MENTAL HEALTH EXPERT:

OPD Protocol Governing Referral and Examination

May 31, 2007

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Introduction

A collaborative and synergistic relationship must exist between the Office of the State Public Defender (OPD) and Mental Health (MH) experts. For the purpose of this protocol, the use of *Mental Health* includes both clinical and substance use disorders and concerns. Therefore, *Mental Health* also takes into consideration co-occurring disorders.

The OPD is aware of the fact that different referral questions require different abilities and skills of different Mental Health experts. Therefore, for the purposes of the OPD, referrals must be tailored to fit the specific case in question and hence serve our defendants in the most efficient and cost effective manner possible via an algorithmic protocol method.

The focus of this Mental Health Referral and Examination Protocol is to mainstream the nature and extent of examinations to specifically address the referral question(s). This will standardize the referral and examination process. As the process is standardized, there will be more efficient use of time resulting in cost savings for the case.

SECTION 1:
Instructions for Attorneys who believe they have mental health issues in a case

In order to ensure effective case development, attorneys should work through this checklist prior to engaging the services of an outside mental health expert. (For detailed explanation regarding any of the services described herein, see SECTION 3 (below).) The intention of this section is to assist the attorney in thinking about their case regarding any mental health considerations that the attorney thinks might exist. Therefore, this section is an abbreviated version of the detailed protocol.

1. Is there a MH issue in the case?
    a. Read the file
    b. Review collateral information
    c. Talk to the client
2. To what extent does a MH issue exist?
    a. Review and complete the Consultation and Referral Form, An Attorney's Worksheet
    b. Consider how the MH issue might effect the case?
    c. Contact OPD MH Consultant for initial review, and/or
    d. Contact MH expert for initial consultation as needed.
    e. Following a.-d., consider referring the case for Screening or Examination by MH expert.
3. If expert is required beyond initial consultation,
    a. Contact the expert
    b. Keep conversation confidential and instruct expert likewise.
        - You (both attorney and expert) may (and should) maintain your own confidential notes
    c. Instruct expert to not prepare written report or correspondence to send lawyer, unless requested to do so by attorney.
    d. Notify Regional Deputy Public Defender (RDPD)

SECTION 2:
Friendly Suggestions for Attorney and Expert

The purpose of this section is to define various elements of the protocol. These friendly suggestions are intended to be used as reminders or clarifiers.

- For the purpose of this OPD protocol, we use the term *mental health* to include all behavioral health concerns (e.g. physical conditions affecting mental status, substance use, etc.).
- Expert, please do not generate any written report pertaining to the case referral received by the OPD without specific authorization or request of counsel; *whether or not to generate a written report should be guided by a specific conversation between the attorney and the expert.* (Attachment G provides a sample *no report* letter.)
- *In most cases, it is OPD policy that the attorney, not the MH expert, will initially obtain collateral data and provide it to the MH expert.*
- In the event that additional sources of relevant and important information come to light during the Expert's examination process, the expert may request those records and inform the attorney of the additional sources of information.
- OPD has developed a HIPAA compliant release of information form (OPD-MH1) which should be used by both the OPD attorney and the MH expert.
- MENTAL HEALTH EXPERT MUST IMMEDIATELY CONTACT THE REFERRING ATTORNEY AT THE FIRST INDICATION THAT ADDITIONAL TIME IS NECESSARY TO ANSWER THE REFERRAL QUESTION! APPROVAL MUST BE PROVIDED IN ORDER FOR PAYMENT OVER AND ABOVE THE INITIAL PRE-APPROVED AMOUNT. JUSTIFICATION MUST ALSO BE PROVIDED REGARDING THE SPECIFICS OF WHAT ADDITIONAL TIME SPENT ON THE CASE WILL ENTAIL. (See Attachment J for a sample letter requesting additional funds.)

SECTION 3:
Protocol

When an attorney deems there may be a 'Mental Health issue' with a case, the attorney should review and complete the Mental Health Consultation and Referral Form An Attorney's Worksheet (OPD-MH2). *See Attachment A*, below. This section of the protocol will explain in some detail, each of the four elements of the overall OPD protocol governing referral and evaluation.

Additionally, one or more of the following protocols should be employed, as appropriate: **A)** Consultation with State Mental Health (MH) Consultant, **B)** Consultation with a MH expert, **C)** Screening by a MH expert or, **D)** an Examination by a MH expert.

