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# **Maine Adult Drug Treatment Court**

## **POLICY AND PROCEDURE MANUAL**

Revised



2013



**The Administrative Office of the Courts would like to acknowledge the following partners:**

**Maine Office of Substance Abuse and Mental Health Services  
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## **ACRONYMS and GLOSSARY**

The following acronyms and glossary of terms, together with their definitions, are used in this **Adult Drug Treatment Court Policy and Procedures Manual**.

### **Acronyms**

**ADC** – Administrative Director of Courts

**ADTC** – Adult Drug Treatment Court

**AOD** – Alcohol and Other Drugs

**CCP** – Community Corrections Program

**CDL** – Commercial Driver's License

**COD** – Co-occurring Disorder

**CRO** – Court Referral Officer

**DA** – District Attorney

**BHR** – Bureau of Human Resources

**DOC** – Department of Corrections

**DSAT** – Differential Substance Abuse Treatment

**DTxC** – Maine Drug Treatment Court Information System

**HIPAA** – American Healthcare Portability and Accountability Act

**ICAOS** – Interstate Compact for Adult Offender Supervision

**MAT** – Medication-Assisted Therapy

**MOU** – Memorandum of Understanding

**NCIC** – National Crime Information Center

**SAMHS** – Substance Abuse and Mental Health Services (State of Maine)

**SAMHSA** – Substance Abuse and Mental Health Services Administration

## Glossary

**Ancillary Services** – services such as educational, vocational, mental health, medical, public assistance, child care, and transportation that may be either essential or incidental to a participant's recovery.

**Assessment** – a diagnostic evaluation for diagnosis of substance abuse problems and determination of level of care.

**Case Management** – goal oriented activities that facilitate, coordinate or monitor the full range of basic human needs, treatment, and service resources delivery for individual Drug Court participants.

**Case Management Plan** – assists with accessing needed substance abuse, medical, social, educational, vocational and other supports necessary to rehabilitate a substance abusing offender.

**Case Manager** – an employee assigned to the Drug Court who provides the primary supervision of participants and case management services to participants enrolled in the Drug Court. Essential functions generally include, but are not limited to, screening, planning, linking, monitoring, advocacy, and education.

**Certified Treatment Program** – means that a provider of inpatient treatment, detoxification, intensive outpatient, outpatient, primary residential and secondary residential programs is certified.

**Chain of Custody** – a monitoring process to prevent tampering with a urine or saliva sample or the results. Chain of custody begins with collection of the urine or saliva, and continues through the final reporting of test results to Participants.

**Co-Occurring Disorder** – diagnosis of a substance abuse disorder and a concurrent diagnosis of a mental health disorder, such

as anxiety, depression or other mood disorders when at least one disorder of each type can be established independent of the other and is not simply a cluster of symptoms resulting from a single disorder.

**Confirmation Test** – a laboratory administered test of a urine or saliva sample using a more advanced methodology than that used for on-site testing (e.g., GC/MS/MS) seeking to confirm or reject the result of the on-site test.

**Creatinine** – a naturally occurring substance found in urine; high creatinine levels indicate a suitable sample while low amounts (less than 20mg/dl) of creatinine in the urine indicate a manipulated test, either through the addition of water in the sample or by drinking excessive amounts of water ("flushing"). The absence of creatinine is indicative of a specimen not consistent with human urine.

**Deferred Prosecution** – the suspension of prosecution prior to arraignment for a specified period of time upon the request of the accused with the consent of the prosecutor.

**Dilution** – the process of reducing the concentration of drug or drug metabolites in the sample. A urine specimen is reported dilute when the creatinine concentration is greater than or equal to 2mg/dL but less than 20mg/dL and the specific gravity is greater than 1.0010 but less than 1.0030 on a single aliquot.

**Evidence-Based Practices (EBT)** – refers to preferential use of mental and behavioral health interventions for which systematic empirical research has provided evidence of statistically significant effectiveness as treatments for specific problems.

**Indigent** – any person involved in a criminal

or juvenile proceeding in the trial or appellate courts of the state, who under oath or affirmation states that he or she is unable to pay for his or her defense, and who is found by the court to be financially unable to pay for his or her defense.

**Interstate Compact for Adult Offender Supervision** – a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. The ICAOS consists of all states and territories, including Puerto Rico and the U.S. Virgin Islands, within the United States.

**Medication Assisted Therapy (MAT)** – a pharmacological intervention to control cravings and/or block the effects of substances of abuse in conjunction with counseling, behavioral therapy, and other support.

**Memorandum Of Understanding (MOU)** – a written document that expresses mutual accord of two or more parties and sets forth an agreed upon procedure between the parties.

**Monitoring/Supervision** – the oversight exercised by authorities over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions.

**NCIC Search** – National Crime Information Center, a computerized index of criminal justice information (i.e. criminal record history information, fugitives, stolen properties, missing persons) maintained by the Federal Bureau of Investigation. It is available to federal, state, and local law enforcement and other criminal justice agencies.

**Offender** – a person arrested for a drug/alcohol related offense but has not yet entered Drug Court.

**Participant** – a person who has been accepted into the Drug Court program.

**Post-adjudication** – an agreement to enter into Drug Court after entering a plea of guilty.

**Pre-adjudication** – an agreement to enter into Drug Court before acceptance of a plea of guilty or conviction.

**Pre-trial Diversion** – the imposition of conditions by the prosecutor upon defendants charged with certain criminal offenses for a specified period of time prior to adjudication.

**Recidivism** – rearrest or a subsequent conviction or plea of *nolo contendere* while participating or following discharge by graduation or termination from a Drug Court.

**Recovery** – the process of change through which an individual achieves abstinence and improved health, wellness and quality of life.

**Reentry** – the transition of offenders from jail or prison to community supervision.

**Relapse** – a return to substance use after a period of abstinence.

**Risk/Needs Assessment** – a standardized, validated instrument used to differentiate higher risk offenders from lower risk offenders, predict an offender's risk to re-offend and link offenders with treatment appropriate to their needs.

**Staffing** – the participant-focused meeting held by the Drug Court team, including the judge, prior to court hearings.



**Screening** – the process of gathering basic information to determine whether the offender meets established Drug Court eligibility criteria and shall include, but is not limited to, the current charge, criminal history, psychosocial assessment, a behavioral health screening, and a brief questionnaire to determine if a risk/needs assessment is needed.

**Self-help Groups** – mutual aid groups or recovery support services that include 12-step programs, support groups, and peer counseling groups that meet on a regular basis.

**Serious Mental Illness (SMI)** – a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet diagnostic criteria specified within the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR), resulting in functional impairment which substantially interferes with or limits one or more major life activities.

**Sessions** – the scheduled appearance of the participant before the Drug Court judge, during which the progress of the participant is reviewed and discussed, and assignments, verifications, or other requested information is provided to the Drug Court judge by the participant.

**Substance Use Disorders** – the DSM-IV TR diagnostic category encompassing both dependence on and abuse of drugs and/or alcohol. **Substance Abuse** is a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one or more of the following, occurring within a 12-month period:

- 1) Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (repeated absences or poor

work performance related to substance use; substance related absences, suspensions, or expulsions from school; neglect of children or household)

- 2) Recurrent substance use in situations in which it is physically hazardous (driving an automobile or operating a machine when impaired by substance use)
- 3) Recurrent substance-related legal problems (such as arrests for substance related disorderly conduct)
- 4) Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (for example, arguments with spouse about consequences of intoxication and physical fights)

Additionally, the symptoms have never met the criteria for Substance Dependence for this class of substance.

**Substance Dependence** is a maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by three (or more) of the following, occurring at any time in the same 12-month period:

- 1) Tolerance, as defined by either a need for markedly increased amounts of the substance to achieve intoxication or desired effect or markedly diminished effect with continued use of the same amount of the substance
- 2) Withdrawal, as manifested by either the characteristic withdrawal syndrome for the substance or the same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms
- 3) The substance is often taken in larger amounts or over a longer

- period than was intended
- 4) There is a persistent desire or unsuccessful efforts to cut down or control substance use
  - 5) A great deal of time is spent in activities necessary to obtain the substance (e.g., visiting multiple doctors or driving long distances), use the substance, or recover from its effects
  - 6) Important social, occupational, or recreational activities are given up or reduced because of substance use
  - 7) The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance

**Substance Abuse Education/Prevention** – programs that provide information about substance abuse (including the substances most commonly abused and their effects, the symptoms of abuse/addiction, screening and diagnostic procedures and methods of treatment) and/or which offer any of a variety of services that focus on substance abuse prevention for people who are at risk. Included may be printed materials or videos that address the subject; psycho-educational and skill building activities; structured groups which focus on family dynamics, problem-solving, self-esteem and similar issues; and presentations in schools and agencies and to family groups regarding the dangers of alcoholism, drug abuse and smoking, the signs of substance abuse and addiction, the legal consequences of substance abuse and how to get help.

