

Appendix 3: Model treatment court waiver re confidentiality and ex parte communication

XXX COUNTY DRUG COURT PROGRAM Waiver of Confidentiality and Agreement to Ex Parte Communication

All treatment court participants, whether proposed or accepted into the program, are required to provide authorization to disclose confidential information as part of their application to and participation in the XXX County treatment court program. The purpose of this authorization is to give the treatment court team access to any and all necessary participant healthcare and non-healthcare information to evaluate and assess the participant's entry into the treatment court program, to determine an appropriate and individualized treatment plan, and to evaluate and monitor the participant's success under that plan.

1. I agree to execute a consent for disclosure of confidential health and medical and non health information. I understand that members of the treatment court team may require me to provide very personal information. This may include, but is not limited to, drug and alcohol use, my criminal record, education and work history, family history, medical information, physical and sexual abuse history, and psychiatric information. _____

2. I understand that information and documents received through any consent for disclosure of confidential health and medical and non health information may be copied and shared between members of the treatment court team, which consists of the treatment court judge, the treatment court coordinator, the public defender's office, the district attorney's office, law enforcement, the department of corrections, and the department of health and human services. I understand that the members of that team may change. _____

3. I understand that information and documents received through this waiver and information relevant to my progress and participation in treatment may be discussed in open court and may be disclosed to other participants in treatment court and observers of treatment court including, but not limited to, members of the public and/or media. No pictures or representations of me and no identifying information about me may be disclosed to the public other than in the treatment court courtroom without my express written consent. _____

4. I understand that occasionally people other than treatment court team members may observe a treatment court team meeting/staffing, with the understanding that the meetings are confidential. _____

5. I understand that some information relating to my treatment court participation will be publicly available in my criminal court file, which is kept by the clerk of circuit court. This information includes:
 - Any order referring the participant to treatment court;
 - Any notice admitting or rejecting the participant to the program;
 - Any order staying the criminal court proceedings;
 - Any waiver pertaining to court proceedings;

- Any proceedings or orders regarding sanctions;
 - Any order or notice of the participant's voluntary termination from the program;
 - Any proceedings or orders regarding involuntary termination from the program;
 - Any acknowledgement of successful completion of the program;
 - Any letters or information provided directly to the judge
-

6. I understand that some information relating to my treatment court participation will be kept separate from the regular court file and kept confidential. Access to this information is limited to members of the treatment court team unless I consent to additional disclosure or unless otherwise ordered by the court. This information includes:

- Any application to participate in the treatment program;
 - Any information gathered to evaluate the application;
 - Any treatment court participation contract;
 - All medical information and history of substance abuse: diagnosis, drug and alcohol use, monitoring, medical and psychological reports, prescriptions, etc.;
 - All treatment team information: weekly progress reports, information provided by team members, team member recommendations;
 - Any agreement by team members that information in treatment file shall be used only for purposes of treatment court.
-

7. I understand that there are exceptions to the confidentiality of the information referenced in #6. Those exceptions include:

- General information that does not identify me
 - Information pertaining to a medical emergency
 - Information that must be released via a court order
 - Information regarding a crime perpetrated during the course of the program, or while on program premises, or in Court or staffing, or against team personnel
 - Information pertaining to child abuse or child neglect
 - Information for the purpose of research or audits.
-

8. I understand that the judge may initiate, permit, or consider ex parte communication with members of the treatment court team at team meetings/staffings, or by written documents provided to all members of the treatment court team. I understand that this means that even when I am not present, the judge may discuss me and learn or review any information about me that could affect my participation in treatment court.

9. I understand that statements I make in court or to treatment providers about personal drug and alcohol use are not for any other purpose including use in any other criminal proceeding or investigation in which I am either a potential witness or suspect.

10. For the purposes of treatment court review hearings, I agree to waive my right to have my attorney of record present. I understand that my case may be discussed without my attorney or the prosecutor present. It is my responsibility to contact my attorney if I have a legal

question or a legal issue arises that I am unclear about and for which I need legal clarification.

11. I understand that failure to sign this waiver will be grounds for exclusion from treatment court.

Participant's Information and Understanding

I am _____ years old. I have completed _____ years of schooling.

I do do not have a high school diploma, GED, or HSED.

I do do not understand the English language.

I am not am currently receiving treatment for a mental illness or disorder.

I have not have had any alcohol, medications, or drugs within the last 24 hours.

I have read this waiver or had it read to me. I understand this entire document and any attachments. I have had an opportunity to discuss and ask questions and I have answered all questions truthfully. By signing this waiver I confirm that it accurately reflects my wishes regarding disclosing confidential information and ex parte communication.

Signature of Participant

Date

_____ Check here if participant refuses to sign waiver.

Witnessed by Treatment Court Coordinator

Signature of Coordinator

Date