A) Consultation with the Office of the State Public Defender (OPD) Mental Health Consultant

Attorney should review and complete the Mental Health Consultation and Referral Form, An Attorney's Worksheet (OPD-MH2). *See Attachment A.*

The attorney may contact the OPD Mental Health (MH) Consultant regarding a case as needed to discuss areas that lead the attorney to think a mental health issue may exist in the case. The requesting attorney will make available to the MH Consultant basic case information such as the charging documents, information gathered as a result of any releases of information (ROI) and/or previous involvement with the OPD or law enforcement.

Consultation may also be used to assist in solidifying specific referral question(s) once a mental health issue has been determined. The attorney and MH Consultant may discuss the referral and proposed examination schedule (e.g. time frame, nature and extent of the Mental Health examination recommended, type of examination tools that may be needed, estimated costs, etc.). *And, this may need to be an ongoing dialogue as issues in the case or in the examination unfold.*

As a result of the information discussed, the MH Consultant may suggest that the attorney consult with a Mental Health (MH) expert, schedule a Screening or an Examination by a MH expert. (See below for a description of Consultation with MH expert, Screening by a MH expert or Examination by a MH expert based on clearly formulated referral questions.)

Attorney questions to consider:

- Did the MH Consultant propose any additional suggestions or recommendations?
- Is Regional Deputy Public Defender authorization needed (e.g. if case is referred for examination that may cost less than $1000.00)?
- Is additional authorization needed from the Chief Public Defender, Contracts Manager, or Conflict manager (e.g. if case is referred for examination that may cost more than $1000.00).

Time frame: As needed.

Estimated cost: No additional funds needed.

Approval: No additional approval needed. (Consult with Regional Deputy Public Defender as needed.)

B) Consultation with a MH expert

Attorney should review and complete the Mental Health Consultation and Referral Form, An Attorney's Worksheet (OPD-MH2). *See Attachment A*. Consent must be secured by the client prior to the consultation. ***With juvenile cases, attorney will get the signature of the parent or guardian. Attorney should also get juvenile's consent.***

The MH expert may base her/his opinion regarding the appropriateness of subsequent screening or examination contacts between an MH expert and the attorney's client on information the attorney presents over the phone or in person. Information presented to the MH expert will include basic charging documents, and other important data that have been gathered as a result of the ROIs and previous involvement with the OPD or law enforcement. The attorney and MH expert will discuss the case specifics and referral question(s), proposed mental health needs and recommended course of action (e.g. If a Screening by a MH expert or Examination by a MH expert is deemed necessary. See below for a description of the Screening and Examination options.)

If the Mental health concerns are well known and documented in your case, the attorney may contact a Mental Health (MH) expert with case specific mental health concerns or referral question(s). This option may be used when documentation is needed regarding a MH expert's opinion regarding a recommended course of action that is able to be given without a screening or more comprehensive examination being warranted. For example, consultation may be appropriate if there is a recent (within the past weeks, months or year) examination, treatment, diagnosis for your client, in which case the expert may render an opinion about a recommended next course of action based on the case history and information presented by the attorney.

The types of opinions that can be defensibly and ethically offered without face-to-face contact are limited. Certainly an opinion may be given about whether or not their might be a mental health issue that should be screened or evaluated. However, it is unlikely, except in the most rare and extreme cases, to obtain opinions that go to psycholegal questions that ask about fitness to proceed, criminal responsibility, sentencing mitigation, etc., without at least some face-to-face contact between the MH expert and the client.

Consult with the Regional Deputy Public Defender as needed and required.

Attorney questions to consider:

- Did the consultation with the MH expert answer the referral question(s)?
- Were there mitigating circumstances (e.g. issues in the case were uncovered that change the referral question or required additional examination, etc.)?
- Did the MH expert propose any additional suggestions or recommendations?

Time frame: 20 minutes to 2 hours.

Estimated cost: See Attachment C Estimated Cost Schedule.

Approval: Regional Deputy Public Defender per policy...

C) Screening by a MH expert

Attorney should review and complete the Mental Health Consultation and Referral Form, An Attorney's Worksheet (OPD-MH2). *See Attachment A.*

If the case requires an initial screening assessment (from here on referred to as *Screening*), the attorney will contact a Mental Health (MH) expert to discuss the specific referral question(s). The attorney and MH expert will discuss the referral and proposed examination schedule (e.g. time frame, type of examination tools that may be needed, estimated costs, etc.) and develop clear specific referral questions that are to be answered by the screening. Get client consent. *With juvenile cases, attorney will get the signature of the parent or guardian. Attorney should also get juvenile's consent.*

This standard screening will consist of demographic information, statement of the referral question, a history of the presenting problem, a psychosocial history, a mental status examination (MSE), and an impression regarding the issue being screened (i.e., there does not appear to be an issue and further examination does not appear to be warranted, or, it appears that there may be an issue which should be further explored.)