**UNCOPE** – a six-item screening tool to indicate possible substance abuse or dependence.

- U** "In the past year, have you ever drank or **used** drugs more than you meant to?"  
*Or as revised* "Have you spent more time drinking or using than you intended to?"
- N** "Have you ever **neglected** some of your usual responsibilities because of using alcohol or drugs?"
- C** "Have you felt you wanted or needed to **cut down** on your drinking or drug use in the last year?"
- O** "Has anyone **objected** to your drinking or drug use?"  
*Or, "Has your family, a friend, or anyone else ever told you they **objected** to your alcohol or drug use?"*
- P** "Have you ever found yourself **preoccupied** with wanting to use alcohol or drugs?"  
*Or as revised, "Have you found yourself thinking a lot about drinking or using?"*
- E** "Have you ever used alcohol or drugs to relieve **emotional discomfort**, such as sadness, anger, or boredom?"

If the participant answers yes to 2 or more of the questions, there is a need for a formal substance abuse assessment.

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## **PART 1. Purpose of Adult Treatment Drug Courts**

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Maine's Legislature passed *An Act to Provide for the Establishment of Alcohol and Drug Treatment Programs in Maine Courts* (4 M.R.S.A. Sections 421-423) in 1999. The full statutory reference is found in Appendix A. This manual provides relevant policies, procedures, and protocols for the operation of the Adult Drug Treatment Courts, which resulted from this statute.

### **A. Mission**

The mission of the Adult Drug Treatment Court (ADTC) is threefold: to stop criminal activity related to the abuse of alcohol and other drugs; to hold adult criminal defendants and offenders accountable; and to increase the likelihood of successful rehabilitation of ADTC participants through intensive judicial supervision, case management, and specialized treatment for substance abuse and other disorders.

### **B. Adult Treatment Drug Court Defined**

Adult Treatment Drug Court (ADTC) is a post-plea/post-adjudication specialty docket responsible for addressing criminal cases involving defendants and probationers who abuse substances through intensive judicial monitoring, comprehensive supervision, drug testing, treatment services and immediate incentives and responses. ADTCs bring the full weight of all interveners (judges, prosecutors, defense counsel, substance abuse treatment specialists, probation officers, law enforcement and correctional personnel, educational and vocational experts, mental health workers and many others) to bear, requiring the participant to deal with his or her substance abuse problem in a productive and prosocial manner. Drug Courts work similarly to a court diversion program in that, in exchange for a guilty plea, a participant may enter the Drug Court and following Drug Court graduation expect a significantly reduced sentence. While in Drug Court participants are allowed to remain in the community while being supervised by the Drug Court case manager and a probation officer, if on probation.



## **C. Objectives**

The goals and objectives of the Adult Drug Treatment Court (ADTC) are to:

1. Support the recovery of participants from alcohol and drug abuse and dependency;
2. Support the recovery of participants from co-occurring mental illnesses when that can be managed in an ADTC setting;
3. Enhance public safety by reducing recidivism;
4. Increase personal, familial and societal accountability of participants;
5. Support the development of participant personal, familial, and societal assets and skills to become productive citizens of Maine;
6. Coordinate case processing and monitoring of participants who have multiple contacts with the legal system, including child protection, domestic violence, and family matters;
7. Ensure that participants provide financial support for their children;
8. Promote effective coordination of resources between and among justice system personnel, substance abuse and other clinicians, community agencies, and other ancillary services;
9. Hold offenders accountable for their crimes through victim compensation, community restitution, and reimbursement of government agencies and service providers;
10. Help to reduce overcrowding of jails and prisons through early identification, intervention, and treatment of offenders who have substance abuse disorders.
11. Achieve the above by adhering to the 10 Key Components of effective ADTC operations (see Appendix B) and the Adult Drug Court Best Practices (see Volume 1 in Appendix N).





## **PART 2. Selecting Drug Court Participants**

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### **A. Eligibility Criteria**

Many steps involving multiple parties lead to the decision of whether to admit a person to Adult Treatment Drug Court. However, before a detailed assessment begins, the potential participant must meet basic eligibility requirements. The optimal target date for admission to the Drug Court is 30 to 45 days from the time of referral and to minimize the duration of time from arrest to referral as well. These are:

**Age.** Age 18 years or older.

**Severity of substance abuse.** Moderate to severe substance abuse disorder correlating with a Differential Substance Abuse Treatment substance abuse addiction Level of 3 and 4 as determined by the SUSA, with discretion given to the ADTC team regarding admittance of Level 5 participants.

**Nature of the current charges.** A crime that constitutes a “qualified adult offense” or a motion to revoke probation, in which the underlying adjudication and the basis of the revocation, if it is a new charge, is a “qualified adult offense.”

**Residence of defendant and/or place of offense.** At least one pending charge and/or a place of residence in a county served by an ADTC. If the defendant has pending charges in another county, any party having jurisdiction over those charges such as district attorneys, and the Office of the Attorney General, must be willing to transfer venue to the county served by the ADTC. Although priority is given to residents of the county within which the ADTC is based, referrals from outside the county will be considered with the expectation that the defendant, if accepted, will reside in the ADTC’s county.

**Stage of proceeding.** Referral for screening at any stage including, but not limited to, arraignment, bail hearing, probation revocation hearing, adjudicatory hearing, after plea of guilty, *nolo contendere*, or admission to probation violation.

**Nature of previous convictions.** No prior adult adjudication for an offense that is specifically excluded from the definition of a “qualified adult offense” below.



**“Qualified adult offense” defined:** Any criminal offense, not otherwise specifically excluded, as defined in the *Maine Revised Statutes Annotated*, including but not limited to offenses defined in Title 17-A of the *Maine Criminal Code* and Title 29-A of the *Maine Motor Vehicle Statutes*. A “qualified adult offense” shall not include a pending criminal charge or a prior conviction (or juvenile adjudication) for any of the following:

- a. Murder 17-A M.R.S.S. §201;
- b. Class A offenses defined in 17-A M.R.S.A. Chapter 9, Felony Murder, §202, Manslaughter, §203, and Elevated Aggravated Assault, §208-B, Kidnapping, 17-A M.R.S.A. §301;
- c. Offenses defined in 17-A M.R.S.A. Chapter 11 Sexual Assaults.

The court shall give heightened scrutiny when considering a referral of an adult who is currently charged with or has a prior conviction (or juvenile adjudication) for any of the following criminal offenses:

Offenses Against the Person, 17-A M.R.S.A. Chapter 9, not specifically excluded above:

- a. Aiding or Soliciting Suicide §204,
- b. Assault §207,
- c. Aggravated Assault §208,
- d. Assault while Hunting §208-A,
- e. Criminal Threatening §209,
- f. Terrorizing §210,
- g. Stalking §210-A,
- h. Reckless Conduct §211;
- i. Arson, 17-A M.R.S.A. §802;
- j. Causing a Catastrophe, §803;
- k. Robbery, 17-A M.R.S.A. §651;
- l. Offenses involving the use of a dangerous weapon, 17-A M.R.S.A. §2(9);
- m. Offenses involving the use of a firearm, 17-A M.R.S.A. §2(12).
- n. Aggravated Trafficking in Schedule Drugs, 17-A M.R.S.A. §1105.

**Medical Marijuana:** Defendants with certificates for medical marijuana are not eligible for admission. (See Part 4, Drug Testing, for an explanation.)



## B. Other Conditions of Participation

While the above reflect eligibility criteria, other conditions must be met for an individual to be accepted. These are:

**Public safety.** The court may exclude any defendant whom the court deems to present a substantial danger to his/her victim or to the community, a substantial risk to the integrity of the judicial process, or a substantial risk, despite participation in the ADTC, of engaging in new criminal conduct.

**Legal representation.** Any eligible defendant who is not represented shall meet with a court-assigned attorney before full admittance to the program.

**Waiver of rights of confidentiality.** The defendant must voluntarily and knowingly consent to waive all rights of confidentiality established by federal and state laws associated with substance abuse diagnosis and treatment (42 CFR Part 2) and mental health diagnosis and treatment in order to facilitate judicial supervision and the sharing of information between treatment providers, the ADTC team and the court.

**Waiver of procedural rights.** The defendant must voluntarily and knowingly consent to waive any and all procedural rights to participate in ADTC (See C. Participant Rights below). The ADTC judge is authorized to discuss a participant or a potential participant with members of the ADTC team outside the presence of the participant or counsel so long as the ability to treat the participant fairly is preserved.

