STATE OF WISCONSIN CIRCUIT COURT NAME COUNTY

STATE OF WISCONSIN,

*Plaintiff,*

Case No.: XX-CY-XX

CLIENT NAME,

*Defendant.*

**MOTION TO COMPEL PRODUCTION OF TREATMENT RECORDS**

Pursuant to §51.30(4)(b)11, §51.30(4)(b)4 and 45 C.F.R. §164.512(e)(i), counsel for **CLIENT** moves for an order compelling the Department of Corrections and the Department of Health Services to provide him/her with copies of: (1) **CLIENT**’s treatment records for the period of date range, and (2) any other treatment records that DOC or DHS provides to any examiner appointed to evaluate **CLIENT**’s competency to proceed and/or need for involuntary medication or treatment.

The grounds for this motion are:

This court has ordered an examination of **CLIENT**’s competency to proceed and/or need for medication or treatment, pursuant to §§971.14(1r), (2), and (3). The examiner must file a written report with the circuit court, and the court must conduct a hearing on the matter. Wis. Stat. §§971.14(3) and (4).

Counsel cannot assess **CLIENT**’s competency, determine or challenge the accuracy of the examiner’s report, or represent **CLIENT**’s interests in proceedings relating to his competency and/or involuntary medication or treatment unless counsel can review his treatment records, including the treatment records that the examiner reviews to form his or her opinion.

**CLIENT** will not authorize the release of treatment records to counsel.

Section 51.30(4)(b)11 authorizes the release of a person’s treatment records without his informed consent to defense counsel “without modification, at any time in order to prepare for . . . actions relating to the detention, admission, commitment***,*** or patient’s rights

under this chapter or ch. 48, ***971***, 975, or 980.” (Emphasis added).

Furthermore, §51.30(4)(b)4 authorizes the release of a person’s treatment records

“pursuant to lawful order of a court of record.” Similarly, HIPPA, 45 CFR §164.512(e)(1)(i) permits release of protected health information during the course of a judicial proceeding, pursuant to a court order.

For the reasons stated above, the undersigned counsel respectfully requests that the

circuit court order DOC and DHS to provide him/her with copies of: (a) **CLIENT**’s treatment records from \_\_\_ to \_\_\_, and (b) any additional treatment records that they provide to the examiner appointed to evaluate **CLIENT**’s competency to proceed and/or need for medication or treatment.

Dated \_\_\_\_, 2021,

Electronically signed by Lucas Swank

Lucas Swank

Assistant State Public Defender

State Bar No.: 1103010

438 N. Water Street

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