

**ARIZONA SUPREME COURT
MENTAL HEALTH COURT ADVISORY COMMITTEE MINUTES
June 10, 2014**

Members Present:

Marcus Reinkensmeyer, Chair
Mr. Aaron Bowen, Psy.D
Ms. Mary Lou Brncik
Ms. Cathy Dryer
Mr. Jim Dunn
Hon. Elizabeth R. Finn
Hon. Howard Grodman
Hon. Carey S. Hyatt
Ms. Kim MacEachern
Ms. Penelope Pestle
Ms. Jane Proctor
Ms. Deborah Schaefer
Ms. Vicki Staples
Hon. Nanette Warner

Members Present By Telephone:

Mr. Kent Batty
Mr. Ed Gilligan
Ms. Fanny Steinlage

Staff:

Mr. Mark Meltzer
Mr. Nickolas Olm
Ms. Theresa Barrett
Ms. Susan Alameda
Mr. Mark Stodola

Guests Present by Telephone:

Ms. Nicole Waters, Ph.D.

Item No. 1: Call to Order; introductory comments; and introduction of committee members and staff:

The Chair called the meeting to order at 10:08 a.m. The committee members and staff introduced themselves and provided a brief background about their involvement in the area of mental health.

Item No. 2: Review of Administrative Orders 2014-43 and 2014-47:

The chair reminded the members that this committee is subject to the open meeting requirements. He referred the members to a page of proposed rules for conducting this committee's business that were included in the meeting packet. These rules establish policies for a quorum, decision-making, and proxies.

MOTION: A member moved to adopt the proposed rules, which was followed by a second and unanimously passed by the members. **MHCAC: 2014-001**

Item No. 3: Overview of Arizona mental health courts and HB 2310:

The chair kicked off the meeting with a presentation about Arizona mental health courts (MHCs) and then reviewed the charge of the committee with members. He explained the enacting legislation (HB2310) requires that the AOC's final report, along with any recommendations on the standards, be filed with the governor and the legislature by December 31, 2014. Therefore, the expectation is to have the committee's work finished by October so that their recommendations can be incorporated into a final report that will be presented to the Arizona Judicial Council (AJC) in the fall.

The chair noted that statewide standards could prove beneficial by: guiding courts that are contemplating implementing a new mental health court program; helping with funding requests to

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city and county administration for mental health court programs; data collection and computer automation support; the need for accountability and monitoring of the program; training; public confidence of the court; and communication between all the groups involved in mental health court.

The chair then opened the floor for questions and comments on the purposes of these standards.

Ms. Pestle opined that this project was initiated to provide tools to jurisdictions who are contemplating initiating a mental health court as well as to provide an opportunity to guide those jurisdictions who do already have mental health courts and enable their expansion. Further, these standards should be a set of tools and not a set of constraints for current and future mental health courts.

Judge Warner indicated that the judicial branch needs to be able to measure if the mental health courts are being effective in terms of their goals; these goals include keeping those with mental health disorders out of the criminal justice system and thereby reducing recidivism. She noted that currently the courts lack the funding to conduct these measurements.

Judge Finn indicated that one of the major issues from the limited jurisdiction courts standpoint is that they cannot capture the requisite data in their current case management systems. Therefore, if mandatory reporting is implemented for MHCs they will not be able to collect the data to measure performance.

Next, Mr. Meltzer provided a report on the work undertaken since HB2310 was passed. He explained that the AOC gathered information from the twelve mental health courts and provided the information to Dr. Nicole Waters at the NCSC, who is the Project Director. The NCSC then conducted an online survey of Arizona MHCs to obtain additional program information. Following the survey, there were two workgroup meetings at the AOC facilitated by Dr. Waters to vet a draft set of the standards. Additionally, Dr. Waters visited five mental health courts and will integrate this information into the final report to be submitted to the AOC.

ACTION: Judge Finn requested that staff provide committee members with background information on each other to provide context for discussions.

Item No. 4: Discussion of the draft Arizona standards: The Chair opened the floor for discussion on the draft of mental health standards. Broadly, consensus was achieved with respect to:

- There should be a preamble about the scope and purpose of these standards. A preamble section could be used to clarify different concepts that are deemed to be an integral part of a MHC and could include the benefits of participating in a MHC and the program requirements. It should also discuss the importance of collaboration because of the multiple treatment plans that the individual is going to have developed for them.
- Should not use the term “clinically” trained representative in the standards. Rather, focus should be about the representative having those skills and expertise and ability to work across the system than actually being a clinician. It was recommended to change

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terminology in standards to “behavioral health perspective” instead of using “clinical perspective.”

- “Behavioral health” should be specified to include both mental health and co-occurring disorders/substance abuse disorders when used in the context of MHC.
- Use a pull rather than push strategy. Instead of writing standards to read as mandates, consider rephrasing language to explain why the standard is important.
- Need to keep the standards flexible. Consider the use of “should” or “at a minimum a MHC should have...” or “recommend.”
- The consensus of the committee was when possible we should give a menu option of items a court could select from to define the terms of participation as well as a range of incentives and consequences.
- There was consensus that judges should preside over mental health court for no less than two consecutive years.

Members also made the following more specific comments and suggestions on the individual standards and subsections of those standards:

1. Development, Planning, and Administration

Planning Team Composition/Responsibilities:

- Consider adding additional agencies or groups as part of the planning group: Pretrial services; Veterans Administration; AHCCCS; Adult Correctional Institutions; Regional Behavioral Health Authority (RBHA); and a peer mentor/coach.
- The planning team composition should be broad as it may be beneficial to add other group members, depending on the jurisdiction, who could contribute. It was suggested the composition of the planning team should mirror the composition of the individual mental health court team.

Written Agreement:

- Developing a Memorandum of Understanding (MOU) for all parties involved is important, especially with the RBHAs. If there are MOUs with the RBHAs, then this could be a way to get clinical data to track.
- A member noted that the requirement of an MOU could be restricting in trying to set goals and concepts because they can change quickly and radically as you get more involved in the process.
- Each jurisdiction should have their own, specific written agreement that includes how they will address any minimum standards.

2. Mental Health Court Team

Composition of the team/Team Selection:

- “Clinically trained” should be defined if it is going to be left in this section.
- It would be beneficial to have a clinically trained professional on the team to answer questions and help guide the court as they are often knowledgeable about community resources and

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programming. Alternatively, it was noted that it might be troublesome to have a clinically trained representative due to lack of resources, especially for smaller jurisdictions.

- To fulfill this standard there could be a RBHA liaison, that is clinically trained, that could appear quarterly and discuss the subject of “how to effectively communicate and understand behaviors exhibited by persons with mental illness” as a part of ongoing training for the team. This could be a way to get a clinician’s viewpoint.
- It was suggested to use “such as” and provide examples but do not mandate particular positions.
- Many peer mentors often come from the community and not supervision agencies. Should the peer mentor/coach, which is listed as a court supervision agent, be moved?

Team selection:

- There should be more specificity as to what a non-traditional setting is and why this team is considered non-traditional. It should be indicated that mental health courts are different; it’s about collaboration, looking at alternatives and problem solving on an individual case basis.
- The criminal justice system cannot be told what staff to put onto certain cases in regards to prosecutors and defense attorneys; thus, the restraint of saying there must be a prosecutor or defense attorney willing to adapt to a non-traditional setting could be a problem.

Case Review:

- This subsection is important because the team needs to realize that there are ethical considerations for some team members. There can be tensions between sides, such as with probation and service providers or prosecution and defense because they both have their own separate legal obligations.
- “adherence to court conditions” is a cumbersome phrase; perhaps the language could be “court imposed conditions.” Also, the language “regularly communicates and updates” is not clear.
- Some jurisdictions do not have a public defender’s office. In some MHCs defense services are provided through indigent defense contracts in which the selection is made by the judge as to who might be the best fit for a case. Accordingly, this subsection should be flexible enough so that a selection can be made in this manner.

