEALTH DIVERSION – IDENTIFICATION, REFERRAL, AND EVALUATION**

Issue Date: 05/15/2026

Revision History: Not Applicable

References: Penal Code (PC) section 1001.36 (b)(2), (c)(1), (c)(2), (c)(3), (c)(4), and Welfare and Institutions Code (WIC) 4361 (B), (C)

Policy Owner: Behavioral Health Division, Acute & Forensic Services Section Manager

Director Signature: Signature on File

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### **I. Policy Statement**

The California Department of State Hospitals (DSH) requires clear guidelines and procedures for operating the Felony Mental Health Diversion (MHD) Program. This policy was created to enable the Sonoma County Behavioral Health (SCBH) Felony MHD team to demonstrate compliance with Penal Code (PC) section 1001.36 and Welfare and Institutions Code (WIC) 4361, and to serve as a reference for staff.

### **II. Scope**

This policy applies to all Sonoma County Department of Health Services, Behavioral Health Division (DHS-BHD) staff who are assigned to provide Specialty Mental Health Services (SMHS) in the Felony MHD Program.

### **III. Definitions**

A. ACCESS Sonoma County Interdepartmental Multidisciplinary Team (IMDT): ACCESS (Accessing Coordinated Care Empowering Self-Sufficiency) Sonoma County IMDT. The ACCESS Sonoma County Program identifies the most vulnerable residents, often high utilizers of county services across multiple county departments, and provides holistic, wraparound services using the IMDT approach to care coordination and case management.

- B. Department of Health Services, Behavioral Health Division (DHS-BHD): The Sonoma County entity responsible for administering publicly funded behavioral health services.
- C. Felony Mental Health Diversion (MHD) Program: DHS-BHD operates a Specialty Mental Health Services (SMHS) outpatient treatment program for individuals participating in the MHD Court. The Program provides SMHS using the Assertive Community Treatment (ACT) model of care.
- D. Health Program Manager (HPM): A DHS-BHD staff management position that oversees one or more outpatient treatment programs for clients receiving services within the SCBH network continuum of care.
- E. Incompetent to Stand Trial (IST): A legal term that denotes a defendant's lack of capacity to participate in legal proceedings or assist in their own legal defense.
- F. Mental Health Diversion (MHD): Pursuant to Penal Code (PC) section 1001.36 and Welfare and Institutions Code (WIC) 4361, allows felony IST defendants to participate in intensive community mental health treatment in lieu of inpatient DSH competency restoration treatment.
- G. Pronoun Usage: Throughout this policy, the singular "they/their" is used as a gender-neutral pronoun to promote clarity, readability, and inclusivity.
- H. Protected Health Information (PHI): PHI refers to individually identifiable health information that is held or transmitted by a Health Insurance Portability and Accountability Act (HIPAA)-covered entity or its business associate, in any form or medium, whether electronic, on paper, or oral. PHI includes information such as demographic details that relates to:
  1. An individual's past, present, or future physical or mental health condition.
  2. The provision of health care to the individual.
  3. The past, present, or future payment for the provision of health care to the individual.
  4. Identifies the individual or can reasonably be used to identify the individual.
- I. Specialty Mental Health Services (SMHS): SMHS include, but are not limited to, the following: Assessment, Plan Development, Rehabilitation Services, Therapy Services, Collateral, Medication Support Services, Targeted Case Management, Crisis Intervention, Intensive Care Coordination (ICC), Intensive Home-Based Services (IHBS), and Therapeutic Behavioral Services (TBS). SMHS are provided to Medi-Cal members through Sonoma County Mental Health Plans (MHPs). All the MHPs are part of the Sonoma County Mental Health or

Behavioral Health departments. Any MHP may provide services through its own employees or through contracted providers.

#### **IV. Policy**

This policy ensures that all program staff assigned to DHS-BHD MHD Program adhere to the requirements set forth by the DSH under Penal Code (PC) section 1001.36 and Welfare and Institutions Code (WIC) 4361. This policy includes procedural guidelines for the identification, referral, and evaluation of Felony IST participants in the MHD Program.