**Payment of financial obligations.** The defendant must agree to pay restitution, child support, fines, transport fees, and treatment self-pay charges or co-payments.



## C. Participant Rights

Despite the waivers discussed in the section above, participants also maintain certain rights. They should be given a written explanation of these rights when admitted to the program:

- a. The right to confidentiality under federal and state laws relating to the receiving of services
- b. The right to be informed of various steps and activities involved in receiving services
- c. The right to humane care and protection from harm, abuse, and neglect
- d. The right to contact and consult with an attorney of the participant's choice at the participant's expense or, as indicated above, the right to a court-assigned attorney if the participant cannot afford his/her own
- e. The right to make an informed decision whether to participate in the program or refuse participation and be sent back to the criminal court
- f. In the event of a possible jail sanction exceeding seven days if not on probation or termination from the Drug Court, a participant has the right to a formal hearing with counsel present.

ADTCs do not discriminate on the basis of:

- a. Race
- b. Religion
- c. Gender
- d. Ethnicity
- e. Age
- f. Disability
- g. Sexual Orientation

Accommodations are made for persons with physical disabilities, persons with limited literacy skills, and limited English proficiency (LEP) consistent with Maine Judicial Branch policies and procedures.

ADTCs permit participants to review their files unless contraindicated as noted below. This determination is to be made by the case manager in consultation with his or her supervisor and the Coordinator of Specialty Dockets and Grants. Any participant's review should be recorded in the case file as well as any denial with the reasons for denial. Possible reasons may include, but are not limited to, the following:

- a. Withholding is necessary to protect the confidentiality of other sources of information



- b. It is determined that the information requested may result in harm to the physical or mental health of the participant or another person
- c. The consent was not given freely, voluntarily and without coercion
- d. Granting the request will cause substantial harm to the relationship between the participant and the program or to the program's capacity to provide services in general

Informed consent involves assuring that the participant understands both the benefits of participating in the ADTC and the potential risks, such as incarceration upon termination. ADTCs do not require informed consent *per se* as is standard procedure in a treatment setting. Instead, the participant is warned that he or she may experience emotional distress as a consequence of being in therapy. In addition, if a participant is asked to participate in an evaluation activity such as interview or focus group, he or she may be asked to sign a consent form stating that the information provided will not be used in an identifying way and that failure to participate will not affect his or her ADTC program.





## D. Confidentiality and Privacy

Due to the private nature of substance abuse and mental health treatment information, ADTCs are bound by federal statutes governing the confidentiality of records. 42 U.S.C. § 290dd-2(a), the Confidentiality of Records provision states in relevant part that: *[r]ecords of the identity, diagnosis, prognosis, or treatment of any [participant] which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.*

Under subsection (b) (1), the content of any record referred to in (a) can be disclosed with the prior written consent of the [participant], but only to the extent and under the circumstances and purposes delineated in regulations for such disclosure. Pursuant to subsection (b) (2), the contents of such a record may be disclosed without the [participant's] written consent, in the following circumstances: (A) to medical personnel "to the extent necessary to meet a *bona fide* medical emergency;" (B) to research personnel who may not identify any particular [participant]. and (C) "if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, including the need to avert a substantial risk of death or serious bodily harm."

It is this court order for "good cause" provision that has been the locus of most litigation in the confidentiality of records area. 42 U.S.C. §290dd-2(b)(2)(C) provides further guidance for a court assessing "good cause":

*In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the participant, to the physician-participant relationship and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.*

Regulations issued pursuant to the statute further delineate the balancing test for assessing "good cause" (discussed in the Regulations section below). 42 U.S.C. §290dd-(2)(c) specifically addresses the use of such records in criminal proceedings:

Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to



initiate or substantiate any criminal charges against a participant or to conduct any investigation of a participant.

The prohibitions apply to records concerning any individual who has been a participant even after they have ceased to be a participant. [42 U.S.C. §290dd-2(d)]. They do not apply to reporting under State law of incidents of suspected child abuse and neglect to appropriate State or local authorities. [42 U.S.C. §290dd-2(e)].

Subsection (g) specifically provides for regulations to carry out the purposes of the statute, including "procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C) of this section" [42 U.S.C. §290dd-2(g)].

**Regulations 42 CFR 2.1 *et seq.***

The regulations issued pursuant to the statute are printed at 42CFR 2.1 through 2.67. See Appendix C for an Authorization to Release Information Form which is compliant with 42CFR.



## E. Health Insurance Portability and Accountability Act (HIPAA)<sup>1</sup>

Although drug treatment courts certainly use or disclose protected health information regularly as part of their operations, Maine's drug treatment courts do not fall under the regulations' definition of a covered entity. First, drug treatment courts are neither health plans nor health care clearinghouses. Second, although some drug treatment courts may be considered health care providers under HIPAA<sup>2</sup>, Maine's drug treatment courts do not, in any event, currently engage in those specific electronic transactions that would make them the type of health care providers that are covered entities under HIPAA.

Because Drug Courts are not covered entities, they may collect protected health information from their participants (as they do when conducting assessments) and disclose/share such information with treatment providers, without having to obtain consents from their participants or comply with the many administrative requirements established by the Privacy Rule.

Even though Maine's drug treatment courts are not covered entities under HIPAA, however, drug treatment courts' operations will be affected *indirectly* by HIPAA's privacy regulations because the treatment and other health care providers that work with drug treatment courts will, in all likelihood, themselves be covered entities. (Treatment providers all fall under the HIPAA definition of "health care provider" and, if they engage in any of the electronic transactions defined in 45 C.F.R. 160.103, will also be considered covered entities under HIPAA.) Accordingly, understanding the requirements of HIPAA's privacy regulations will help the drug treatment courts to work with these providers as they adapt their policies to be in compliance with HIPAA. The federal provisions of HIPAA's Privacy Regulations are contained in Appendix D.

### How HIPAA May Affect Maine Drug Courts

In accordance with standard operations, drug treatment courts regularly receive protected health information from treatment providers in the form of treatment updates. The treatment updates are reports designed to inform the court about the Drug Court participants' progress in treatment and the results of drug tests performed on them. As covered entities, the providers' treatment updates are treated as disclosures of protected health information subject to the protections

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<sup>1</sup> <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/HIPAAGenInfo/index.html>

<sup>2</sup> 45 C.F.R. 100.103 defines "health care provider" as "any...person or organization who furnishes, bills, or is paid for healthcare in the normal course of business." Some Maine Adult Drug Treatment Courts may be said to furnish healthcare, because 45 C.F.R. § 160.103 defines "health care" as including "assessment...with respect to the physical or mental condition, or functional status of an individual"



and limitations of HIPAA's privacy regulations for which an authorization/or consent should be obtained by the treatment providers prior to disclosure.

Under certain circumstances, however, treatment providers may be exempt from obtaining HIPAA consents or authorizations from Drug Court participants. For example, the privacy regulations provide that covered entities may disclose protected health information without a consent "in the course of any judicial or administrative proceeding...in response to an order of a court or administrative tribunal."<sup>3</sup> Thus, if a treatment provider were to receive an order from a drug treatment court requesting the disclosure of protected health information concerning a Drug Court participant, a treatment provider would be permitted to disclose the information without obtaining a HIPAA consent from this participant.<sup>4</sup>

Samples of two such "HIPAA orders" that may be used by drug treatment courts to obtain protected health information have been developed. The first is a Standing HIPAA Order that, once executed by a particular drug treatment court, could be used to obtain protected health information from any treatment or other health care provider concerning any participant of that Drug Court. The second is a more limited HIPAA Order, to be used when a Standing HIPAA Order has not been issued and when a Drug Court requires protected health information concerning a particular participant from a particular treatment or other health care provider.

Accordingly, drug treatment courts can obtain protected health information from treatment and other health care providers in compliance with HIPAA in any one of the following three ways: (1) by requiring treatment and other health care providers to obtain HIPAA-compliant consents or authorizations from their Participants; (2) by issuing a Standing HIPAA Order; or (3) by issuing individualized HIPAA Orders on a case-by-case basis.

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<sup>3</sup> 45 C.F.R. 164.512(e)(1).

<sup>4</sup> Any disclosures made by the treatment provider must conform to the Privacy Rule's "minimally necessary" standard, however, and may contain only the protected health information expressly authorized by such order. 45 C.F.R. 164.512(e)(1)(i).



### **Continued Applicability of State and Federal Confidentiality Law and Regulations**

HIPAA's privacy regulations will not require a change in the operations of drug treatment courts. *Drug treatment courts will continue to comply with current federal and state laws and regulations concerning the confidentiality of substance abuse participant records<sup>5</sup> and must continue to obtain waivers of confidentiality from their participants as current procedures dictate.*

State and federal confidentiality laws and regulations will also continue to govern disclosures made by the drug treatment courts to their evaluators for the research and analysis of their programs.<sup>6</sup>

All treatment-related court documents shall be treated as confidential information and sealed at the conclusion of the participant's ADTC participation. Documents should be retained consistent with Maine Judicial Branch policies and procedures.