For example, referral questions in the case of screening may be:

- "Does it appear that there may be reason to doubt this defendant's fitness to proceed?,"
- "Does it appear that this defendant may have a mental health defense?,"
- "Does it appear that this defendant may meet the appreciate and conform requirements for mitigation at sentencing?,"
- And, in each case, "Is more comprehensive examination indicated?"

Prior to (and in some cases during) MH expert involvement, the attorney will send basic information to the MH expert regarding the case including charging documents, criminal history, and signed releases of information (ROI) for obtaining information from collateral people and/or places. Information will be gathered from past and/or current outpatient and inpatient facilities, medical doctors, and other material pertinent to the case and referral question(s). *Once MH expert has accepted the referral, the requesting attorney will make available to the MH expert the charging document, background of the case, collateral information gathered and payment mechanism.*

As a result of the screening, a diagnostic impression and recommendation(s) specific to the referral question(s) will be generated. All communication between attorney and MH expert remains confidential until the attorney specifies and instructs otherwise, i.e. The MH expert must not generate a written 'report' until requested to do so by the attorney. The referring attorney is to be notified by the MH expert regarding the diagnostic impression and recommendation(s). If MH expert concludes that further examination is *not* recommended as pertinent to the referral question(s), the MH expert will provide a verbal summary report to the attorney with a brief written letter/report to follow if requested by the attorney.

If the MH expert concludes that further and more extensive examination is recommended as pertinent to the referral question(s) (e.g. competency examinations), the examination process may be resumed or scheduled for completion as soon as possible.

(See description below for Examination by a MH expert.) Forms will be provided for standardization and for use by the MH expert as a guide regarding information to be provided to the attorney (see Attachment D).

Attorney questions to consider:

- Did the Screening completed by the MH expert answer the referral question(s)?
- Were there mitigating circumstances (e.g. issues in the case were uncovered that change the referral question or required additional examination, etc.)?
- Did the MH expert propose any additional suggestions or recommendations?
- Is Regional Deputy Public Defender authorization needed (e.g. if case is referred for examination that may cost less than $1000.00)?
- Is additional authorization needed from the Chief Public Defender, Contracts Manager, or Conflict manager (e.g. if case is referred for examination that may cost more than $1000.00).

Time frame: 4—6 hours (See Attachment B Screening and Examination Schedule.)

Estimated cost: See Attachment C Estimated Cost Schedule.

Approval: Regional Deputy Public Defender per policy.

D) Examination by a MH expert

Attorney should review and complete the Mental Health Consultation and Referral Form, An Attorney's Worksheet (OPD-MH2). *See Attachment A*. Get consent of client. *With juvenile cases, attorney will get the signature of the parent or guardian. Attorney should also get juvenile's consent.*

If the case requires a comprehensive examination, the attorney will contact a Mental Health (MH) expert with specific referral question(s). For example, the attorney may want an opinion regarding:

- "Capacity to understand the proceedings and to assist counsel,"
- "Capacity of the defendant to have acted with knowledge and purpose at the time of the alleged offense,"
- "The capacity of the defendant to have appreciated the criminality of his behavior and/or to have conformed his behavior to the requirement of the law,"
- "The capacity of the defendant to have knowingly and voluntarily waived his Miranda rights,"
- *and so forth.*

The attorney and MH expert will discuss the referral and proposed examination schedule (e.g. time frame, type of examination tools that may be needed, estimated costs, etc.).

Prior to (and in some cases during) MH expert involvement in the case, the attorney will send signed releases of information (ROI) to any/all collateral people and/or places such as from past and/or current outpatient and inpatient facilities, medical doctors, and other material pertinent to the case and referral question(s). Once MH expert has accepted the referral, the requesting attorney will make available to the MH expert the charging document, background of the case, relevant case documents such as police reports, pre-sentence investigation reports, witness statements, statements made by the defendant, NCIC printout, collateral information, and payment mechanism.

