



Forsyth County Mental Health Court PROTOCOLS

General Criteria for Admission:

- ✓ Sixteen (16) years of age. If person is 16 or 17 years old, a current psychiatric evaluation with an appropriate diagnosis (Schizophrenia, Schizoaffective, Major Depression, and/or Bipolar Disorder) will have to be submitted by the referring attorney, in addition to other information.
- ✓ Must have a mental health diagnosis, mental health treatment history, or have symptoms/behaviors which indicate the need for mental health assessment and treatment.
- ✓ May also have a *secondary* substance use problem or diagnosis.
- ✓ Must be a resident of Forsyth, Davie, Davidson, Stokes, or Rockingham county.
- ✓ Must be charged with a criminal offense excluding probation violations and DWI charges.
- ✓ Co-defendants may be referred.
- ✓ If English is the second language, participant will have to affirm s/he can understand English.
- ✓ All returning participants, whether graduates or unsuccessfully discharged, will be considered for readmission to FCMHC on a case-by-case basis by the FCMHC treatment team. Participants will only be allowed one re-admission to the court and that will still be determined on a case-by-case basis.
****Each returning participant will be required to write a two-page essay and be prepared to read aloud at their first FCMHC appearance after being screened.
The essay should address what led to current position, their responsibility in their current situation, why they deserve a second chance to complete FCMHC, and what they will do differently.**

FCMHC Treatment Team Composition:

District Court Judge
District Attorney
Public Defender/Defense Attorney
Mental Health Court Case Manager Specialist (Qualified Mental Health Professional)
Mental Health Professional from Detention Center
Mental Health Advocate(s)
Treatment Provider

FCMHC Treatment Team Responsibilities:

The treatment team reviews the staffing report prior to each FCMHC session. The team reviews participants' progress and determines the most appropriate method for addressing compliance or noncompliance. This includes rewards, sanctions, phase promotion/demotion, etc. The treatment team reviews all clinical information submitted for referrals and decides whether each person is appropriate for admission into FCMHC.

Participants Responsibilities: Please refer to the FCMHC Participants Handbook.

I. Clinical Protocol

Referral/Pending Protocol:

All felony charges, all charges covered by the Victims' Rights Act (including misdemeanors), and all animal cruelty charges must have approval from the Mental Health Court Assistant District Attorney (ADA) **BEFORE** a Mental Health Court screening will be completed.

Once an appropriate referral is received, a screening with the Forsyth County Mental Health Court Case Manager Specialist (MHC CMS) is scheduled.

- If the person is in custody, a screening will be completed within 48 hours or 2 business days from the date of receipt of referral, unless it is received the Friday, Monday, or Tuesday prior to FCMHC session.
- If the person is out of custody, screening will be completed before the next MHC session or within 5 business days from the date of receipt of referral.
- The participant should receive copy of handbook and sign participant agreement form at the time of the screening.
- Releases of information have to be signed for current treatment provider or provider participant chooses for clinical assessment, psychiatric evaluation, and services. Releases of information will also be needed for any provider who has clinical information regarding diagnosis, including but not limited to local and state hospitals, outpatient providers, primary care physician, etc.
- MHC CMS will submit valid releases to appropriate facilities to gather clinical data regarding person's diagnosis. If the data is outdated (over 1 year old), then the person will have to receive a new Comprehensive Clinical Assessment and Psychiatric Evaluation.
- For FCMHC Community referrals:
 - a) If the person has an attorney, the attorney has to be contacted first. The attorney will need to discuss FCMHC with the person first and agree it is the best option **BEFORE** a screening can be completed.
 - b) If the person does NOT have an attorney, the FCMHC ADA must be contacted to see if they are legally appropriate and to have the case(s) moved to the FCMHC docket. Of course, all appropriate releases of information must be obtained.

Once all the clinical data has been gathered, the information has to be brought to the treatment team for staffing.

- The treatment team will accept, deny, or pend the person depending on the clinical information. A person will remain pending if: not enough clinical data to verify diagnosis, has been non-compliant during pending/referral phase, waiting for forensic competency results, etc.
- If the person is accepted or denied, the referring attorney is informed during treatment team or the FCMHC session. The referring attorney is expected to be present/represent their client at each staffing until the person is accepted or denied.
- The provider is informed via a form or by preferred method of contact after the MHC session in which the person is accepted.

Clinical Criteria:

- ✓ Be 16 years of age.
- ✓ Have to be forensically competent.
- ✓ Have a Severe and Persistent Mental Illness (SPMI) diagnosis such as Bipolar Disorder, Schizophrenia, Schizoaffective Disorder, and Major Depressive Disorder.
- ✓ Posttraumatic Stress Disorder AND another mental health (MH) diagnosis.
- ✓ Can have co-occurring or secondary diagnosis of Substance Use disorder and/or a Personality Disorder diagnosis but the MH diagnosis has to be the primary focus of treatment.

- ✗ If a Substance Use Disorder is the only diagnosis, they will NOT be eligible.
- ✗ If a Personality Disorder is the only diagnosis, they will NOT be eligible.
- ✗ Disorders diagnosed in childhood, such as Autism and moderate or severe Intellectual/Developmental Disability, are NOT eligible.