#### **V. Procedures**

##### **A. Identification**

##### **1. Eligible Populations**

##### **a. DSH Felony IST Population**

- i. All participants to be considered for DSH Felony IST MHD must meet the criteria as specified under Penal Code (PC) section 1001.36 (b)(2), (c)(1), (c)(2), (c)(3), (c)(4), and Welfare and Institutions Code (WIC) 4361 (B), (C).

- (1) The instant offense is a felony with the exception of certain statutorily excluded crimes.

- (2) A guilty plea has not been entered in the case for which DSH-funded Diversion is being considered.

- (3) Client was evaluated and found IST on a current charge by the courts prior to being diverted.

- (4) Client suffers from a mental disorder with a primary diagnosis from the Diagnostic and Statistical Manual of mental Disorders, 5th edition, including but not limited to the following:

- (a) Schizophrenia.

- (b) Schizoaffective Disorder.

- (c) Bipolar Disorder.

- (5) Certain diagnosis excluded as listed under the statute.

## 2. Alternative Populations

- a. MHD Program staff may enroll those who have pending misdemeanor charges, have been found IST, and are otherwise eligible for MHD Court, pending space availability.
- b. Also known as General Track participants, MHD Program staff may enroll those who have pending felony and misdemeanor NON-IST charges, and are otherwise eligible for MHD Court, pending space availability.
- c. Alternative populations enrolled into the MHD Program who do not meet the criteria for DSH Felony IST population will not be invoiced to DSH for payment.

## 3. MHD Program - Health Program Manager (HPM)

- a. The HPM for the MHD Program will routinely consult with in-custody treatment providers to identify any potential candidate who may meet the criteria for Felony IST MHD and also benefit from services of the MHD Program.
  - i. The HPM will notify the representative from the Public Defender's Office of any potential candidate for further consideration and possible submission of a petition for MHD Court.

## B. Referral

### 1. Defense Counsel

- a. Public Defender's Office or other defense counsel will submit petitions on behalf of their clients to the Sonoma County Superior Courts for eligibility determination.
- b. Representative of the Public Defender's Office may consult with HPM of MHD Program for potential identification of candidates for MHD Court.

### 2. Sonoma County Superior Courts

- a. Sonoma County Courts will send referrals to the MHD Program upon successful prima facie showing and make order for completion of MHD evaluation/report.
- b. Sonoma County Courts will also identify a report due date and make orders for authorization of release of PHI.

- c. Sonoma County Courts will make final determination of a petitioner's suitability for MHD Court upon review of completed MHD evaluation report, if available.

### 3. MHD - Health Program Manager (HPM)

- a. The HPM for MHD Program or designee will perform initial processing of all referrals received for MHD Program.
  - i. The HPM will identify whether referral meets criteria for Felony IST MHD services and prioritize these referrals by requesting advancement of report due dates with defense counsel.
  - ii. The HPM will collect collateral reports and documents from District Attorney's Office and/or Public Defenders Office.
  - iii. The HPM or designee will enroll referral into Access Sonoma IMDT EHR for data collection and care coordination.
  - iv. The HPM or designee will enroll referral into SmartCare EHR as an inquiry for DHS-BHD services.
  - v. The HPM or designee will make inquiries at the next available ACCESS Sonoma IMDT for care coordination of MHD referrals.
  - vi. The HPM will provide processed referrals to the Program Evaluator at the soonest possible time for further evaluation.

## C. Program Suitability Evaluator, Evaluations and Reports

### 1. Program Suitability Evaluator

- a. The Program Suitability Evaluator will evaluate each referral received for both MHD Court and SMHS with MHD Program.
- b. The Program Suitability Evaluator must hold a license in one of the following professions:
  - i. Psychiatrist.
  - ii. Licensed Psychologist.
  - iii. Licensed Clinical Social Workers.
  - iv. Licensed Marriage & Family Therapist.
  - v. Licensed Professional Clinical Counselor.

- vi. Registered Nurse with an MA Degree.
- c. The Program Suitability Evaluator will undergo one (1) year of supervision in forensic evaluation and report writing, unless it is determined they have at least one (1) year of previous experience in both areas.
- d. The Program Suitability Evaluator will recuse themselves from evaluating any candidate who is considered a(n):
  - i. Family Member.
  - ii. In-law.
  - iii. Friend.
  - iv. Co-worker.
  - v. Or any other person with whom they would not be able to perform a fair and unbiased evaluation.
- e. The Program Suitability Evaluator will notify the HPM of any inability to perform a fair and unbiased evaluation due to prejudice, bias, discrimination, or other judgement.