The Chair called a lunch break at 11:36 a.m. He reconvened the meeting at 12:06 p.m. to continue member’s discussion on the standards.

3. Eligibility, Screening, and Assessment

Early Identification:

- “Early” should be stricken from this subsection or be replaced with “anytime.” It is beneficial to have participants who are identified at any time in the criminal justice process; this subsection could be titled “identification of mental health court participants.” However, one member stated that encouraging identification as early as possible is important. For a new court starting up, to the extent that they can encourage early screening and identification would be beneficial.
- Treatment providers and probation staff should be added to the referral sources.

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A number of questions were raised under this subcategory. For example, who are the participants that should be identified and what are the characteristics associated that would make them benefit from a mental health court? Should only the severely mentally ill (SMI) be allowed in the MHC? If MHCs just use SMI designation for eligibility are you excluding others? Discussion ensued. The following was noted:

- Using the SMI criteria would eliminate participants with anti-social personality disorders as well as young adults who have yet to be involved in the behavioral health system and do not have an SMI designation.
- As long as a provider is willing to come to court and the participant needs treatment and medication, then the court should be open to having that individual in their mental health court.

Participation:

- The identified terms of participation need to be made clear in an order or contract that the participant agrees to and understands.
- It needs to be made clear to the participant why the mental health court would be beneficial to them and what it means to be in mental health court.
- If this is a collaborative process, the different case plans, such as from probation and the individual service plan, should have consistency and collaboration throughout the planning processes.

Validated Eligibility Assessment:

- The lower courts cannot do a risk assessment and currently it is not the job of RBHAs to assess community risk. Mandating an assessment would be a resource issue for the lower courts.
- Eligibility assessments are important for calculating outcome measurements and for allocating limited resources. Need to identify those individuals who need the resources versus the people who have the resources to self-correct.
- Are we screening for criminogenic risk? Are we screening and assessing for mental health or co-occurring disorders? Are we screening merely for eligibility for mental health court? Need to explore what role that RBHAs can play in assessment.
- In some jurisdictions, the defense attorney takes on a large part of this role in terms of early identification through interactions with the defendant and the defendant's family, previous or current treatment providers, and pretrial service or probation officers.

When wrapping up discussion of this subsection it was noted, the Arnold Foundation is beta testing a court-based risk assessment and it is getting ready to launch a defense attorney based risk assessment. There is hope in a year or eighteen months that these additional tools will be available to utilize and will directly meet the needs that are being discussed in this committee.

Clinical Disqualification:

- It sends the wrong message to say, "If adequate treatment is available." It should be stricken and "resources will be made available" should be inserted. The goal of these standards should

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be to expand mental health courts and to expand community services in order to address the needs of the mentally ill.

Voluntary Participation:

- One area that needs to be addressed is guardianships. Many people serve as guardians so the role of guardians needs to be determined in MHC.
- This subsection could possibly say that participation in the program needs to be predicated upon the defendant understanding the terms of participation or what is expected of them and accepts those terms.
- The provision about competency should be stricken from this section. This would allow cases that a prosecutor does not want to dismiss to be included in the MHC, while avoiding expenses associated with the restoration of competency.

4. Roles and Responsibilities of the Judge

Length of Term:

- It was noted, having judges volunteer to preside over mental health court is aspirational as smaller jurisdictions may not have this option.

Frequency of Contacts:

- Judges should spend as much time as possible with the defendant (during hearings) because studies show that this is where the defendant gains the most benefit; the average/optimal time, based on studies in drug courts, is three minutes.

Judicial Decision Making:

- This should be re-written in a way that does not preclude the rules of evidence.
- This subsection should clarify that the judge, not the doctor or clinician, is the final decision-maker. Nonetheless, the judge should still take into consideration the recommendations and opinions of the mental health court team when making the decisions. It should be urged that the final decision be a team decision. The judge should facilitate the staffing before the hearing to obtain all of the information available to retrieve the chief consensus of the team. The judge should try to serve as the facilitator of the team.
- Language about taking into account comments from family members should be inserted into this subsection.

5. Sanctions and Incentives

Advance Notice:

- Therapeutic adjustments should be explicitly defined. Examples should be given that show that this is about providing additional supports and services or offering alternative types of interventions to support the individual in being successful.

Opportunity to Be Heard:

- It needs to be stressed that individuals are given the opportunity to boast and are praised for the positive things they are doing or have done while in mental health court.

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Equivalent Consequences:

- Possible language inserted here could be “The mental health court should be operated based on the philosophy of justice, as justice infers that there is parity for everybody involved.”
- The first sentence should read “participants receive consequences that are appropriate to that individual and his/her plan.” Then qualify it with the non-discriminatory language and the fairness language.
- A better word for “equivalent” is “consistent” because you can be consistent without being equivalent.

Professional Demeanor:

- This is an overlap of the judicial demeanor and is not necessary; this subsection should be stricken.

Incentivizing Productivity:

- This subsection is self-explanatory and no edits are needed.

Jail Sanctions:

- It is worth noting that when the judge is considering jail sanctions, the judge should bear in mind, among other factors, the interruption in the medication schedule. Continuity of care is a key issue here and it needs to be considered. It was suggested language on explaining this important concept be added.

Appropriate Sanctions for Non-Compliance:

- It needs to be distinguished that this is not a treatment plan at the clinical level; it is the treatment plan for the mental health court.
- The term “sanctions for non-compliance” is not favorable; perhaps using “modifications of the mental health treatment court plan” would be more beneficial. However, sometimes defendants are willfully non-compliant and their behavior is criminogenic. If we eliminate “sanctions”, the legislature would look at mental health courts as too lenient.
- This subsection should be changed to say “Appropriate Sanctions for *Willful* Non-compliance” and in this subsection edit it to say “*Even* in instances of *willful* non-compliance...”

Consequences of Graduation and Termination:

- It may be challenging to address the differences in programs? i.e. superior court and limited jurisdiction courts. Using the word “may” will cover both situations, i.e. defendants “may” avoid a criminal record and defendants “may” face traditional prosecution.
- There should be a few main components in this subsection and how those components are executed could then be left to the individual program.
- Does there need to be a process put in place for when there is not adequate treatment?
- It is important to keep in the language that participants are not terminated for substance use if they are otherwise compliant with their case plan.

6. Treatment – There was consensus that this section be moved in front of the “Sanctions” section.

Continuum of Care:

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- “Should” in the first sentence of this subsection needs to be changed to “may.”
- “Shall” in the first sentence needs to be deleted.
- Delete the last sentence that starts with “Participants” and ends with “needs.”

Treatment Planning:

- Move this subsection before continuum of care.
- The mental health court team should not design the treatment plan; they design, perhaps, a plan for proceeding through mental health court and the RBHA or the mental health department designs the treatment plan.
- The treatment plan should mirror the probation plan to eliminate confusion.

In Custody Treatment:

- This subsection could be deleted all together.
- The criminogenic risk factors of participants need to be addressed. (not necessarily in this subsection but in general)

Provider Training and Credentials:

- Should evidence-supported practices rather than just evidence-based practices be inserted into this subsection?
- The importance of a memorandum of understanding needs to be stressed and there has to be a good understanding that this is a collaborative effort.
- Treatment plans and probations plans should be mirrored. When the treatment plan is developed, the probation officer should be a member of the team. Further, the treatment plan is not a recommendation, it is a judicial order.
- Mental health court treatment plans, which the judge orders, can be used to require RBHA to collaborate and work with the rest of the team.
- If there is a section that talks about a target population, then there does not need to be a section for co-occurring disorders. It should be expected that a majority of participants will have co-occurring disorders.