In addition to a Screening, consisting of demographic information, statement of the referral question, a history of the presenting problem, a psychosocial history, and a mental status examination (MSE), the Examination will include a series of evaluative tools to address specific referral question(s). Specific areas that may be the focus of the examination (e.g. criminal responsibility, sentencing mitigation, waiver of rights, transfer to adult court, need for civil commitment, etc.) may include one or more of the following: Competency, Intellectual/academic, Personality functioning, Neuropsychological, or Psychosexual. Forms will be provided for standardization and for use by the MH expert as a guide regarding information to be provided to the attorney (see Attachment E).

The Examination will generate a diagnostic impression, opinions, and recommendation(s) specific to the referral question(s). Once the extended examination is completed, the MH expert will provide a *verbal report* indicating the diagnostic impression, opinions, and recommendation(s) to the attorney with a comprehensive written report to follow if requested by the attorney.

Attorney questions to consider:

- Did the Examination completed by the MH expert answer the referral question(s)?
- Were there mitigating circumstances?
- Did the MH expert propose any additional suggestions or recommendations?
- Is Regional Deputy Public Defender authorization needed (e.g. if case is referred for examination that may cost less than $1000.00)?
- Is additional authorization needed from the Chief Public Defender, Contracts Manager, or Conflict manager (e.g. if case is referred for examination that may cost more than $1000.00).

Time frame: 6 hours and up (See Attachment B Screening and Examination Schedule.)

Estimated cost: See Attachment C Estimated Cost Schedule.

Approval: Regional Deputy Public Defender per policy.

Attachment A
OPD-MH2
Mental Health Consultation and Referral Form
An Attorney's worksheet

Requesting Attorney _____
OPD Location _____

Age of Client _____ DOB _____ Gender: M F
Cause # _____
If juvenile, did you get signature of juvenile's holder of privilege on a ROI or on an informed consent to the examination form? YES NO
Name of the holder of privilege _____

What behaviors or statements lead you to seek consultation/referral for MH issues? (Please be as specific as possible.) _____

What do you hope to glean from the referral that will help your case? (e.g. Do you think this person is competent? If not, why? How much weight (on a scale of 1 to 10) do you give to an assessment being needed?)

Current Charges (with date of arrest) _____

History previous involvement in Law Enforcement _____
Did you print the client's criminal history? YES NO
Date of next hearing: _____
Trial date: _____

Where is client currently residing (Circle/indicate location)
Home (on bond) Detention facility (Where _____) House arrest
Shelter _____ Homeless _____ Other (specify): _____

Parole/probation Officer assigned? _____

Substance use at the time of the arrest? YES NO History of use? YES NO
If YES to either, what is/are the drug(s) of choice_____

_____

Is client currently under a mental health professional's services? YES NO UNK
If yes, with _____
If yes, have records been requested? YES NO
If records have been requested, have they been received? YES NO SOME

Does client have a history of mental health services? YES NO UNK
If yes, with _____
If yes, have records been requested? YES NO
If records have been requested, have they been received? YES NO SOME

Is client currently under medical care? YES NO UNK
If yes, with _____
If yes, have records been requested? YES NO
If records have been requested, have they been received? YES NO SOME
Is client taking any prescription medications? YES NO
If yes, who is the treating physician? _____
What are the medications indicated? _____

The specific referral question(s) is/are: (i.e. evaluate current mental status, assess for any diagnosis, assess competency concerns/ fitness to proceed, etc.) (See protocol for referral question examples.)

_____
_____
_____
_____

Proposed Mental Health Expert/Expert (name, address, phone)

_____
_____
_____
_____

Approval from Region Deputy YES (_____) NO
Date

Estimated cost: _____

Course of Action:
1.
2.
3.
4.

Attachment B
Screening and Examination Schedule

The purpose of this Screening and Examination Schedule is to provide guidance to the attorney and mental health expert regarding the level and intensity of the mental health expert involvement needed in a case. This is a four level schedule that ranges from least intensive (A. Consultation with State Mental Health Consultant) to most intensive (D. Examination by a Mental Health Expert). Following are descriptions of each level for your quick reference. Detailed descriptions are found in the protocol.