Information contained in the statewide Drug Court management information system (DTxC) is maintained by the Maine Office of Substance Abuse and Mental Health Services consistent with Maine Department of Health and Human Services policies and procedures.

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<sup>5</sup> In addressing the exception created for disclosures made in response to an order of a state court, DHHS specifically discussed the continued applicability of the federal law concerning the confidentiality of substance abuse participant records, 42 U.S.C. 290dd-2 and its implementing regulations, 42 C.F.R. Part 2, specifically noting that "these more stringent rules will remain in effect." (64 F.R. 59918, at 59959)

<sup>6</sup> In responding to comments to the proposed privacy regulations regarding the concern for potential re-disclosure of protected health information by non-covered entities who have received such information pursuant to an exception in the privacy regulations (such as drug treatment courts do when they pass on protected health information to their evaluators), DHHS stated that "[u]nder HIPAA, we have the authority to restrict re-disclosure of protected health information only by covered entities" and that any other re-disclosures "are not within the purview of this rule." Accordingly, the HIPAA regulations will not require New York State drug treatment courts to change the manner in which they allow access to participant data by their evaluators for the purposes





## **F. Key Players and Their Roles**

The admission decision, which is described in the next chapter, can be long and complex because many people representing different interests and perspectives, help to make this decision following a fairly detailed process of data gathering and presentation. The four key actors and their roles are:

- Judicial
- Legal
- Case Management
- Treatment

### **Judicial**

The presiding judicial officer is the ultimate decision-maker for the Adult Drug Treatment Court team. He or she provides leadership, engages with each participant on a regular basis, facilitates communication, approves the case plan, resolves conflicts, holds all parties accountable, and uses the authority of the court to guide cases and advocate for service integration.

### **Legal**

The legal actors include the prosecutor or district attorney, the defense attorney and, in some instances, probation officers.

**Prosecutor:** represents the county or state in overseeing criminal justice issues including admissions and terminations, refers potential participants, performs criminal history background checks, and participates in decisions regarding responses to behavior.

**Defense attorney:** represents a defense perspective, particularly in regard to due process issues; represents interests of own participant, makes referrals, expedites admission, and functions as a liaison to the criminal defense bar.

**Probation officer:** may participate specific to own participants and/or may represent Adult Community Corrections, and assists with community supervision.

### **Case Management**

Historically the case management function has been contracted to Maine Pretrial Services who hires case managers for the ADTC. The case manager: screens for eligibility, brokers and coordinates services, advocates, monitors,



performs drug testing, provides updates to the judge and team, provides outreach to participants, facilitates interagency communication, and serves as the liaison between court and service providers. He or she also records data in the database used for case management and evaluation.

A separate community case manager (if any) assists in service plan development and accessing needed services for participants with severe and prolonged mental illness.

Case management services supervisor observes team practices, particularly with regard to the performance of case managers, provides quality assurance.

### **Treatment**

Designated clinician(s) provides assessments, develops treatment plans, provides treatment, collaborates with other service providers, and offers clinical expertise to team. This too has historically been a contracted function to a substance abuse treatment provider with expertise in substance use disorders.

### **Other**

The **project evaluator** gathers data and performs analyses of process and outcome research, and provides technical assistance on court processes and functions following national models particularly the *Ten Key Principles*. This too has been a contracted function.

In a well functioning Drug Court, the actors have to work in concert and in a nonadversarial manner. This does not mean that they always have to agree, but they need to operate on a common timeframe so that information amassed for key decisions, such as whether to recommend admission of an individual to ADTC, can occur in a timely way. The next five pages provide an overview of the ADTC Process showing the roles and responsibilities of the various parties. The first page provided the overview while the following pages provide a more detailed look at four steps in the process:

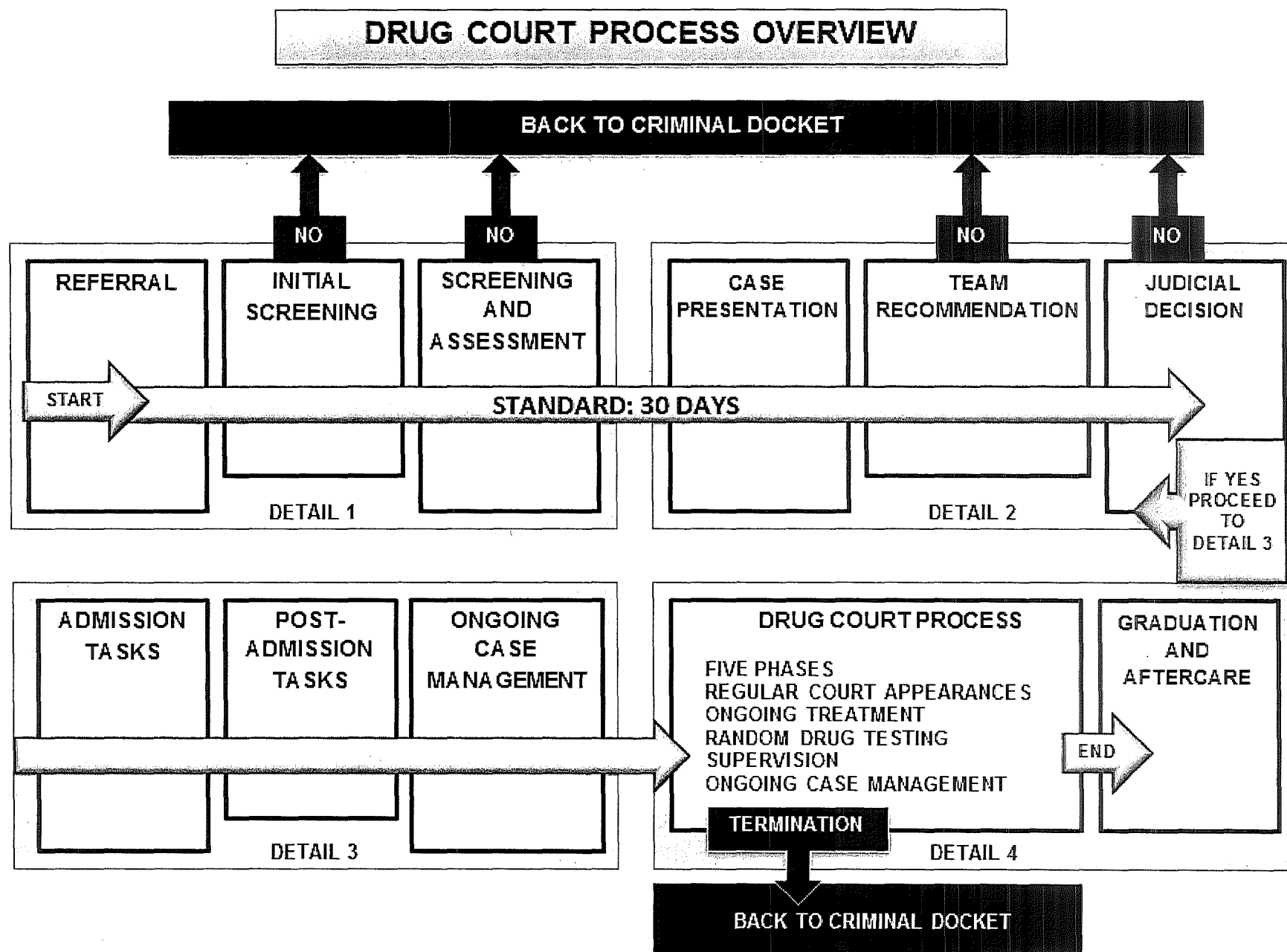


## **G. Drug Court Process Overview**

What follows is five flow charts, an overview of the entire Adult Drug Treatment Court process and then four “details” which break down the key elements of the Overview. They are as follows:

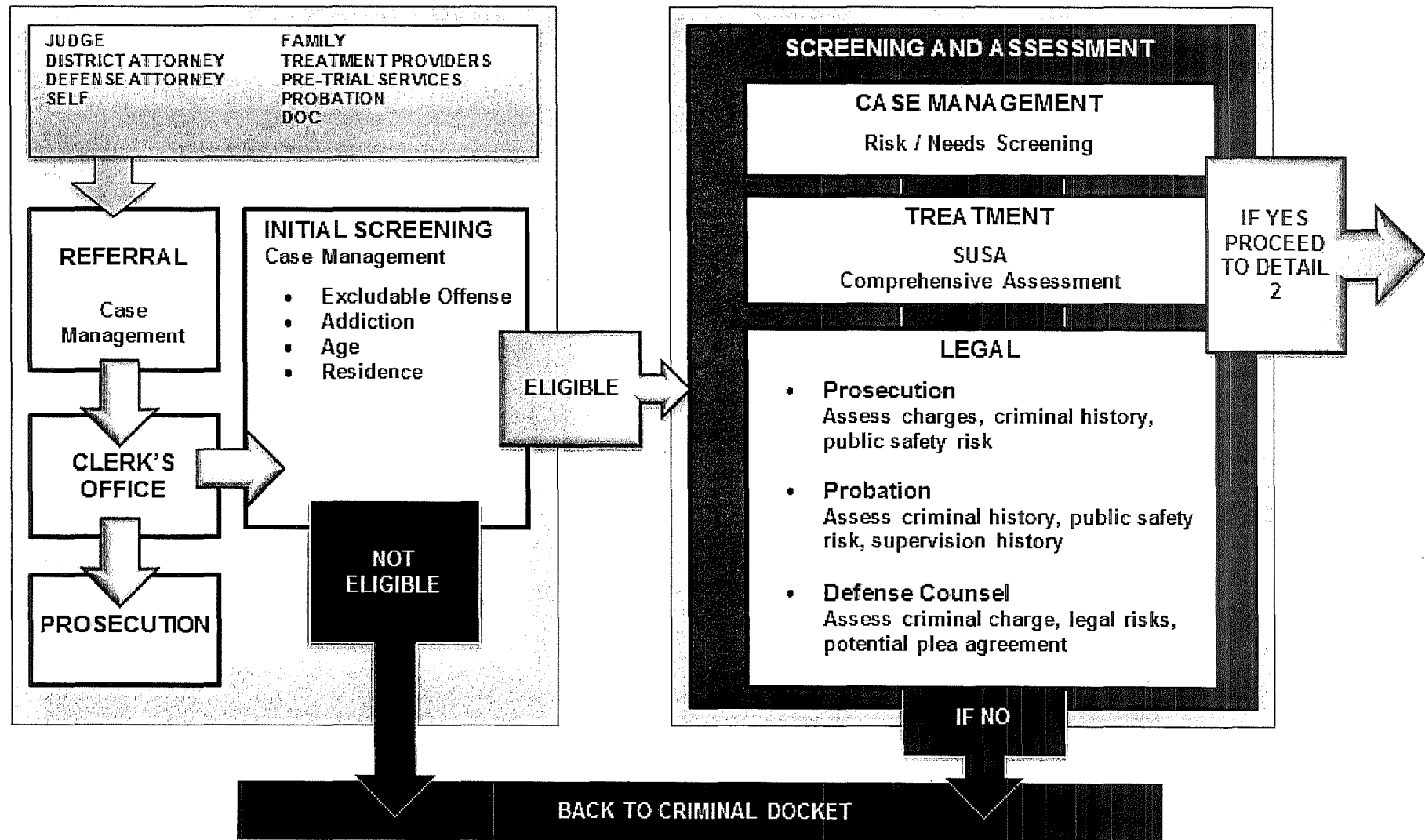
- Detail 1: Referral, Screening, Assessment
- Detail 2: Case Presentation and Admission Decision
- Detail 3: Judicial Approval and Admission
- Detail 4: Drug Court Process

Following the Flow Charts are chapters with narrative detail on the steps to Drug Court admission, the Drug Court process from the perspective of the legal stages and activities of participants while they are engaged in ADTC, the service process which addresses the treatment and case management services provided to participants and finally a chapter on the administration of Drug Courts from the state perspective.





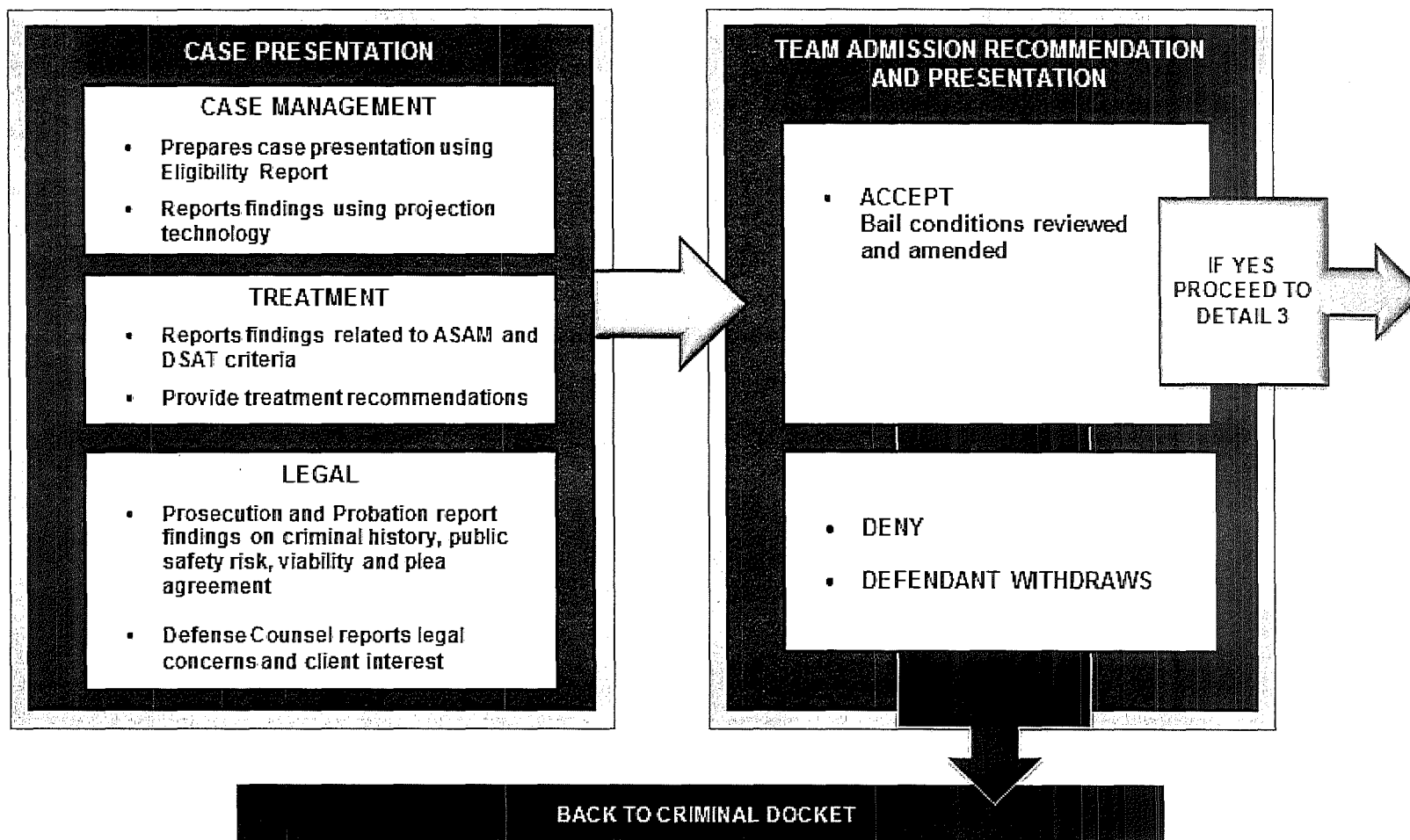
## DETAIL 1: REFERRAL, SCREENING, ASSESSMENT