Continuing Care:

- This subsection needs to be further expanded or consider making it a standalone standard. Successful best practices or evidence-based practices could be included with that new standard.
- This is a great place to emphasize that upon graduation from mental health court, there is a transition plan that allows the services and support that the individual has been receiving to continue.
- Consider adding alumni groups into this subsection.

Co-occurring Treatment:

- Consensus was to hit this subsection more globally and consider adding it under eligibility subsection.

7. Confidentiality of Records

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HIPAA:

- Substance abuse records predates HIPAA and there are separate releases that have to be completed for substance abuse treatments. The committee needs to refer to the substance abuse statutes and put in some examples of the forms as an appendix to this document.

Information Sharing:

- No changes.

Attorney Representation:

- Some of the rural jurisdictions do not have public defenders, so attorney representation might be an impossibility.
- There is nothing in this subsection that states what should be done with the mental health records of an individual who completed mental health court. These records should not be used later in connection with possible future charges of that individual. Perhaps a stipulation could be put into a memorandum of understanding, citing that particular information from the mental health court records cannot be used for any future prosecution.
- Members agreed that the discussions that occur in mental health court team staffings need to be confidential.

8. Sustainability

Mental Health Court Resource Group:

- There is not currently a state/regional mental health court resource group in Arizona. However, there are informal groups such as the Pima County Mental Health and Criminal Justice Coalition and the Arizona Mental Health and Criminal Justice Coalition that both meet on a regular basis. Instead of creating another group, it was suggested these groups could be used for technical assistance or to help address global problems and barriers for MHCs.
- The Release of Information subsection does not discuss release of information and perhaps needs a different caption.

Community Outreach:

- This subsection is vague. Could be improved by expanding it to include the purpose of outreach such as, “sharing information on successes and to expand programs.” The mental health court needs to boast about its existence in order to acquire funding.

Monitoring Performance:

- The issue of monitoring performance is important and the committee needs to think about what the most important measures are and push for data collection around those issues. There could be, perhaps, a workgroup on this subsection.
- There could be an appendix with the minimum data items that should be collected to monitor performance. In the pre-imposed adjudication programs, there are some differences that would need to be considered.

Item No. 5: Discussion of draft best practices:

The Chair thanked committee and staff for their involvement today and asked the members to read over the best practices section of the standards as that will be a topic that is discussed at the next meeting.

Item No. 6: Roadmap:

The Chair discussed future meeting dates with the committee members and confirmed July 21, 2014 as the next meeting date. Administrative staff will contact members concerning their availability for a meeting in August and September. The members expressed a preference for keeping the time of the meetings on Tuesdays from 10:00 a.m. until 3:00 p.m.

ACTION: Judge Warner stated that she would like to have a workgroup that would be tasked with developing a template MOU that would require RBHAs to collaborate with mental health courts and to work on a general information document about mental health courts that describes what all the stakeholders in the mental health court do.

Item No. 7: Call to the Public; Adjourn

There was no response to a call to the public. The meeting adjourned at 2:55 p.m.

**ARIZONA SUPREME COURT
MENTAL HEALTH COURT ADVISORY COMMITTEE MINUTES
July 21, 2014**

Members Present:

Mr. Marcus Reinkensmeyer, Chair
Mr. Kent Batty
Mr. Aaron Bowen, Psy.D.
Ms. Mary Lou Brncik
Mr. Jim Dunn
Hon. Elizabeth R. Finn
Mr. Ed Gilligan
Hon. Carey S. Hyatt
Ms. Kim MacEachern
Ms. Jane Proctor
Ms. Deborah Schaefer
Ms. Vicki Staples
Hon. Nanette Warner

Members Absent:

Ms. Cathy Dryer

Members Present By Telephone:

Hon. Howard Grodman
Ms. Penelope Pestle
Ms. Fanny Steinlage

Staff:

Mr. Mark Meltzer
Ms. Theresa Barrett
Mr. Nickolas Olm
Ms. Susan Alameda

Guests Present by Telephone:

Ms. Jennifer Elek, Ph.D.

Guests Present:

Mr. Mark Stodola

Item No. 1: Call to Order; introductory comments; and introduction of committee members and staff: The Chair called the meeting to order at 10:05 a.m. The committee members and staff introduced themselves.

Item No. 2: Approval of June 10, 2014 meeting minutes:

Mr. Batty and Judge Finn suggested amendments to the June 10, 2014 meeting minutes. Upon consensus of the committee, the June 10, 2014 minutes were deferred for approval until the next meeting following the additions of the recommended amendments.

Item No. 3: Discussion of revised draft of Arizona standards:

Mr. Meltzer noted that the revised standards incorporated the suggestions from members made at the last meeting. The revisions included: the individuals that participate in MHC are now referred to as defendants, rather than participants, in this document, as this is the proper nomenclature; a preamble was added at the suggestion of members. The standards were re-sequenced and some of the subsections of the standards were re-sequenced. There were edits so that individuals who do not have legal or technical training could easily read these standards. Lastly, Mark noted the formatting of the draft standards will be corrected in the next version of the standards.

The chair then opened the floor for discussion on the revised draft of Arizona MHC standards. Members made the additional comments and suggestions on the individual standards and the subsections of the revised standards. *Note: the following notes do not include minor edits and do not include subsections that had no discussion:*

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Introduction to these standards:

- The term to use for the participants for in mental health courts (MHC) is changed to defendants with mental illnesses (Note: This change applies throughout the standards).
- Members and staff agreed that the introduction to the standards should be discussed after the eligibility criteria is discussed and established.

Reasons to establish a MHC:

- Increasing public safety should be left as the first bullet point because those who will be reading this document and who make funding decisions would want to see this first.
- Emphasizing the reduction in recidivism and improving outcomes are important reasons to establish a MHC and should be included in this section.
- There should be a representative to help fill out AHCCCS paperwork for persons who are assumed to be mentally ill so that they can receive an SMI designation or at least be inserted in a case management process and given a case manager to facilitate the judge's decisions in the case.
- There needs to be a mechanism in place where, through the court, as cases come in defendants can be evaluated by professionals to determine if they should have a SMI designation.
- Establishing access to, and retention, in MHC should replace facilitating participation in mental health and substance abuse treatment. One of the primary things that MHC does is keep defendants engaged in the treatment process.

Reasons to have Standards for a MHC:

- "To facilitate and improve ongoing performance" should be substituted for the phrase "to avoid any deterioration in performance."
- The bullet points should be reordered to reflect:
 - Program evaluations,
 - Structuring efforts to monitor their performance, and
 - Holding MHCs, teams, and individuals accountable
- It is important to have a brief executive summary and encapsulate the key points of these standards.

1. Planning a MHC

A. Planning Group's Composition

- This subsection should be edited to list the value statement and then have a bullet point list of the suggested planning group members.
- Include detention centers as part of the planning group composition.
- This section should be changed to *Development, Planning and Ongoing Administration* and should be part of an introductory section and not a set alone standard.
- The ongoing administration is important because the MOU is referenced in this standard.
- There should be a transitional linkage between the planning group and the MHC team standard for clarification purposes.

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- There should be a caution about projecting the long term sustainability of a MHC; jurisdictions need to ensure they have a sustainability plan for funding and have identified a specific need for a MHC.
- Consider using language from the Ohio MHC Standards. Specifically, refer to how they framed their initial considerations and discussed determining the need for a MHC by identifying community resources, an advisory committee and stakeholder involvement.
- An MOU is important for long-term stability because it explicitly states who is responsible for what and when there are personnel changes within organizations who are part of the MHC team.