A) Consultation with State Mental Health (MH) Consultant

* **Time: As needed to thoroughly discuss the case.**
* Review and complete the Mental Health Consultation and Referral Form.
* Participants: OPD Attorney and the State MH Consultant
* Definition: Mutual exchange of information, ideas, suggestions, comments, general brainstorming and recommendations.
* Purpose: To determine if there is a mental health issue in a case. If there ***IS***:
  - To what extent?
  - What is to occur next?
  - Develop referral question(s)?
  - Complete Releases of Information (ROI), signed by client or holder of privilege
  - Consult with Regional Deputy as needed/required
  - Contact MH expert
  - Provide MH expert all relevant information regarding the case (charging documents, NCIC, pre-sentence investigations, proof of consent by holder of privilege, documents from ROIs
* Purpose: To Determine if there is a mental health issue in a case. If there is ***NOT***:
  * Document conversation as needed in case file.
  * No further consultation or referral needed at this time.
* Cost: No additional funds needed
* Time frame: as needed

B) Consultation with a Mental Health (MH) expert

* **Time: 20 minutes to 2 hours depending on the mental health components, history of the case etc.**
* Review and complete the Mental Health Consultation and Referral Form.
* Participants: OPD Attorney and Mental Health Expert
* Definition: Mutual exchange of information, ideas, suggestions, comments, general brainstorming and recommendations.
* Purpose: To determine the extent of a Mental health issue in a case. If there ***IS***:
  - Known MH history (by report or documentation)

- Recent consultations, screenings or examinations of client by MH Experts.
- Determine what is to occur next?
- Develop referral question(s)?
- Complete Releases of Information (ROI), signed by client or holder of privilege
- Consult with Regional Deputy as needed/required
- Provide MH expert information regarding the case (charging documents, proof of consent by holder of privilege, documents from ROIs

* Purpose: If there is a mental health issue in a case. If there is ***NOT***:
  * Document conversation as needed in case file.
  * No further consultation or referral needed at this time.
* Cost: Dependent on the expert and length of consultation
* Time frame: 20 minutes to 2 hours.

C) Screening by a MH expert

*** 4 to 6 hours depending on the complexity of the case, documents to review, referral question(s), if there is a brief evaluative tool used as an assessment device.**

* Review and complete the Mental Health Consultation and Referral Form.
* Participants: OPD Attorney, Regional Deputy Attorney, Mental Health Expert (possibly the Contracts or Conflicts Manager)
* Definition: Mutual exchange of information, ideas, suggestions, comments, general brainstorming and recommendations.
* Purpose: To determine the extent of a Mental health issue in a case. If there ***IS***:
  - A known MH history (by report or documentation)
  - A recent consultations, screenings or examinations of client by MH expert(s).
  - Determine what is to occur next?
  - Develop referral question(s)?
  - Complete Releases of Information (ROI), signed by client or holder of privilege
  - Consult with Regional Deputy as needed/required
  - Provide MH expert information regarding the case (charging documents, proof of consent by holder of privilege, documents from ROIs
* Purpose: To determine if there is a Mental health issue in a case. If there is ***NOT***:
  * Document conversation as needed in case file.
  * No further consultation or referral needed at this time.
* Cost: Dependent on the expert and length of consultation
* Time frame: 4 hours to 6 hours

D) An Examination by a MH expert.

*** 6 hours and up depending on the complexity of the case, documents to review, referral question(s), extent of evaluative tool used, and travel requirements.**

* Review and complete the Mental Health Consultation and Referral Form.

* Participants: OPD Attorney, Regional Deputy Attorney, Contracts Manager, Mental Health Expert

* Definition: Mutual exchange of information, ideas, suggestions, comments, general brainstorming and recommendations.

* Purpose: To determine the extent of a Mental health issue in a case. If there ***IS***:

- Known MH history (by report or documentation).
- Recent consultations, screenings or examinations of client by MH Experts.
- What is to occur next?
- Develop referral question(s)?
- Complete Releases of Information (ROI), signed by client or holder of privilege
- Consult with Regional Deputy as needed/required
- Provide MH expert information regarding the case (charging documents, proof of consent by holder of privilege, documents from ROIs

* Specific issues (e.g. Criminal responsibility, sentencing mitigation, waiver of rights, transfer back to juvenile court, amenability to participation in drug treatment court, risk assessment (recidivism, violence, etc.), civil commitment, guardianship, etc.) that may be the focus of the examination may require assessment of one (or more) of the following:

- Competency= Focus is on fitness to stand trial
- Intellectual/academic= Focus is on the intellectual abilities (generates an IQ)
- Personality functioning= Focus is on Diagnosis and general functioning and functional impairments
- Neuropsychological= Focus is on the potential Organicity of an illness
- Psychosexual= Focus on sex offender examinations

* Cost: Dependent on the extent of evaluative tools used as well as travel or court appearances

* Time frame: 6 hours and up; administration and scoring time allowances will be as indicated in the instruction manual