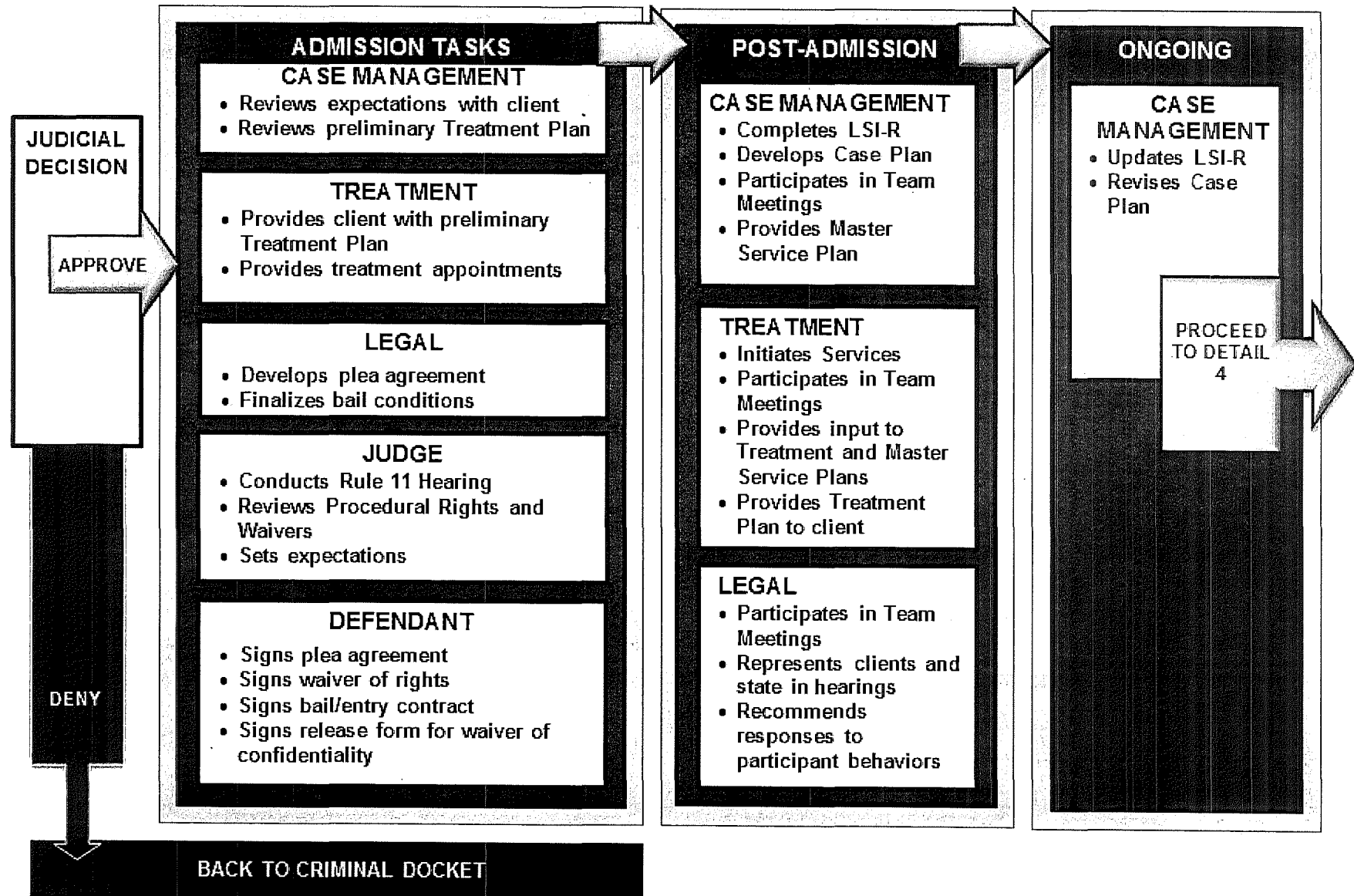


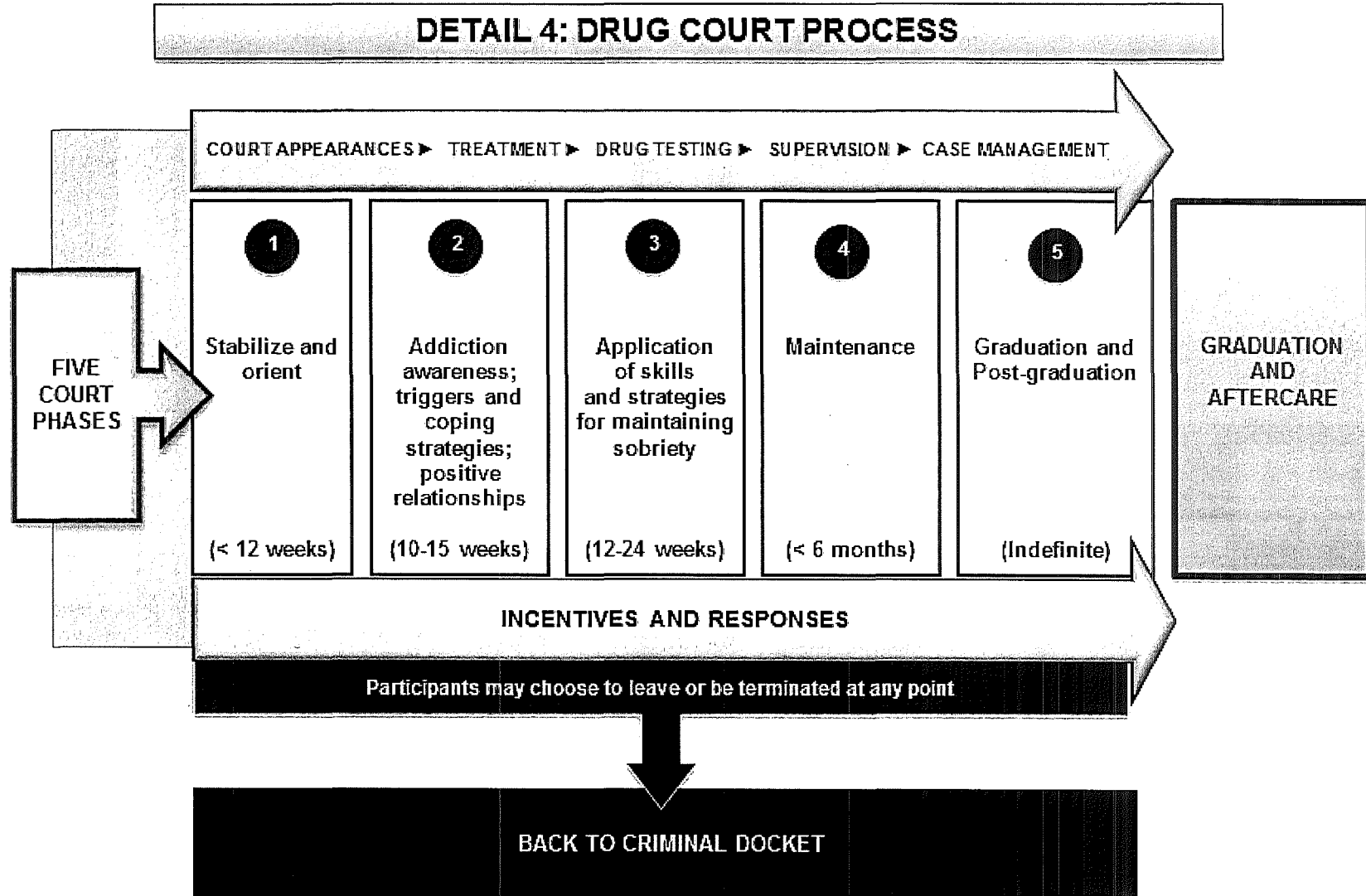
## DETAIL 2: CASE PRESENTATION AND ADMISSION DECISION





### DETAIL 3: JUDICIAL APPROVAL AND ADMISSION







## **PART 3. Steps to Drug Court Admission**

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### **A. Arrest**

The first step to Adult Drug Treatment Court (ADTC) admission is potentially the point of arrest. Drug Court should be considered as a resource for someone arrested on a substance abuse-related matter if the other criteria for admission, described below, are met.

### **B. Referral**

The entire process, from referral to judicial determination, should be completed within 30 to 45 days.

Referrals may come from a variety of sources including judges, prosecutors, defense attorneys, pretrial service workers, probation and parole officers, police, case managers, potential participants and their family members.

If the defendant is not in custody, and if the Court is agreeable to having the defendant screened for the ADTC, the defendant or his/her attorney is to be informed that the defendant has five working days to make an appointment with the ADTC case manager to begin the screening process. The case manager will, in turn, seek to meet as soon as possible with the defendant. If the defendant is in custody, the case manager will meet with him/her within five working days of receiving the referral. At the case management meeting, the defendant's eligibility will be determined using the criteria set forth in this manual.

A defendant referred for screening prior to adjudication will not be required to enter a plea of admission to a criminal complaint/indictment or motion to revoke probation, as a condition to being referred. However, a plea would be needed prior to admission to ADTC.

If the defendant is found eligible, he/she will be provided with a written notice of the time, date and place of her/his computerized Differential Substance Abuse Treatment (DSAT) screening meeting with the contracted treatment provider. This screening will be scheduled within seven working days of the defendant's referral.



## C. Transfers

Any ADTC in Maine may transfer to or accept transfers from any other ADTC, as well as from any other state, which is a part of the Interstate Compact for Adult Offender Supervision; admission into the respective ADTC is based upon the residence of the drug offender as well as the ADTC's eligibility criteria. The transferring individual must be willing to reside in the county of the Drug Court or be able to access services in that county readily; in addition the respective prosecutor must agree to the transfer.

## D. Screening

To maximize access to the ADTC and to minimize duration from time of arrest to admission, screening will be based on a "rule in" as opposed to a "rule out" philosophy.