2. MHC Team

- This standard will be made the first standard as the previous standard was integrated into an introductory section.

A. Team Function

- The MHC team is being identified here in this standard.
- The State Justice Institute has a curriculum on developing a MHC and they have numerous resources that can be attached in an appendix, along with other useful material, to be used as reference.

B. Team Selection

- In reference to the team selection, some of the court team listed are not available in LJC; thus, the term “may” needs to replace “typically.” There needs to be a requirement for basic core staff as part of the team and then there can be optional ones.
- Instead of having a court administrator or coordinator, it should say court staff or a court employee.
- If there is a resource issue regarding staff, then jurisdictions can require only specific team members to attend interim staffings, etc.; this gives each MHC the flexibility to work out resource issues in a way that is most efficient for that MHC.
- State what the elements of a MHC are in terms of philosophy and delete the sentences that state what the planners should do.
- There should be a bifurcated list of the court team of what members are mandatory and what members are merely recommended. The mandatory members should be: judicial officer, defense attorney, and prosecutor and mental health provider. It was noted that in issues of competency, having a defense attorney is meaningful, especially in advocating for an SMI evaluation. There should also be a catch all term in the recommended list of team members that includes “other professionals as identified by the court.”
- In paragraph B, delete the sentence that talks about “their individual goals.”

3. Roles of the Judge

A. Judicial Decision Making

- Move the sentence “When imposing treatment-related conditions, a judge must rely on input from trained treatment professionals” to the end of this paragraph.
- The roles and responsibilities of the other team members should be included in these standards. There is a high level of expectations for all team members and these should be explicitly stated. It was suggested there could be more particulars in the MOU but the

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standards should also add a section explaining the role of each team member and why these roles are critical for a MHC.

- Include family members and victims as other resources whose input should be considered in addition to the MHC team. This should be put into the last sentence in between “defendant’s counsel” and “if any.”

B. Frequency of Court Appearances and Contacts

- The Ohio standards have a glossary with definitions of what each team member does, other than the judge, and this should be considered for these standards. The glossary can also include general definitions of terms, i.e. pre-court staffing, status hearing, review hearing.

C. Length of Interactions in Court

- Despite some concern members had with having three minutes as the suggested amount of time a judge interacts with each defendant in court due to public perception, consensus was that this was a good guideline for judges to use and should remain in the standards.

D. Judicial Demeanor

- Remove the sentence “The judge should not humiliate or ridicule a defendant or subject a defendant to abusive language.”
- In this document, whenever research is referenced, there should be a citation for interested parties to view.

4. Referral, Eligibility and Assessment

A. Generally

- “Notwithstanding the criteria” was inserted so that the last sentence read “Under Standard 3(A), notwithstanding the criteria, a MHC judge ultimately makes the admission determination.”

B. Voluntary Participation

- A period should be put at the end of “defendant’s competency” and the rest of the sentence should be deleted. Additionally, “timely” should be deleted because it was agreed it is impossible to be timely when it comes to Rule 11 proceedings. Further, it was agreed “have guidelines” should be deleted as this is a point of contention amongst the committee.

E. Eligibility, Exclusion, and Assessment Criteria

- At the inquiry of a member, Mr. Stodola stated that evidence based methodology is included in this section because there needs to be an assessment that takes place when determining who is and who is not eligible for MHC. There needs to be consistency in how defendants are being placed into the program while other defendants are being rejected from the program.
 - This brought up questions from members. Does there need to be a risk needs assessment? How do you deal with the funding issue? Should RBHA be doing the risk needs assessment?
 - The consensus of the committee was to delete the second sentence in the first paragraph of E that says “Instead, the MHC team must use evidence-based methodology.”
- The Ohio standards talk about the legal admission criteria around defenses and how people qualify based on the legal admission but they also have the clinical admission that specifies

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what to look at regarding the types of diagnoses that people typically have. Again, the committee may want to look at the Ohio standards as a reference.

- "...and who is eligible for AHCCCS treatment services" should be deleted because that is already implicitly referred to in the paragraph by those designated as general mental health (GMH).
- Each MHC should determine what works best for their system and the specific mental illness diagnoses and the crimes committed that are eligible should not be referenced in the standards. The Ohio standards can be used again in this instance as a reference.
- Participants in a MHC or those considered for a MHC program should be individuals who have a significant treatable mental health disorder. MHCs need to ensure they take the defendants that show the need and not just those who can get through the program.
- The committee needs to focus on the target population in the standards rather than the eligibility criteria, as the eligibility criteria is something that can be determined locally in each jurisdiction. The target population would look at a broader scope of eligible defendants. The Gaines document can be used as a source of reference.

5. Treatment

A. Clinical Treatment Plan

- The term "clinical treatment" is a concern because it is not the team at the court that creates the clinical treatment plan, it is the clinician. Instead of using clinical treatment plan, it should be called "case plan" because that is the nomenclature used in the court system. The case plan is inclusive of not just conditions of probation, etc. but also the treatment element for the defendant.
- This standard should be prefaced with a statement that says "every defendant with a mental illness in a MHC must have a written treatment plan." A mental health professional needs to develop a written treatment plan and there should be a distinction between the case plan and the treatment plan in these standards.

C. Level of Treatment

- The first sentence in this paragraph should be deleted. The second sentence can also be deleted up until the word "adjustments."

G. After Care (changed to Graduation and Continuing Care)

- The paragraph on after care does not apply to pre-adjudication courts; thus it should be differentiated between post-adjudicated and pre-adjudicated courts.

6. Incentives, Treatment Plan Adjustments, and Sanctions

- Change "treatment plan" in title and rest of document to "case plan."

B. Opportunity to Be Heard

- Change all "should" to "must", with the exception for the last "should" in the paragraph.

C. Consistent Consequences

- The second paragraph should be deleted.
- This document should be in the active voice so it is clear that the standards being set for the person who is performing the act.

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- The consistency of consequences is at the heart of procedural fairness and this committee should make sure that there is language that alludes to this. However, there also needs to be room for the judge to make consequences that suit each defendant individually.

D. Incentivizing Behavior

- Change “incentivizing” to “motivating.”
- A MHC team should focus on incentives that are important for the individual in the program and meets their individual needs.
- There should be a list of types of incentives that can be given to the defendant as an example of the continuum. This list should be in the program brochure.

F. Jail Sanctions

- Jail sanctions are critical and the duration should typically last no more than three to five days. There is research that suggests spending one day in jail can be just as detrimental as five days. Jail sanctions are contrary to the goals of MHCs and should only be used as a last resort and only for defendants who are not engaged in treatment, not seeing their therapist, not following their treatment plan and not taking their medications.
- There should be a distinction between pre-adjudicated and post-adjudicated MHCs in regards to jail sanction.

G. Consequences of Graduation

- This paragraph should be titled “Graduation.”

H. Termination

- Change “managed safely” to “continue to safely reside”.

7. Confidentiality of Records

A. Release of Information

- The Confidentiality of Alcohol and Substance Abuse Records Act, 42 CFR, needs to be required for the defendant to fill out.
- It should be clarified that the records from a defendant’s MHC case cannot be used for prosecution in that case, nor can it be used for any subsequent cases filed against the defendant.

ACTION ITEM: A staff member of the Administrative Office of the Courts with experience in court records will consult with committee staff on how the court should deal with MHC confidential documents. i.e. updates from treatment providers, probation officers, etc.

8. Sustainability

A. Community Outreach

- The MHC program’s community outreach should be aimed towards public awareness or increasing public education rather than program sustainability. The court itself should engage in outreach on behalf of the MHC.

B. Written Policy

- It should be noted that the MOU in some circumstances may be substituted for the manual.

