

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2-73.5

**IN RE: EXPANSION AND MODIFICATION OF
POLK COUNTY BEHAVIORAL HEALTH COURT**

WHEREAS, the Polk County Mental Health Court was created by Administrative Order No. 2-73.0 on September 26, 2007; and

WHEREAS, in an effort to lessen the stigma of the title "Mental Health Court" on program participants, pursuant to Administrative Order No. 2-73.1 the name of the program was changed from "Mental Health Court" to the "Polk County Behavioral Health Court" (BHC); and

WHEREAS, specialized courts such as the Polk County Behavioral Health Court can enhance the expediency, effectiveness, and quality of judicial administration; and

WHEREAS, in view of the nature of mental illness and developmental disability, it is in the public interest and in the interest of justice that a new strategy be implemented to address persons who are mentally ill or developmentally disabled, and who have been found to have committed criminal offenses; and

WHEREAS, the Court, in the interest of justice, strives to balance the need for mentally ill and developmentally disabled defendants, who are qualified, to participate in the Polk County Behavioral Health Court by diverting them from jail and into the mental health system without compromising the safety of the public;

It is, therefore, **ORDERED**:

1. BHC shall be operational within the Polk County Court Criminal Division as a program for cases involving defendants who are suffering from a mental disorder or a developmental disability and who are charged with misdemeanor offenses or alleged to have violated probation previously imposed for a misdemeanor offense. A County Court Judge (BHC Judge) shall be appointed by the Administrative Judge of the County Court to preside over BHC. BHC may utilize either a diversion or a post plea model. BHC will offer services within the program as part of a diversion suspended sentence, a delayed disposition, post plea, or as a condition of probation.
2. Requests for consideration into the BHC program may be made to BHC staff by any Court, Court Services, Polk County Jail, Pre-Trial Services (PTS), the State Attorney's Office (SAO), defense counsel, law enforcement, mental health provider, or by any other interested person. All requests for consideration into BHC will be forwarded to the SAO and defense counsel. No case shall be transferred to BHC without prior approval of the SAO and defense counsel. After approval from SAO and defense counsel, BHC staff shall place defendant on BHC docket.

3. The criterion for admittance into BHC requires diagnosis by a mental health expert of either (1) a mental disorder as set forth by the Diagnostic and Statistical Manual -5 (DMS-5), including but not limited to, schizophrenia spectrum and other psychotic disorders, bipolar and related disorders, depressive disorders, anxiety disorders, obsessive-compulsive and related disorders, trauma- and stressor-related disorders, and dissociative disorders; or (2) a developmental disability as defined in section 393.063(9), Florida Statutes, including intellectual disability and autism or autism spectrum.
4. As a part of the BHC program, the Court may include services provided by the Veterans Administration (VA) whenever a defendant who has been accepted into BHC qualifies for such services.
5. After approval by the parties and the court as set forth above, the BHC judge shall enter an order transferring the case(s) to BHC. The clerk shall place the case(s), including any criminal traffic cases involving the defendant, on the BHC docket.
6. At any hearing where a defendant is alleged to have violated conditions of the BHC contract, upon being satisfied that the defendant committed the violation(s) as alleged, the court, in its discretion, may take one or more of the following actions:
 - a. Continue or extend the defendant's participation in BHC;
 - b. Impose special treatment or supervision conditions;
 - c. Order a therapeutic consequence, which may include county jail for a specified period of time; and/or
 - d. Remove defendant from BHC.

However, the court is aware of the difficulties in establishing and maintaining sobriety and in establishing and maintaining other treatment regimens for mental illness, and will work with defendants on achieving and maintaining sobriety and stability. Violations will not automatically result in termination from BHC.

7. The case(s) shall be transferred back to the original criminal division if the defendant fails, for any reason, to successfully participate and complete BHC. In such a case, the defendant's right to a speedy trial and formal discovery may be reinstated upon written demand.
8. The public is entitled to access to judicial records; however, patient treatment records are an exception to this rule and are deemed confidential by Florida law pursuant to sections 395.3025(7) and 393.13, Florida Statutes. In the event a treatment record or report is placed in the court file of a BHC participant, the BHC Judge will determine whether such report is a confidential patient record exempt from public access under Florida law. If the BHC Judge finds the record exempt, the records will be sealed. Access to the sealed

document will be limited to those persons authorized under sections 395.3025 and 393.13, Florida Statutes, or by court order.

9. All defendants currently in Behavioral Health Court under prior administrative orders will continue under the terms and conditions of the contract they have executed.
10. Administrative Order No. 2-73.4 entered on March 7, 2014, is hereby SUPERSEDED.
11. This Order shall be effective upon entry and shall remain effective up to and including September 30, 2015, unless extended by special order upon agreement of the Court, the SAO, and the Office of the Public Defender. In the event that a special order extending this administrative order is not entered on or before September 30, 2015, this administrative order will automatically terminate at 12:00am on October 1, 2015.

DONE and ORDERED on this 30th day of September, 2014.


WM. BRUCE SMITH, Chief Judge

Copies:

All Circuit Judges

All County Judges

Trial Court Administrator

Polk County Clerk of Courts

Office of the Public Defender

Office of the State Attorney

Office of Criminal Conflict and Civil Regional Counsel (Second District)

Behavioral Health Court Coordinator