Attachment C
Estimated Cost Schedule
Fees Not to Exceed

	Psychologist, MD*	LCSW	LCPC	LAC
Consultation (phone or in person)				
Per 15 minutes	$ TBD	$ TBD	$ TBD	$ TBD
Screening				
Per hour	$ TBD	$ TBD	$ TBD	
Examination for diagnostic information (within screening category)				
Screening/2hr (e.g. CPT 90801)	$ TBD	$ TBD	$ TBD	
Document review/hr	$ TBD	$ TBD	$ TBD	
Analysis/Conclusion/report writing/Administrative(e.g., preparation of case specific forms, compiling files, archiving files, writing letters to attorney, etc.) and Case Management (e.g., TPC w/ attorneys, TPC w/ examinees, collateral interviews/TPC etc.)/hr	$ TBD	$ TBD	$ TBD	
Specify if diagnostic tool is used				
Personally Administered/ hr [e.g. CPT 96101]	$ TBD	$ TBD	$ TBD	
Computer generated/ Flat Fee [e.g. CPT 96103]	$ TBD	$ TBD	$ TBD	
CD specific examination (see Attachment F)				
Screening/2hr (e.g .CPT 90801)	$ TBD	$ TBD	$ TBD	$ TBD
Additional Document review/hr (if additional time is required/approved)	$ TBD	$ TBD	$ TBD	$ TBD
Other assessments/hr (If additional testing is needed/approved)	$ TBD	$ TBD	$ TBD	$ TBD
Computer generated/ Flat Fee [e.g. CPT 96103]	$ TBD	$ TBD	$ TBD	
Specialized Examination (Competency, fitness to proceed, etc.)				
For Screening/2hr	$ TBD	-----	-----	-----
Document review/hr	$ TBD	-----	-----	-----
Specify evaluative tool used				
Personally administered/hr [e.g. CPT 96101, 96116, 96118]	$ TBD	-----	-----	-----
Computer generated/flat fee [e.g. CPT 96103, 96100]	$ TBD	-----	-----	-----
Analysis/Conclusion/hr	$ TBD	-----	-----	-----

Travel

Travel will be calculated at State Rate for all disciplines.
Currently 48.5/mile (effective January 01, 2007)
Miles calculated via State site http://www.mdt.mt.gov/travinfo/scripts/citydist.pl
Overnight lodging and per diem per State Rate
Travel time will be calculated at 50% of the hourly rate.

Court Testimony**

To be discussed with the Regional Deputy Public Defender.

***APRN** paid at 90% that of Ph.D./MD rate

Expert Record of Billing form is to be used (please see attachment H).

Attachment D
Sample Screening Report by a MH Expert Outline
ONLY WRITE A REPORT AT THE REQUEST OF THE ATTORNEY

Identifying Information
-Demographic info (name, age, DOB, date(s) of examination, tests/assessment tools used)

Referral Questions/Notification
-If juvenile, client consent and legal guardian consent?

Sources of Information Relied Upon (i.e., bases for opinion)

Statement regarding confidentiality and purpose/use of the report

Brief Relevant History (only include elements if directly related to the referral question)
-Educational History
-Employment History
-Medical History
-Current and past medications used (specifically for MH Dx)
-Mental Health and Substance Use History
-Legal History
-Military History

Test results

Mental Status/Current Clinical Functioning

Diagnostic Impression
- At a minimum, indicate Axis I and Axis II diagnosis
- In some cases, it may be prudent and beneficial to document on all five axes

Conclusions, Opinions and Recommendations

Attachment E
Sample Examination by a MH Expert Outline
ONLY WRITE A REPORT AT THE REQUEST OF THE ATTORNEY

Identifying Information
-Demographic info (name, age, DOB, date(s) of examination, tests/assessment tools used)

Referral Questions/Notification
-If juvenile, client consent and legal guardian consent?