MHC 07/21/14 Draft minutes

- This standard could also be addressed in the planning section where it references that there should be a planning agreement, an MOU, as well as a written manual.

E. Performance Monitoring

- Questions that members posed were: Who is going to pay for the data collection? What data is going to be collected? How do we implement this? Should the entire first paragraph be deleted? Discussion ensued.
- Proposed language for the section included: “To ensure long term sustainability by performance monitoring, to the extent programs are available to capture data, the court should gather and review performance measures,” or “Programs must be developed by the Supreme Court, with appropriate funding, to be able to collect the data mentioned below.”
- When discussing performance monitoring, it would be valuable to talk about the entire team and how data collection can be done. There was consensus to keep language in this standard as broad as possible so there is a recognition that it is not solely the court’s responsibility.
- It was suggested a statewide code could be created for dismissals for mental health court cases. This will get reported to the Supreme Court and would ensure at a minimum MHC dismissals could be tracked.

Item No. 4: Roadmap:

The Chair thanked committee and staff for their involvement and reminded members that the committee needs to finish its work by October 1, 2014. August 14, 2014 was set as the next meeting date and staff indicated that meetings thereafter would be determined through email communications with members.

Item No. 5: Call to the Public; Adjourn

There was no response to a call to the public. The meeting adjourned at 2:53 p.m.

**ARIZONA SUPREME COURT
MENTAL HEALTH COURT ADVISORY COMMITTEE MINUTES
August 14, 2014**

Members Present:

Mr. Marcus Reinkensmeyer, Chair
Mr. Kent Batty
Mr. Aaron Bowen, Psy.D
Ms. Mary Lou Brncik
Mr. Jim Dunn
Mr. Ed Gilligan
Ms. Kim MacEachern
Ms. Deborah Schaefer
Ms. Vicki Staples
Hon. Patricia Starr
Hon. Nanette Warner

Members Absent:

Hon. Howard Grodman
Jane Proctor

Members Present by Phone:

Ms. Fanny Steinlage

AOC Staff:

Mr. Mark Meltzer
Ms. Theresa Barrett
Ms. Susan Alameda
Mr. Nickolas Olm

Guests Present by Telephone:

Ms. Nicole Waters, Ph.D.

Guests Present:

Mark Stodola
Shelly Kern

Item No. 1: Call to Order; introductory comments; and introduction of committee members and staff:

The Chair called the meeting to order at 10:04 a.m. The committee members and staff introduced themselves.

Item No. 2: Approval of June 10 and July 21, 2014 meeting minutes:

Mr. Dunn suggested an amendment to the minutes that edits “jail sanctions are critical” to just “jail sanctions.”

A member moved to approve the July 21, 2014 meeting minutes as amended, which was followed by a second and unanimously passed by the members. **MHCAC: 001**

A member moved to approve the June 10, 2014 meeting minutes as amended, which was followed by a second and unanimously passed by the members. **MHCAC: 002**

Item No. 3: Discussion of revised draft Arizona Standards:

Mr. Meltzer provided an update of the changes made to the revised draft Arizona Standards since the last meeting. The changes he noted were as follows:

- There is now a brief introduction to the standards and the introduction itself is comprised of the content of the former standard one (Planning a Mental Health Court) and it also includes post implementation duties of the planning group, which was taken from the Sustainability portion of the standards.
- Section F of the standards now contains a glossary of acronyms.

- Standard 1, The Mental Health Court team, now has a section C that details the roles and responsibilities of each member of the team and section E expands on the concept of education and training of team members.
- Standard 2, Role of the Judge, now includes a quote derived from the drug court standards.
- Standard 3, Referral, Eligibility and Assessment, includes a critical section on eligibility exclusion and assessment criteria.
- Standard 4, Court Proceedings, is a brand new standard.
 - Section B of this standard differentiates between closes staff meetings and public meetings.
 - Much of Section C about the phases of the program are modeled on the Ohio MHC Standards Handbook and the Bronx and Brooklyn MHCs.
- Standard 5, Treatment, uses the nomenclature of a “case plan.”
 - Section A describes the purposes of a “case plan.”
- Standard 6 includes quotes from the drug courts standards, as suggested by members.
- Standard 7, Confidentiality of Records, includes two new provisions.
 - Section A includes a prohibition on a prosecutor’s use of clinical information acquired during a defendant’s program related treatment.
 - Section B includes a reference to 42 CFR part 2, Code of Federal Regulations.
- Standard 8, Sustainability, deletes previous provisions about an ongoing review by the planning group and instead it is now in the introduction section.

Mr. Meltzer further noted that a workgroup will be meeting in the near future about confidentiality of records and the issues of destruction of records in MHCs.

Members made general comments and suggestions regarding the Arizona MHC Standards. Those comments were as follows:

- There should be a differentiation between post-adjudicated and pre-adjudicated courts regarding who determines if a defendant is eligible for MHC. In pre-adjudicated courts, it should be the established criteria, not the prosecutor, who determines if a defendant is eligible for MHC. A bifurcated list should be made that outlines the differentiation between the two courts.
- Prosecutors have an obligation to represent the interests of the state and the role of the prosecutor needs to be emphasized in these standards. Prosecutors have the responsibility of providing input from law enforcement, the state, and victims and should bring forth this input on a continual basis.
- The committee needs to be cognizant of ARS §11-361 when addressing these standards.
- Much of Standard 2 could be put into Standard 4, concerning court hearings and court process.
- There should be a summation of each of the eight standards because this document ultimately has to go to the President of the Senate, Speaker of the House and the Chief Justice of the Supreme Court and having these summations would be beneficial. This will also help with MHC training.

Members and staff discussed and made comments and suggestions on Standard 8, Sustainability, of the Arizona MHC Standards. Those comment and suggestions were as follows:

A. *Public Awareness:*

- This section should talk more about the value, purpose and how the community benefits from a MHC.

B. *Mental Health Court Resource Groups:*

- There should be editing about improving court operations. It is important for court's to communicate with each other and share information on their operations. The term resource group should be clarified as well as the function of that group. It should be emphasized that MHCs should collaborate.

C. *Periodic Reviews of Operations:*

- The MHC team needs to be added in this section and a provision that the team makes recommendations to the planning group needs to be added.

D. *Performance Monitoring:*

- A concern with the workgroup that dealt with this section was how do you review data when you do not have funding to collect data? The key word in this section is "should", which suggests that collecting data is recommended and aspirational. Further, "available" should be added as a qualifier to "data."
- There should be information in this standard about available funding for performance monitoring.
- Performance Monitoring and Performance Measurements should be combined and used as a preamble to data elements.

E. *Performance Measurements:*

- There should also be measurements of the MHC team because it needs to be known what and how the treatment team is performing.
- The outcomes are more important than the outputs and this should be emphasized in the standards. Number 4, Time from Arrest to Referral, is an important performance measure because decreasing time of arrest to referral could help with recidivism. When data suggests that an entity is failing, in this case from having a longer time from arrest to referral measurement, then that pushes the entity to become better.
- It is important to track incarceration days while the defendant is in the program. It needs to be differentiated what the defendants are incarcerated for because some defendants have charges from multiple courts and could be incarcerated because of a warrant from a different jurisdiction than where they are currently incarcerated. Those defendants should not be included in this measurement.
- An MOU or contract needs to be created with the RBHA for best practices regarding performance measures. There is an ability for data to be collected at all levels but everyone has to agree to participate, i.e. jails, providers, law enforcement, and it needs to be made clear who collects what data. There could also be a preamble in these standards about different possible data sources and how to collect them.
- Gathering data will vary from jurisdiction to jurisdiction.
- There is currently a push for uniformity in data collection and case management systems in this state and having this uniformity would be helpful in a number of areas. Eventually, there will be one big data server or "cloud", where all the data gathered can be sent. However, it can prove to be difficult trying to get all the providers to buy in to using the "cloud."
- The best way to administer data collection is to start at the state level; the state then pushes those expectations to the RBHAs who in turn push the expectations to the providers.