Accepted Protocol:

Once a person is accepted, the MHC CMS will inform the provider a consumer has been accepted into FCMHC (Provider Notification Form). The MHC CMS will gather provider reports to document treatment progress and/or noncompliance. This can be started during the referral/pending phase as well.

- The MHC CMS will send a group e-mail reminder, or chosen method of contact, on the Wednesday prior to MHC session requesting the provider report be received by the end of business on the Friday before MHC.
- The MHC CMS will compile the staffing report based on the information contained in the provider reports. If any information on the provider report is questionable, the MHC CMS should call the provider to follow up and request another report or e-mail regarding the discrepancy.
- The MHC CMS will also follow up with the providers concerning participants' reports of appointments, movement between phases, rewards or sanctions, WRAP class admission/completion, and upcoming graduations. Again, this can be by phone, e-mail, or chosen form of contact.
- The MHC CMS is responsible for getting the MHC docket prior to the session and bringing copies to the treatment team. The MHC CMS is also responsible for providing copies of the staffing report to the treatment team, as well as collecting those reports at the end of the session for proper confidential disposal. *The Public Defender's Office expects a copy of the staffing report the Monday before court or as soon as possible regarding any participants in noncompliance and in danger of being sanctioned or discharged.*
- In addition, the MHC CMS is responsible for providing a noncompliant list to the MHC judge and district attorney.
- Other responsibilities include but are not limited to:
 - ✓ Phase completion certificates, graduation certificates
 - ✓ Attending the MHC Advisory Committee and Clinical Subcommittee meetings
 - ✓ Meet with providers and participants as needed
 - ✓ Provide support to participants by phone and link to appropriate community resources to meet their needs

- ✓ Keep data regarding the number of referrals; the agency the participant is referred to or is actively engaging in services; number accepted; number of participants found ineligible; number of graduates; funding source; and any data needed to complete reports for grants, etc.
- ✓ Meet with participants prior to promotion to each phase and have them complete a MHC survey.
- ✓ Meet with participants prior to their graduation and have them complete the Recovery Maintenance Check-in (RMC-i).
- ✓ Keep data regarding arrests and hospitalizations 3, 6, 9, and 12 months after graduation. This will involve having participants sign a Release of Information for Cardinal Innovations that will be good for a year beyond their graduation date.

II. District Attorney Protocol

ADA Jessica Spencer currently represents the Forsyth County DA's Office in Forsyth County Mental Health Court. ADA Jessica Spencer will defer to an appointed ADA to assist should any court conflict arise. ADA Spencer will be responsible for informing and advising the other employees of the Forsyth County DA's Office regarding FCMHC matters.

Eligible Cases:

- ✓ All general felony crimes (Class F through I)
- ✓ All Misdemeanors except DWI and related offenses
- ✗ No violent felonies (Class A through E), except in special circumstances in some felony assault cases depending on the approval of the victim
- ✗ No sex offenses or registered sex offenders
- ✗ No elder abuse or exploitation cases, except in special circumstances
- ✗ No felony cases that qualify for habitual felon prosecution, except in special circumstances

Factors Affecting ADA Approval:

- Defendant's criminal record: how extensive, violent, sex offenses, etc.
- Nature of the offense: home B&Es will be given special scrutiny
- Victim's input: if the case is a Victim's Rights Act case, the State will not approve for FCMHC without explicit consent of the victim
- If case is a felony, original ADA will be consulted
- Co-defendants of non-MHC offenders will be given special scrutiny to avoid any complications

[All of these factors are guidelines and are not set in stone. Each case will be evaluated individually.]

Procedure:

- All felonies, assault misdemeanors, and animal cruelty charges must be approved with a referral form signed by the MHC ADA before they can be submitted for screening to MHC CMS.
- All misdemeanors not subject to the Victims' Rights Act (excluding DWI offenses) can be submitted for

screening without an ADA signature/approval.

- Cases will be calendared for a MHC date only after they have been referred to MHC CMS for screening.
- The defendant/client is not required to have completed screening before being calendared for a MHC date.
- If the case is a felony, misdemeanor assault, covered by the Victims' Rights Act, or animal cruelty charge, the MHC ADA must sign an add-on form or agree to calendar the case into MHC in open court.
- A District Court ADA can calendar a case that has been referred for screening on behalf of the MHC ADA, but not without written or verbal approval.
- If possible, cases are to be continued onto a MHC docket at least 2 weeks out to allow the case to make the regular printed docket.
- Add-on calendars are to be avoided if possible, especially for defendants in custody.
- Cases are not to be continued to MHC from first appearance without prior approval from the MHC ADA because of concerns for any victims and officers involved.
- District Court ADAs may continue cases to a MHC docket without approval from the MHC ADA if it is not covered by the Victims' Rights Act.

Final Approval:

- Even after the defendant has been screened, and placed on the MHC docket, the MHC ADA or the DA's office has absolute veto of final admittance into FCMHC.
- Each case will be evaluated individually; there will be no precedents.
- If a client is already in FCMHC and is charged with a new crime, the State will start the whole evaluation process from the beginning for any new charges and reserves the right to veto any new charges being admitted into FCMHC.