Statement regarding confidentiality and purpose/use of the report

Relevant History (only include elements if directly related to the referral question)
-Educational History
-Employment History
-Medical history
-Current and past medications used (specifically for MH Dx)
-Mental health and Substance Use History
-Legal History
-Military History

Test results

Mental Status/Current Clinical Functioning

Diagnostic Impression
- At a minimum, indicate Axis I and Axis II diagnostic information
- In some cases, it may be prudent and beneficial to document on all five axes

Assessment of Competence to Proceed
-Appreciation of charges and Allegations
-Appreciation of the Range and Nature of Possible Penalties
-Understanding of the legal process and its Adversary Nature
-Capacity to Work with Attorney and Provide Relevant information
-Ability to Manifest Appropriate Courtroom Behavior
-Ability to Testify Relevantly
-Opinion Regarding Competence to Proceed and need for Treatment/Restoration

Examination Data Relevant to Other Psycholegal Issues
For Example: Criminal Responsibility, Sentencing Mitigation, and so on – see comments above

Conclusions, Opinions and Recommendations

Attachment F

Suggested Chemical Dependency Examination Format

* Review of collaborative information and supportive documents
* Initial meeting with/screening of client
* CD examination to include screening tools and lie/deception detectors:
    * E.g. The CD2 is the computerized Diagnosis of Chemical Dependency testing instrument includes three screening instruments: the Forty Questionnaire, Mood Altering Chemical Use Questionnaire (MACUQ) and the M.A.S.T. CD2 includes a scale to try detecting lie and denial as well. Depending on the results the Alcohol Use Profile (AUP) or the S.A.S.S.I. may additionally be used.
* Standard Tools include:
    CD2 (as indicated above)
    40Q (40 Questions)
    M.A.S.T., (Michigan Alcoholism Screening Test)
    MACUQ (Mood Altering Chemical Use Questionnaire)
    CPQ (Concerned Person Questionnaire)
    CAGE
* If high denial or lie results on the original test, other tools should be used (e.g. S.A.S.S.I, AUP)
* Depending on referral question and client characteristics, other evaluative tools may be used (e.g. DAST-Drug Abuse Screening Test, Women's Alcohol Questionnaire, MAST-G for the elderly population, QUIK and other drug instruments depending on the drug of choice/use/concern (Cocaine, METH, marijuana))

Attachment G
Sample No Report Letter

Expert Person ◆ MyCredentials
Street address ◆ town, MT 59*** ☎406-***-**** Email expert@something.net

XXX, Attorney at Law
Public Defender's Office
Address of OPD
Town, MT 59***

Dear XXX,

At your request I performed a psychological examination of your client, XXX. After receiving a verbal report of my findings you stated a written report was not necessary at this time, but reserved the right to request one in the future. Please feel free to contact me about this or any other matter. Thank you for this referral.

Sincerely,

Expert Person
MyCredentials

Attachment H
Expert Record of Billing

Billing Record

TO: OPD
Address
City, MT, 59***

Requesting Attorney

RE: Case Name Date of initial request

Date	Specific Description of activity (e.g. administered Computerized MMPI-2)	Duration of activity (.20, .30, .45, 1.00 etc)	Cost (per unit)	Total (activity)

TOTAL BILL $$$$$$$$

EXPERT: IMMEDIATELY CONTACT THE REFERRING ATTORNEY AT THE FIRST INDICATION THAT ADDITIONAL TIME IS NECESSARY TO ANSWER THE REFERRAL QUESTION! APPROVAL MUST BE PROVIDED IN ORDER FOR PAYMENT OVER AND ABOVE THE INITIAL PRE-APPROVED AMOUNT. JUSTIFICATION MUST BE PROVIDED REGARDING THE SPECIFICS OF WHAT ADDITIONAL TIME SPENT ON THE CASE WILL ENTAIL. (See Attachment J for a sample letter for requesting additional funds.)

Attachment I
OPD-MH1
Authorization for the Release of Information (ROI)

OFFICE OF THE STATE PUBLIC DEFENDER

RANDI HOOD
CHIEF PUBLIC DEFENDER

AUTHORIZATION FOR DISCLOSURE OF INFORMATION

Name (please print)		**Date of Birth**
I authorize		
☐ to disclose and give copies to the Office of the State Public Defender, the following information now in your possession or control and to answer any questions that may be asked regarding this information.		
This authorization covers the approximate time period	**From**	**To**
	☐ Any and All treatment	
Medical treatment record(s) requested		
☐ Entire Record ☐ history and physical ☐ admission/intake form ☐ pharmacy records ☐ treatment/progress notes	☐ laboratory reports/studies ☐ radiographs/MRI's/imaging studies ☐ physician's orders ☐ nursing notes	☐ medications sheets ☐ discharge summary/orders ☐ HIV/AIDS diagnosis/treatment records ☐ other
Mental health treatment record(s) requested		
☐ Entire Record ☐ history &physical ☐ education assessment ☐ psychological testing	☐ diagnosis/assessment ☐ progress/treatment notes ☐ observation report ☐ competency/sanity evaluations	☐ physicians orders ☐ medication sheets ☐ discharge summary/orders ☐ other
Drug and alcohol treatment information requested		
☐ Entire Record ☐ substance abuse evaluation	☐ discharge summary/orders ☐ progress/treatment notes	☐ diagnosis or testing instrument ☐ other
☐ **other records Specify:** (e.g. SSA, DPHHS, billing/payment, vocational)		
The purpose of this disclosure is: *legal purposes*	**This consent expires:** *one year from the date of signing*	