- There does not need to be a best practices section when the entire standards themselves are for best practices.
- There should be two phases to the data collection. Phase one would be for data that is easier to collect and phase two would be for the data that is more difficult to collect.

The committee discussed each performance measure and indicated whether each measure is easy or difficult to collect and who should collect this data. Their suggestions were as follows:

- In-Program Reoffending: The court should collect this data, including probation and pretrial services. This data is easy to collect.
- Attendance at Scheduled Judicial Status Hearings – The court should collect this data. This data is easy to collect.
- Case Processing/Efficiency: The court should collect this data. This data is easy to collect.
- Time from Arrest to Referral – The court should collect this data. However, this data could be difficult to collect.
- Time from Referral to Admission: The court should collect this data. This data is easy to collect.
- Total Time in Program: The court should collect this data. This data is easy to collect.
- Post Program Recidivism: “an arrest which results in the offender being formally charged” – this definition is from data point one and should be used in this data point as well.

The committee discussed the best practices section of the Arizona MHC draft standards and had the following comments and suggestions:

- Accountability:
 - *Attendance at Scheduled Therapeutic Sessions*: Both the RBHA and the court can collect this and this data element is readily available. RBHAs are already required to do this so they just need to be held accountable for doing so.
- Social Functioning:
 - *Living Arrangement*: This data element should focus on the end of the program and how many days the defendant had stable housing during the program. It would be worth doing despite the challenges.
- Collaboration:
 - *Team Collaboration and Agency Collaboration* should be combined. There should be a simple survey that each team member can fill out periodically and the coordinator would compile the results. Another possible option would be to have the RBHA survey the providers.
- Individualized and Appropriate Treatment:
 - *Need-Based Treatment and Supervision*: If the other measures are collected, then this should be easy to collect.
 - *Participant-Level Satisfaction*: An exit survey is critical and easy to do.
- Effectiveness:
 - *Participant Preparation for Transition*: This will be reviewed more in the next meeting.
- Equivalent dispositions: This data element is not part of the day to day data collecting but part of the program evaluation that can be done periodically. There could possibly be an external evaluation done every few years across all MHCs.

- Team Training: This is easy to collect. Training could be provided by the Administrative Office of the Courts.
- Data Elements: no discussion.
- Program Management and Performance: It must be stated in these standards that MHCs should collaborate and phase 2 of data collection should indicate that these data elements should be standardized.
 - Participant Demographics (collected at intake): The Demographic User Guide on the Department of Behavioral Services website has a plethora of data on demographics and could be utilized.

The committee further discussed other sections of the standards and their comments and suggestions were as follows:

- Under the Eligibility, Assessment and Criteria section it states “The (mental health court) team also should consider whether mental illness was a causal factor in the offense with which the defendant is charged.” This sentence is deleted because it could be difficult to prove that the defendant’s mental illness was related to the crime.
- There are instances where the defendant owes a significant amount of restitution and they cannot afford to pay the full amount back. Restitution as a requirement for graduation, located Under the Transition and Graduation section, should be deleted.
- There could possibly be a MHC resource group or advisory committee that reviews and oversees the continuing use/implementation of the MHC standards. This could be a way to provide sustainability to MHCs.

Item No. 4: Discussion of RBHA processes:

Shelly Kern, the Court Services Administrator for Mercy Maricopa Integrated Care, gave a presentation on the role of RBHAs in MHCs. The highlights of her presentation are as follows:

- Ms. Kern supervises the court liaisons, who tie together the behavioral health and substance abuse delivery system with the criminal justice system and they are: three staff in juvenile courts; three staff in adult courts who work at the Fourth Avenue Jail and they are at the jail seven days a week for most of the day.
- Currently, the court liaison mostly works with municipal courts. Last month, the adult court liaisons diverted 77 persons with mental illness out of jail while their cases were pending.
- There are also four court liaisons who work with MHCs where essentially an ad hoc MHC is held.
- Adults need to have SMI designation or Title 19 (AHCCCS) to have services through RBHA. However, there are still quite a bit of services available to those without an SMI designation but are enrolled in AHCCCS and are designated General Mental Health (GMH).
- Liaisons help the mental health courts meet their needs and can help coordinate treatment for defendants who are in active episodes of care.
- In Maricopa, there are about 20,000 people enrolled as SMI; this has been a consistent number over the last few years. The GMH enrollee number is harder to determine but there are approximately 42,000 with active episodes of care.

- Defense attorneys, Rule 11 proceedings, the judge, or a civil commitment through a petition are all ways a person is referred to an SMI evaluation. If that person is determined SMI, then it is reported to the Court.
- The person that reviews the materials gathered for the SMI evaluation of a person has to be a licensed psychiatrist, psychologist or nurse practitioner with Crisis Recovery Network.
- If a person is designated SMI, then they have the opportunity to have three different levels of services through one of the SMI providers contracted with RBHA and they are assigned to case management team. The three levels of services: supportive, where the designee has a case manager, psychiatrist/nurse practitioner, registered nurse and vocational rehabilitation specialist assigned to them; connective, where the designee does not need a case manager and they essentially pick up their medications once a month; Lastly, assertive community treatment which provides all inclusive care to a person and the services are delivered out in the community as much as possible.
- There is currently a data link agreement between the Maricopa County Sheriff's Office and the RBHA where every 15 minutes the information on every person booked or released in the jail is sent to the RBHA to crosscheck their own records with the jail records. If there is a match, the jail diversion team then intervenes at the jail and notifies the case manager that one of their clients is in jail.
- Correctional Health Services at the jail is given access to look at patient electronic medical records by the RBHA medical providers.

The committee and staff thanked Ms. Kern for her presentation.

Item No. 5: General Comments; Adjourn:

The chair announced that the next meeting is set for September 3, 2014. There was no response to a call to the public. The meeting adjourned at 3:00 p.m.

**ARIZONA SUPREME COURT
MENTAL HEALTH COURT ADVISORY COMMITTEE MINUTES**

September 3, 2014

Members Present:

Mr. Marcus Reinkensmeyer, Chair
Mr. Kent Batty
Mr. Aaron Bowen, Psy.D
Ms. Mary Lou Brncik
Mr. Jim Dunn by his proxy Mr. Josh Mozell
Ms. Cathy Dryer
Hon. Elizabeth Finn
Mr. Ed Gilligan
Hon. Carey Hyatt by her proxy Hon. Patricia Starr
Ms. Kim MacEachern
Ms. Penelope Pestle
Jane Proctor
Ms. Deborah Schaefer
Ms. Vicki Staples
Hon. Nanette Warner

Members Absent:

Hon. Howard Grodman
Ms. Fanny Steinlage

AOC Staff:

Mr. Mark Meltzer
Ms. Theresa Barrett
Ms. Susan Alameda
Mr. Nickolas Olm
Mr. Steve Lessard

Guests Present by Telephone:

Ms. Nicole Waters, Ph.D.

REGULAR BUSINESS

Item No. 1: Call to Order, introductory comments:

The Chair called the meeting to order at 10:07 a.m.

Item No. 2: Approval of the August 14, 2014 meeting minutes:

Members made corrections and suggestions to the August 14, 2014 meeting minutes and they will be reflected in an amended version of the drafts and will be presented at the next meeting.