ADTCs are intended to target relatively high risk/high need defendants. These courts are expected to have the greatest effects for high-risk offenders who have more severe antisocial backgrounds or poorer prognoses for success in standard treatments.<sup>7</sup> Lower-risk individuals can actually have the risk of recidivism increased by participation in a rigorous court-based intervention during which they associate with higher-risk and more criminally-minded peers. The research suggests that Drug Court teams avoid "suitability determinations." They are "not very successful at predicting who will succeed in their program[s]. Therefore, they should avoid allowing entry only to offenders they believe will be better suited to the services."<sup>8</sup>

The case manager, in collaboration with the prosecutor's office, will verify criminal history, including current charges. Screening for Drug Court includes case management, treatment providers and legal processes to determine eligibility.

### Case Management

Pre-screening of referred individuals will be conducted by the case management contractor, currently Maine Pretrial Services, using the following tools:

- **MPS Pre-arraignment Screening Intake** and/or with Addendum;

<sup>7</sup> Marlowe, D.B. *Research update on adult Drug Courts*. (December 2010). National Association of Drug Court Professionals.

<sup>8</sup> Rossman, S.B., & Zweig, J.M. *The multisite adult Drug Court evaluation*. (May 2012). National Association of Drug Court Professionals.



- **AC-OK:** The AC-OK Screen for Co-Occurring Disorders screens in three domains: Mental Health, Trauma and Substance Abuse;
- **MHSF-III:** The Mental Health Screening Form identifies possible mental health issues;
- **TCUDS-II:** Texas Christian University Drug Screen II identifies individuals with a self-reported history of heavy drug use or dependency;
- **LSI-R:SV:** Level of Service Inventory Revised: Screening Version identifies possible criminogenic risk and need.
- **ODARA:** Ontario Domestic Assault Risk Assessment

### **Legal**

A legal process review is done by the following:

**Prosecution:** Assesses current charge, criminal history, and determines public safety risk.

**Probation:** Assesses criminal history, supervision history, and determines public safety risk as well as criminogenic risk and need based on the LSI-R.

**Defense Counsel:** Assesses criminal charge, legal risk, and potential plea negotiations.



## **E. Assessment**

If the referred individual meets the eligibility criteria and is interested in the program, he/she will progress to the assessment phase. Before this step the defense and prosecution should explore the State's willingness to proceed; if the prosecution does not support the plea to ADTC the defendant may continue through an open plea at the discretion of the court.

Upon notification of eligibility, defendants will be provided an in-depth orientation by the case manager and assessed promptly by the contracted DSAT treatment provider. The orientation and accompanying participant handbook are designed to ensure that the participant understands the program.

Any participant with possible active substance abuse as established by the above screening is referred to the local DSAT treatment provider, a community agency serving under contract to the state. There, a screening and assessment using the DSAT Substance Use Screening Assessment (SUSA) and Comprehensive Assessment tools is completed. The treatment provider makes a determination of the level of substance use, abuse, or dependence and the person's appropriateness for treatment using the American Society of Addiction Medicine Patient Placement Criteria (ASAM PPC-2R), including the recommended level of care. If the level of care is not available, the counselor should discuss other treatment options with the team. The counselor will provide a preliminary treatment plan for all referred individuals determined to meet treatment eligibility requirements.

The treatment provider will advise the court by filing a report of his/her recommendation on the day the assessment is completed. Reports should include recommendations for relevant services in addition to substance abuse treatment, such as concurrent mental health treatment and/or a certified batterers' intervention program. All comprehensive assessments will be done within 10 working days of referral to the treatment provider.

The ADTC case manager shall arrange for such other tests or assessments as deemed appropriate or as ordered by the court.



## **F. Case Presentation**

The case presentation requires input from case management, treatment providers and legal representatives including both prosecution and defense. The case presentation and review of pending referrals for admission will be conducted using digital projection of case files, if possible, and focused on the nine ADTC eligibility criteria discussed above. In summary, the following criteria are used to determine appropriateness for participation and completion of the Eligibility Report:

- Age
- Residence or charge within an ADTC county
- Qualifying Adult Offense
- Criminal History
- Public safety risk
- Individual bail conditions
- Criminogenic Risk and Need (High risk)
- Severity of Substance Use Dependency (High need)
- Mental Health history/needs (including trauma)
- Domestic violence risks

Prior to admission, the case manager will administer to LSI-R: SV if no current LSI-R is available in order to identify domains of criminogenic risk and need to be addressed in service planning. The clinician will assess for the possible presence of a co-occurring mental health disorder, including symptoms of trauma, and, if appropriately licensed, assess for a mental health disorder or make a referral for such assessment.

All the data gathered will form the basis of a master service plan (see Appendix E for Sample Master Service Plan) created by the case manager, clinician, other team members, and the participant consistent with areas of professional responsibility. The case manager will focus on housing, medical/dental, vocational/educational, transportation, and government entitlement needs.

### **Treatment**

The clinician's individual treatment plan will address substance abuse, mental health, trauma, medication assisted treatment, and psychotropic medication needs, if any. Other team members will contribute to the process leading to an ADTC service plan.

Topics of concern include the following:





1. Ensure that eligibility requirements related to treatment have been met;
2. Determine the possible presence of substance use, mental health issues, trauma, and medical conditions, including infectious diseases;
3. Define major areas of strengths and deficits;
4. Identify environmental factors (e.g., employment, residential stability, domestic violence, relationship issues) or other disorders (e.g., mental illness or cognitive deficits) that may undermine the individual's involvement in the ADTC program or create an unacceptable public safety risk.
5. Determine whether significant others (e.g., spouses, coworkers, girlfriends/boyfriends, partners, family members) are active substance abusers and whether significant others support recovery goals.
6. Identify motivation, including perceived benefits and disadvantages of participation in the ADTC program.
7. Assess the impact of the defendant's residence upon the defendant's ability to participate in the various court/treatment sessions.

### **Legal**

The prosecutor and probation report findings on criminal history, public safety risk and the viability of the plea agreement. The defense counsel reports on any legal or treatment concerns.

The case manager, clinicians, and probation officers will help to orient the potential participant to program requirements and provide a **Participant Handbook** (see Appendix F).



## G. Team Disposition Options

From the case presentation the team makes a recommendation. There are four options:

**Gather more information:** If the team believes that an important piece of information is missing due to a new and unanticipated circumstance that could have direct and meaningful bearing on the decision, it may direct one or more members to obtain that information before a final decision is made.

**Recommend:** If the team wants to recommend admittance to the judge, the prosecutor or defense counsel works with the participant to review and suggest amendments to bail conditions.

**Deny:** If the team concludes that the defendant is not qualified for participation, the case manager, probation officer, or prosecutor will inform defense counsel or other party designated by the judge of the reason for the denial, providing adequate justification in the event the attorney or defendant wishes to appeal the decision. A simple order denying entry must be entered by the judge. If the defendant previously entered a guilty or *nolo* plea to the pending petition(s) or motion(s) to revoke probation, the defendant shall be permitted to withdraw his/her plea if he or she so desires.

**Defendant Withdraws from Consideration:** Even if the team wants to grant admission, the defendant may refuse for a variety of reasons. If that occurs, he or she is remanded to the criminal docket.

## H. Judicial Decision and Court Order

If the court finds a defendant eligible consistent with the policies and procedures set forth in this manual, it may enter an order approving the defendant for ADTC screening/assessment and continuing the case for a period not to exceed 30 days. The order also may give permission to remove the case from the regular docket; make a referral to ADTC within 21 days of arraignment; and establish conditions of release, including conditions associated with participation in the ADTC screening/assessment process.



## **I. Admission Procedure**

When admitting a participant into the program the judge will complete the Maine Rules of Criminal Procedure Rule 11 review with the parties by explaining:

- a. The participant's procedural rights;
- b. The ADTC contract, including its rewards and responses (making sure to note that one of the responses may be incarceration for up to seven days without recourse to a formal hearing);
- c. The fact that ADTC sessions will involve the judge, treatment provider, case manager, probation officer, as well as other team members and that counsel might not be present unless probation revocation, expulsion from the program or a term of incarceration over seven days is being contemplated. If such a term may be imposed, the participant will be given the opportunity to request a hearing. Court-assigned counsel who attend a regular ADTC session in which no probation revocation, program expulsion, or incarceration is sought, will not be paid counsel fees for that appearance unless authorized by the presiding judge. However, defense bar representatives to ADTC teams may submit vouchers for payment at the Court-appointed attorney rate.
- d. That defense counsel will continue to be the attorney for the participant until the case is concluded.