## 2. Evaluation

- a. The Program Suitability Evaluator will conduct a direct, in-person forensic evaluation for each referral and use the following guidelines:
  - i. Complete any Felony IST evaluation within 15 judicial days of a court referral in order to identify clinical appropriateness for admission into the MHD Program.
  - ii. Use standardized primer for collecting clinical information.
    - (1) Review limitations of confidentiality and make notations prior to commencing interview with the candidate.
  - iii. Administer and complete Short-Term Assessment of Risk and Treatability (START) on all referrals interviewed who have pending felony charge(s).
  - iv. Administer and complete Texas Christian University (TCU) Drug Screen 5 (TCUDS V) on all candidates interviewed.
  - v. Administer and review the Post-Traumatic Stress Disorder (PTSD) Checklist for DSM-5 (PCL-5) Trauma Screen on all candidates interviewed.

- vi. Identify the appropriate level of care by administering and completing the Adult Screening Tool for Medi-Cal Mental Health Services on all candidates interviewed.
- vii. Acquire collateral records, including but not limited to:
  - (1) Research of justice history using the Sheriff's department Crim-net platform.
  - (2) Arrests records, including instant offense and history.
  - (3) DHS-BHD clinical treatment records, both current and historical.
  - (4) Alienist reports, current and history.
  - (5) Clinical treatment records from other healthcare entities.
  - (6) Collateral contact with family and caregivers, pending completed release of information.
- viii. Consult with the ACCESS Sonoma IMDT Probation Liaison as appropriate for further analysis of justice history.
- ix. Utilize the clinical expertise of additional clinical staff members to determine the clinical eligibility of each referral by presenting referral cases during weekly team conference meetings. Clinical expertise staff includes individuals with the following licensures:
  - (1) Psychologist.
  - (2) Licensed Clinical Social Worker.
  - (3) Licensed Registered Nurse.
  - (4) Licensed Marriage and Family Therapist.
  - (5) Psychiatrist.
- x. The Program Suitability Evaluator will share results of each evaluation with the HPM prior to submission of completed report to the courts.

### 3. Mental Health Diversion (MHD) Suitability Report

- a. The MHD Program Suitability Evaluator will use the forensic report template provided by the MHD HPM.
  - i. The MHD Program Suitability Evaluator will consult with the HPM on any requests to edit the outline of the forensic report template.

- ii. The MHD forensic report template will include the following sections at a minimum:
    - (1) Brief Introduction.
    - (2) Psychiatric/Mental Health History.
    - (3) Employment/Housing History.
    - (4) Diagnostic Formulation.
    - (5) Examination of the Issue of Nexus.
    - (6) Explanation of Diversion Risk Assessment.
    - (7) Discussion of Issue of Treatability.
    - (8) Conclusion.
    - (9) Recommended Treatment Plan.
  - b. MHD Program Suitability Evaluator will submit a suitability report including the recommendation:
    - i. Upon the determination that a client is clinically appropriate for treatment in the MHD Program, and a guilty plea has not been entered in the case for which DSH funded Diversion is being recommended.
  - c. Requests for continuances should be limited to the following circumstances:
    - i. Referral no show or not able to contact.
    - ii. Shortened evaluation window due to County or State Holiday.
    - iii. Emergencies, staffing shortages, or other programmatic situations that are not under the control of the HPM for MHD Program.
4. Re-referrals
- a. The Program Suitability Evaluator will re-evaluate referrals in any of the following instances:
    - i. New offense has been committed.
    - ii. Significant lapse in time between the previous evaluation and the request for re-evaluation.
    - iii. A clinically significant change has occurred.

- iv. Request of the Presiding Judge or Bench Officer in MHD Court.
- v. Discretion of the MHD HPM.

**VI. Forms**

- A. Evaluation Primer
- B. Short-Term Assessment of Risk and Treatability (START) Assessment
- C. TCU Drug Screen 5 (TCUDS V)
- D. PTSD Checklist for DSM-5 (PCL-50)

**VII. Attachments**

None