ADA FCMHC Courtroom Duties

- ✓ MHC ADA will participate in treatment team staffing before each FCMHC session.
- ✓ MHC ADA will call the calendar and assist in scheduling cases.
- ✓ MHC ADA will prepare the final dismissals for all cases for defendants/clients who have successfully completed all requirements of FCMHC and have been determined eligible for graduation by the FCMHC treatment team.
- ✓ MHC ADA will provide one copy of the dismissal to the graduate, one to the Clerk of Court, and will retain one copy for the ADA's files.
- ✓ MHC ADA will evaluate with the FCMHC treatment team how to dispose of any firearm or other weapon(s) that were seized during the investigation of the charges in FCMHC on a case by case basis.

III. Public Defender Protocol

After a client expresses interest in participating in MHC, the retained or appointed attorney must complete the *Forsyth County Mental Health Treatment Court Client Referral Form*.

Referral/Pending Protocol:

- The attorney must determine whether the courts have appointed a Guardian of the Person for the client (if the client is unsure whether s/he has a Guardian, counsel should research the issue with the Clerk of Court). All clients with a legal guardian must be accompanied by the guardian at the screening.
- If there is a question of competency, the attorney should have the client evaluated prior to making a referral to FCMHC. When an evaluation is done and it is determined that the client is competent to proceed, the examiner's findings must be faxed along with the referral form.
- If the client is 16 or 17 years old, the referring attorney is responsible for submitting with the FCMHC referral form a current psychiatric evaluation, evidence of family/natural supports, and school information including any current Individual Education Program (IEP). A 16 or 17 year old client will NOT be screened until all the information requested is submitted with the FCMHC referral form. ALL referrals of 16 and 17 year olds will be admitted on a CASE-BY-CASE BASIS.
- If approval is needed from the District Attorney's Office, the completed referral form should be given to ADA Jessica Spencer along with any other supporting materials. The referral should also be sent to MHC Case Manager Specialist/Rebecca Lawrence. Once ADA Spencer gives approval for the client to participate in MHC *or if approval is not needed*, the attorney should fax the completed form to the MHC Case Manager Specialist/Rebecca Lawrence.
- The attorney must list all charges that are pending across all counties and states on the referral form.
- After faxing the referral form, the attorney should continue the case to the next FCMHC session. If the next session is within three business days, it should be continued to the following court session to allow time for screening to be completed. The referring attorney must make a calendar request and get the ADA to sign the request.
- The client and the client's attorney are ultimately responsible for making sure that the screening appointment is scheduled and that it is kept. If the client misses two screenings, the referral will be discarded. If there is no contact from the client for one month after the referral is received, the referral will be discarded.
- While the client's case is pending in FCMHC, the attorney needs to appear on behalf of his/her client. The attorney, in conjunction with the MHC Case Manager Specialist and MHC Attorney, should help the client navigate any problems that arise (such as making and keeping a screening and/or psychiatric evaluation appointment). The referring attorney may also need to advocate on the client's behalf as to why the client should be accepted into the program. The attorney has to be present for the FCMHC Treatment Team staffing by 1:55pm or the case will be returned to the regular court docket for disposition. Treatment Team staffing is held prior to each FCMHC session from 1:00pm to 2:30pm. The FCMHC session begins at 2:30pm.

Accepted Protocol:

- Once a case is accepted into FCMHC, the original attorney no longer needs to appear in court (this is the case whether counsel was appointed or retained). The MHC Attorney will represent client while in FCMHC.
- After receiving the Staffing Report, the MHC Attorney should thoroughly review it, specifically looking at **1) whether the client is compliant or non-compliant; 2) whether the client is eligible for promotion; 3) whether the client is potentially subject to sanctions**. Ideally, the MHC Attorney should speak to each client who is considered non-compliant on the Monday, Tuesday, or Wednesday morning before court and inquire into the client's situation.
- During the Treatment Team staffing, the MHC Attorney's role is to present to the rest of the team any information learned from the client regarding compliance or non-compliance and advocate on their behalf.

- If a participant picks up new charges, the MHC Attorney should discuss whether the client would like those charges to be placed in FCMHC. If approval is necessary, the best practice is for the MHC Attorney to fill out another referral form and request approval from the District Attorney's Office. If the client does not want the case to be transferred into MHC, the client would proceed to court as usual.
- New charges or outstanding cases will be held open for 30 days if the client is in custody AND there is no resolution of the pending, outside charges in sight.
- If the client successfully completes FCMHC, the MHC attorney will complete a fee application and note that the case has been voluntarily dismissed. If the client does not successfully complete MHC, the case will be transferred back to the originating court.
- The MHC Attorney will inform the original attorney of the new court date along with any other relevant information and the original attorney will handle the case through whatever final disposition is reached.

Pertinent FCMHC Forms available upon request:

FCMHC Participant Agreement form
FCMHC Referral form
FCMHC Provider Notification Form
FCMHC Participants Handbook
Consent for Release of Information
FCMHC Provider Report

For more information, contact the Forsyth County Mental Health Court Case Manager Specialist:

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