Item No.3: Discussion of revised draft Arizona standards

The Chair opened the floor for suggestions on the revised draft Arizona standards. The members made the following comments, corrections and suggestions:

- Throughout the standards, the terms post-adjudicated and pre-adjudicated *courts* are used, which could be misinterpreted as these courts being different. Instead, the terms should be changed to post-adjudicated and pre-adjudicated *cases*.
- Prior to this meeting, Ms. Brncik provided to AOC staff a 2010 report from ASU Law Professor Carissa Hessick titled “*Sentencing in Arizona: Recommendations to Reduce Costs and Crime.*” This report was distributed to members of the committee. At this meeting, Ms. MacEachern provided members with a copy of a report prepared by county

attorneys in Arizona that was in response to Professor Hessick's report. Ms. MacEachern clarified that the county attorneys' response was to the entire report and not just the pages on which Ms. Brncik asked the committee to focus. (i.e., public defender's services).

- Members discussed the priority of having a RBHA liaison as a “should be” part of the team or a “may be” part of the team. The consensus of the group was that having a RBHA liaison was best practice because, among other things, having the face-to-face participation with the RBHA liaison is crucial and productive; however, it is not always feasible especially in the rural counties where the RBHA is potentially hundreds of miles away. It was noted that RBHAs are contractually obligated to have a local presence in all rural counties per ADBHS guidelines but what is defined as “local” in rural counties will vary. Further, the standards should denote that not every defendant in the Mental Health Court (MHC) is RBHA enrolled, thus a RBHA liaison would not be involved in team decisions for those cases.
- When a MHC is established, it was agreed the planning team should target a certain set of individuals that are essential. These individuals include: the prosecutor, the defender, the judge and the treatment provider. In pertinent part, the prosecutor is needed because they are part of the essence of a problem solving court and make the ultimate decision to file a motion to dismiss the case. The prosecutor's presence creates balance and accountability and the most cost effective problem solving courts have prosecutor involvement, even at the MHC team staffings.
- It was reiterated by members that the roles of each MHC team member needs to be explicitly stated in these standards. Mr. Gilligan provided an electronic document with edits to the standards that, among other things, defined each of these roles.
- There is not a clear statement in these standards about who is ultimately responsible for creating the MHC team; the consensus was that it should be the MHC Presiding Judge or designee.
- It should be clarified in the introduction to these standards the different needs for post-adjudicated and pre-adjudicated cases, i.e. probation officers are essential for post-adjudicated cases but not for pre-adjudicated cases.
- It was pointed out there is currently no research that shows drug court's techniques are fully applicable in MHCs, yet there is extensive references to the national drug court standards in the proposed draft Arizona MHC standards. While concern was voiced about citing them throughout the Arizona standards, it was also suggested concepts in other problem solving courts might be transferable to the MHC. The members agreed that keeping records for Arizona problem solving courts would help with future research regarding the effectiveness and accountability of MHCs.
- A member asked whether the sentence “Defendants who suffer from dementia are usually not eligible” added value to the standards? The consensus was that this sentence should be deleted, as some current MHCs are currently helping those with a form of dementia and it

is proving to be beneficial. Further in the same paragraph, not allowing defendants who are “clinically unstable” into MHC should be deleted as it is difficult to determine if a defendant is unstable until they are in the program.

- As currently written, the standards place most of the responsibility on the defendant to find housing. Members agreed emphasis should be placed on a member of the MHC team to find stable housing for the defendant. Language used in this section should show that the defendant is making progress towards their treatment goals. It noted the Ohio standards give specific examples of what the stabilization phase entails. It was also suggested the idea of community reintegration should be incorporated into this section.
- There was some confusion as to whether the Health Insurance Portability and Accountability Act (HIPAA) applied to courts? Judge Warner contended that the courts are subject to HIPAA. Dr. Bowen confirmed that the behavioral health providers are indeed subject to HIPAA.

ACTION: Staff will consult agency legal counsel to determine if the AOC has taken a position on whether the courts are subject to HIPAA.

- In standard 8, it could be useful to add additional information in here about training of the MHC team. Further, the courts need to think about succession planning because of turnover and new members joining the MHC team.
- There was a discussion on whether the current term “serious mental illness” should be used in the introduction to the standards. The consensus was that the term should be changed to just “a mental illness” to avoid the connotation that only those designated SMI are eligible for MHC.

Next, the committee reviewed Mr. Gilligan’s edits to the revised draft standards. The major edits focused on additional wording and enhancement in the definitions of the roles. The judicial officer, prosecutor and defense counsel roles were further defined. The role of a prosecutor should include, in a pre-adjudicated offense, that the prosecutor has the ultimate decision to move to dismiss the charges against the defendant. The role of a judicial officer should include that the judge has final decision making authority on any motions filed in a case. Additionally, the section on “Court Proceedings” removed discussion on the role of the judge, as that was moved to the “Role of the Team.” Finally, training for all team members was consolidated into one section of the standards.

Members then moved to a discussion of performance measurements and data collection. This conversation raised the question “why is the term “best practices” used in these standards when this entire document is best practices?” As a result of a lengthy debate, it was suggested that the current best practices section be referred to as “recommendations for additional data.”

ACTION: Ms. Staples will draft a document with two separate tables; one table for data measurements that should be measured and another table for “recommendations for additional data” section.

Further discussion of data reporting requirements ensued. As it was not clear to all members what collecting certain data elements was intended to provide, Dr. Waters directed members to the National Center for State Court's implementation guide for more information on what each reporting element is essentially meant to capture. It was noted that in addition to proposed measures there are other qualitative ways to measure program elements that could be considered by a MHC team.

Finally, the committee shifted their discussion to highlighting the importance of educating attorneys in the area of mental health in these standards. The reason MHCs work so well is because those who help run them are well educated in mental health and receive ongoing training. Collaboration is going to be at its best when there is an understanding that education and training is important. Cross-system training is an important tool because it will teach mental health professionals about criminal justice and vice versa. These standards do have a section on education and training; it was suggested that cross-system training could be part of that section. Another option suggested was to state as part of the roles of each member of the MHC team that they have to have cross-system training in the fields of the other team members.

Item No. 4: Call to the Public; Adjourn:

The chair thanked committee and staff for their input today and announced that the next meeting will be set by staff inquiring the availability of members in the coming weeks. There was no response to a call to the public. The meeting adjourned at 2:55 p.m.

ARIZONA SUPREME COURT
MENTAL HEALTH COURT ADVISORY COMMITTEE MINUTES
September 30, 2014

Members Present:

Hon. Carey Hyatt, Chair
Mr. Kent Batty
Mr. Aaron Bowen, Psy.D
Ms. Mary Lou Brncik
Ms. Cathy Dryer
Mr. Jim Dunn
Hon. Elizabeth Finn
Mr. Ed Gilligan
Mr. Howard Grodman
Ms. Kim MacEachern
Ms. Penelope Pestle
Marcus Reinkensmeyer by his proxy Hon. Patricia Starr
Ms. Deborah Schaefer
Ms. Vicki Staples
Ms. Fanny Steinlage
Hon. Nanette Warner

Members Absent:

Jane Proctor

AOC Staff:

Mr. Mark Meltzer
Ms. Theresa Barrett
Ms. Susan Alameda
Mr. Nickolas Olm
Mr. Steve Lessard

Guests Present by Telephone:

Ms. Nicole Waters, Ph.D.

REGULAR BUSINESS

Item No. 1: Call to Order, introductory comments:

The Chair called the meeting to order at 1:05 p.m. The committee members and staff introduced themselves.

Item No. 2: Approval of the September 03, 2014 minutes:

Mr. Dunn made a correction to the September 03, 2014 minutes that corrected his proxy's name from John Mozell to Josh Mozell.