I understand that:

- The requested information may not be protected from re-disclosure by the Office of the State Public Defender; However, if this information is protected by the Federal Substance Abuse Confidentiality Regulations (42 C.F.R., part 2), the Office of the State Public Defender may not re-disclose such information without my further written authorization unless otherwise provided for by state or federal law.
- I may refuse to sign this authorization and that my refusal will not result in the termination of my representation or ability to obtain treatment, services, or affect my eligibility for benefits.
- I may have a copy of this authorization
- A photocopy/fax of this release is valid and may be used in lieu of the original.
- I may revoke this authorization in writing at any time.

I have read this authorization and by signing acknowledge that I knowingly and freely consent to the disclosure of this information.

Signature (or signature of person authorized to sign)	**Date of Signing**

The authorized person signing above is the: ☐ **parent** ☐ **legal guardian** ☐ **other**

I no longer wish to share the information indicated above with the Office of the State Public Defender and hereby revoke this authorization.

Signature **Date**

Form: OPD-MH1 Complies with HIPAA and MHCIA Revised 02/06/2007

Attachment J
Request for Additional Funds

Dr. Person, Ph.D.
123 Street Address• Big Town, Montana 59888
406/123---4567 *(office)* 406/234-5678 *(cell)* 406/345-6789 *(fax)*
drperson@email.none

Attorney
OPD office
City, state zip

RE: Client Name and case number

Dear Mr. Attorney,

I am writing to you about my recent evaluation of Client. I am requesting additional funds to continue or complete the evaluation of this client. At this point I have met with Client on XXXXX dates to conduct the standard interviews and testing I customarily conduct with referrals such as in this case. *Make a statement of the records reviewed (lots, none, waiting for records, etc.) For example: I have also obtained and reviewed a voluminous amount of medical records.*

I was originally authorized for $XXXX At the present time, the total fee for work completed comes to $XXXX Because of the rather complex nature of the case, I will need to meet with Client to administer XXXXXXX. I estimate that in order to complete the examination I will heed to spend XX hours in face-to-face with Client for follow up interview and testing, additional XX reviewing the records from Whatever Healthcare Hospital when they arrive, XX conducting collateral Interviews, XX synthesizing and formulating my conclusions; and XX finishing a final draft of the report. This is a total of an additional XX hours above and beyond the time already invested in the case. At the fee of $XXXX per hour this comes to $XXXX. I am requesting authorization for an additional $XXXX to enable me to complete the examination of Client specific to the referral question(s).

Specifics to support needed additional funds.

SAMPLE:

Client's examination has been complicated by the fact that Client has an extensive medical history, in large part related to a long history of ******** and

Client's Attorney has asked that the examination include assessment of Client's complaints of ***** in the interest of sentencing considerations. Because of Client's extensive medical history Client medical records are voluminous and review of those records has been time consuming. Client has proven to be an unreliable historian with regard to Client medical history which makes generating a consistent understanding of Client history more difficult.

Client received elevated scores, including the total score, on the Structured Inventory of Malingered Symptomatology as well as a questionable configuration of scores on the validity scales of the MMPI-2 necessitating more comprehensive assessment of Client's response style. Client describes a history of ***** around the time of the alleged offense which suggests that alleged offense behavior may have resulted from the impact of **** on Client's cognitive and volitional functioning.

Because of the need to further assess the possible influence of Dx as well as the possibility of feigning or exaggeration of Dx and other symptoms, I plan to administer the following tests: XX, XX, and XX I also need to interview collateral informants (e.g., Client's daughter, a roommate Client was living with at the time of the alleged offense (both of whom spent much of the day with Client prior to the alleged offense), and a healthcare provider whom Client met with on the morning of the date of the alleged offense) to assess the accuracy of statements which Client has made to me about Client behavior and states of mind on the day of the alleged offense.

If further information is needed, please feel free to contact me.

Sincerely,

Dr. Person

References

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