A member moved to approve the September 03, 2014 meeting minutes as amended, which was followed by a second and unanimously passed by the members. **MHCAC: 2014-003**

Item No. 3: Discussion of revised draft Arizona Standards:

The Chair opened the floor for suggestions on the revised draft Arizona standards. The members made the following comments, corrections and suggestions: *Due to prior commitments, several members had to leave early from the discussion.*

- On page seven of the standards, the sentence in the first paragraph is quite involved and needs to be edited. The sentences should be structured to say “the planning team should periodically (a) review mental health court data and performance measures (b) consider participant and team member observations and feedback, and (c) make appropriate revisions to mental health court policies, procedures, operations, and MOU’s, to help maintain the program’s relevance and efficiency.”
- The issue of the RBHA liaison being in the “should include” section of the MHC team or not was brought up as a point of contention. Some members felt that the standards should have a stronger inclination to have a RBHA liaison as a part of the “should include” section, while other members felt that making the RBHA liaison as part of the “should include” section would put a burden on some courts; some courts are not able to have a RBHA liaison, especially courts in the rural areas even though the RBHA is contractually obligated, through the request for proposal (RFP) with the State of Arizona, to have a presence locally. It was also stated that having the treatment provider as a mandatory part of the MHC team is more important than having the RBHA liaison because the MHC team should focus on clinicians who have direct contact with the defendant and their treatment; but if both the RBHA liaison and the treatment provider can be a mandatory part of the MHC team, that is preferred. Furthermore, if it is in the RFP/contract with the state that the RBHA be present locally, then the standards should mirror these contractual obligations of the RBHA. Having the RBHA liaison in the “should include” section could help hold accountable the RBHAs to be present and to adhere to their contract. Additionally, it would help if the standards indicated the role of the RBHA liaison, which, in part, is to ensure that the treatment provider is providing required services.
- Judge Warner moved to have the language in standard 1B referring to the composition of the MHC team reflect that the RBHA representative or liaison be put in the “should include” section. The motion was seconded by Ms. Schaeffer. Further discussion ensued. The vote count was as follows: 9 in favor, 5 opposed and 1 abstained. The motion passed. **MHCAC: 2014-004**
- In standard 1C(e), the role of the RBHA representative needs to be edited, in pertinent part, to reflect that the RBHA representative assures the participant is linked to behavioral health treatment and other recommended support services, addresses gaps in services, responds to grievances, and assures treatment providers submit timely and complete progress reports to the mental health court.
- The role of a probation officer and a peer mentor should be described in these standards. **ACTION: Mr. Gilligan will provide a description of the role of a probation officer and Mr. Dunn will provide a description of a peer mentor and provide it to AOC staff to add to the standards.**

- In regards to standard 7B, concerning HIPAA, Judge Warner provided language to replace the current language in this section. The language was adopted by the committee and is as follows: “While the court is not a covered entity under HIPAA, to comply with HIPAA and allow disclosure of protected behavioral health information to other mental health court team members, as a condition of acceptance into the mental health court, absent a court order, the participant shall be ordered to execute a release and authorization in compliance with HIPAA and 42 CFR part 2 (for substance use information).”
- In regards to standard 8, Ms. Staples produced a chart of performance measures and provided them to the committee. Ms. Staples took the performance measures from the standards and put them in an easy to read chart. The chart starts with the numbered performance measure (i.e. 1 through 14), then the description of the performance measure and what it means, followed by when the performance measure should be collected, what the data element is, who is responsible for collecting the data and lastly additional information. Ms. Staples mentioned that this chart is a draft and subject to further edits and suggestions. Some members’ comments were that from a user perspective, this is what MHCs will refer to in the future for training purposes and this chart can also be an advocacy piece, especially for the legislative audience.
- The committee discussed what to do with performance measures, i.e. what data elements are missing? What is most important for the courts to track? Does the chart need narrative? Will courts feel overwhelmed in trying to gather all this data? Why are the RBHAs not being held to the same obligation of tracking performance measures as the courts? After the lengthy discussion, the consensus was to refer to the National Center for State Courts (NCSC) nationally recognized performance measures; in addition, the standards would delineate that Arizona must at least track performance measures 1, 2, 3, 5, 6, 7, and 8 while striving to track performance measures 4, 9, 10, 11, 12, 13, and 14 (as enumerated in the NCSC performance measures).
- Next, there was a discussion on whether the names of the performance measures, which were changed at previous MHCAC meetings, will be changed back to the original NCSC names. Also, members discussed whether the definitions of the performance measures in the Arizona Standards should be deleted and have the standards refer to the NCSC definitions of the standards. It was agreed, for simplification, that the standards should refer courts to the NCSC website regarding performance measures and their definitions. This is why national standards are made, so that courts from state to state can be compared to one another. Dr. Bowen then made a motion to change the performance measure names back to their original names, delete the definitions of the performance measures and have the Arizona standards refer to the NCSC definitions, which was seconded by Mr. Gilligan. The motion was unanimously passed. **MHCAC 2014-005**

- It was further noted that the chart the Ms. Staples provided will be updated using the NCSC standards and put into the Arizona standards as an appendix.
- A member suggested that the sentence in standard 4C, about the judge spending at least three minutes with each defendant, as well as the empirical research quote referring to drug courts, be deleted because there are important differences between drug courts and MHCs. However, another member suggested that since drug courts and MHCs are both problem solving courts, there are similarities and the empirical research based on drug courts can be applicable to MHCs.
- Regarding standards 5A and 5B, there was a discussion on who should be responsible for maintaining the case plan as well as how the standards should explicitly state that the court order should include the case plan terms. The first sentence was restructured and approved by members as follows: “The MHC judge must enter a court order encompassing the terms of the case plan and detailing the defendant’s responsibilities.” Further, the standards should state that the treatment provider and/or probation officer is generally responsible for maintaining the case plan.
- It was suggested that the bullet points at the beginning of the table of contents be moved to the beginning of the introduction section and that one more bullet point should be added that says “mental health court is a therapeutic problem solving court for defendants with mental illnesses.”
- Lastly, in standard 6E regarding jail sanctions in MHC, it was stated that the current language recommending that defendants not be in jail for more than five days is based on drug court research and might not necessarily be applicable to MHCs. For instance, if a MHC is trying to get a defendant stable on medication, then the MHC might want to leave the defendant in jail longer than five days. Proponents of the current language stated that, in fact, there will be extreme circumstances where defendants are kept in jail longer than five days; however, jails are not a therapeutic environment and leaving the mentally ill defendants in jail longer is not beneficial and longer periods of incarceration tend to lead to the worst outcomes; thus, MHCs should strive to keep the defendant in jail for no more than five days and strive to connect defendants with their treatment provider who would link the defendant to a treatment facility. The consensus of the committee was that the standards should emphasize the brevity of a jail sentence, should indicate that a jail sentence should have a definite duration, and that the “no more than five days” suggestion should be deleted. It was further noted that before anything, the standards need to emphasize continuity of care and that the reference to the continuity of the defendant’s medication should be put earlier in the paragraph.

Item No. 4: Vote on revised draft Arizona Standards:

Judge Warner moved for the members to recommend that the Arizona Judicial Council approve the proposed standards (as amended), and that the Administrative Office of the Courts submit the proposed standards in conjunction with the AOC's report pursuant to HB 2310. The motion was seconded by Ms. Pestle. The vote count was as follows: 8 in favor, 1 opposed, 0 abstained. The motion passed. **MHCAC: 2014-006.**

To avoid violation of open meeting policies, Mr. Meltzer informed members that if they have any further recommendations to the draft Arizona standards, they should submit the materials to him directly. He will then distribute the recommendations for further review.

Item No. 5: Call to public; adjourn:

There was no response to a call to the public. The chair then thanked members and staff for their contributions while on this committee. The meeting adjourned at 4:58 p.m.