The court will also ascertain that:

- a. Defense counsel is satisfied he/she has received all available discovery and that the program referral is in his/her participant's best interest;
- b. The participant is entering into the program knowingly and voluntarily, and that he/she has agreed to sign the ADTC contract and to abide by all of the rules and conditions of the ADTC;
- c. The participant has knowingly and voluntarily signed the necessary waiver of confidentiality forms and such other forms deemed appropriate.
- d. The participant understands he/she is giving up the right to counsel unless revocation of probation, expulsion from the ADTC program, or a term of incarceration over seven days is under consideration; and
- e. The participant understands that, as a criminal proceeding, the ADTC session will be open both to the ADTC community and to the general public. To the extent the participant has the right to a private hearing, that right is waived. A participant may request a private meeting with the judge and/or team to discuss highly confidential matters. Such a meeting will not be on the record unless ordered by the judge.



- f. The participant, with the assistance of counsel, will execute all required forms, including the Plea Agreement and Waiver of Rights and the Participant Entry Contract in the presence of the judge. The Consent for Disclosure of Confidential Substance Abuse Information should have already been signed at the first meeting with Case Management. These documents (including the *Participant Handbook*) specify the performance expectations for the participant, the rewards and responses to weekly participant performance, and the dispositional alternatives for success and failure in the program. Dispositional alternatives will be set forth in the plea agreement, if any, and may include an agreement by the prosecutor to vacate the adjudication with a dismissal of the complaint/ indictment/motion to revoke probation, an unconditional discharge, a specific sentence, a specific range of sentences, or an open plea sentencing agreement.
- g. At the conclusion of the court session, the participant will meet with the case manager and will be provided a written schedule of the meetings of the ADTC and additional information regarding the participant's treatment and case management regimen.
- h. Optimally, all Drug Court participants will enter treatment immediately upon admission to the court, if they have not done so sooner. Up front time interferes with this objective, particularly if there are limited treatment services in the county correctional facility. In the event of mandatory minimum jail sentences, Drug Court prosecutors and defense attorneys are encouraged to be mindful of the importance of early treatment while respecting statutory requirements.



## J. Conditions of Bail, Post Conviction Bail

Participation in ADTC requires compliance with all conditions of post-conviction bail or probation. Conditions will include:

- substance abuse treatment,
- abstinence,
- searches of residence and vehicle, and
- random observed alcohol and/or drug testing.

Conditions may include the following:

- mental health treatment,
- inpatient/residential substance abuse treatment,
- concurrent participation in a certified batterers' intervention program,
- compliance with all existing court orders, including protection from abuse orders, child protection orders, and child custody and support orders,
- maintaining or finding employment,
- payment of child support,
- parenting education classes,
- maintaining a stable residence,
- completing an educational program,
- compensation of victims,
- payment of fees for services provided by clinicians and state agencies,
- timely payment of all fines and restitution and community service.

As discussed in Part 4, the condition of the bail contract (see Appendix G) prohibits participants from being in the presence of people who are using or possessing illegal, addictive, or psychoactive substances due to the increased risk such contact poses for relapse. In the event that a close associate, such as a family member, is taking prescribed medications such as prescription narcotics or benzodiazepines, the Drug Court participant must obtain permission from the case manager prior to making contact. If permitted, a safety plan shall be developed.

The condition of bail may include a contact/no contact list. While such lists have value they can be difficult to enforce. Their benefit is providing participants the authority to resist overtures to associate with antisocial or substance abusing others. If a participant persists in contacting people who may increase the risk of relapse or other maladjustment, the court may impose a no contact requirement, which, if violated, may form the grounds for dismissal.



If the participant is under a revocation of probation charge for entrance into the program, his or her probation time will be tolled during participation in the ADTC.



## **K. Post Admission Steps**

Once a person is admitted, more detailed assessments may be completed in preparation for developing the Master Service Plan. The case manager completes the LSI-R if a current LSI-R is not available, a more detailed assessment, reviews the preliminary treatment plans and subsequently develops the master service plan.

The treatment provider initiates services, conducts ongoing assessments and participates in team meetings. The person's legal representative may participate in team meetings upon request and for a special purpose if the team members agree. Examples of a special purpose are an upcoming termination or sanction hearing where incarceration could exceed seven days or an intervention to increase a participant's motivation.



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## PART 4. Drug Court Process

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### A. Court Sessions

The Judicial Branch has established separate specialized court dockets dedicated to the screening, assessment, treatment and supervision of eligible and suitable ADTC participants pursuant to 4 M.R.S.A., Chapter 8, §421 to 423.

Before each court session, the judge shall meet with the ADTC team to review referrals and to assess the status of each ADTC participant. Courts may meet weekly or every other week dependent on local judicial resources. The frequency of each participant's attendance may be altered depending on the phase of the treatment (see next section). During intervening weeks for biweekly courts, the team without the judge should meet with the participants to monitor progress and address issues. Case managers and clinicians are encouraged to meet weekly to build consensus on participant progress and strategies.

The ADTC team shall develop a coordinated strategy for dealing with each participant's compliance with his or her conditions of bail or probation/ADTC contract. Team members shall maintain frequent and regular communication in person, by telephone, or by email to enable so that a member responds as soon as possible<sup>9</sup> should a report of non-compliance emerge. Email communications and attachments should always be de-identified by using initials. Participants must clearly understand their responsibilities and consequences for non-compliance.

It is vital that the judge have ongoing interaction with each ADTC participant in the status hearings. This supports the development of a professional relationship found to have a positive effect on participant outcomes.

The ADTC will be treated as a regular criminal court proceeding and open to the public. Media camera access will be governed by Supreme Judicial Court Administrative Order JB-05-15 "Photographic and Electronic Coverage of the Courts" and "Cameras in the Courtroom."

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<sup>9</sup> Marlowe, D.B. (2008). Application of Sanctions. Quality Improvement for Drug Courts: Evidence-Based Practices. National Drug Court Institute. (Series 9).



Intimate relationships between ADTC participants are discouraged, particularly for participants relatively early in recovery. Such relationships can contribute to problematic group dynamics in the ADTC and interfere with recovery. This stance is consistent with that held by 12-step recovery groups as well. In addition, the ADTC contract prohibits, as a standard condition of bail or post conviction bail, being in the presence of people who are using or possessing illegal/addictive substances.

The primary purpose of ADTC is rehabilitation and treatment. Therefore, any statement made by a participant shall not be used against him or her in any subsequent adversarial proceeding. However, spontaneous statements referring to criminal activity not related to the participant's participation in ADTC made by the defendant in open court may be admissible in other criminal proceedings as permitted by the Rules of Evidence.



## **B. Courtroom Expectations of Participants**

All ADTC sessions will take place within a courtroom or courthouse space designated to serve this purpose. The court sessions need not be recorded unless otherwise required by statute or rule (e.g., when the session is part of a probation revocation hearing or dispositional hearing).

Participants are expected to be in the courtroom on time. Those who appear late or not at all will be subject to court ordered responses. They are also expected to demonstrate respect for the court, addressing the court as "Judge (name)" or "Your Honor," dress appropriately (e.g., no revealing clothing, no hats or T-shirts with alcohol or drug endorsements), and otherwise conform to all requirements of courtroom demeanor. Each participant will be called upon to speak with the judge. He or she will approach the bench, answer the judge's questions and will be given an opportunity to make any relevant remarks. Members of the ADTC team may provide information at their own initiation or as requested by the judge.

Participants are generally expected to maintain a daily log of activities which will be submitted to the case manager who will share relevant information with the ADTC team in preparation for the session. The log is intended to monitor the participant's progress, teach the participant how to structure time and activities, and teach the participant self-monitoring skills.

Participants are generally expected to set weekly goals for growth and accomplishment. At each court session, the judge will ask the participant for an update on his or her goals to determine progress or problems and review the goals for the following period. A positive report may be acknowledged by verbal praise from the judge, with applause from the ADTC team and other participants. If the participant demonstrates a lack of motivation toward accomplishing his/her goals, the judge may impose a response.

When the participant is promoted to the next phase of treatment he/she may receive a promotion certificate from the team as a special recognition of accomplishment.



### C. The Five Phase Process

This section defines the phases of the Maine Adult Drug Treatment Court and the procedures used as participants progress from admission to graduation. Local conditions may affect such requirements as number of meetings and curfews, as well as the prerequisites for moving from one phase to the next. Thus, while the framework will be consistent statewide, the ADTCs may vary details in a small degree depending on the circumstances of each site. The five program phases will help ensure that participants progress predictably and consistently from a highly structured program environment toward a largely unsupervised one. The first three cover a period of about nine months and include the three phases of DSAT. The fourth phase involves an individually developed program of treatment and other services for each participant and concludes with graduation. The fifth phase begins with graduation and lasts indefinitely.

The benefits of moving participants uniformly through the phases of the program include enhanced solidarity within the group, enhanced perceptions of fairness and consistency, and ease of administration. However, the court needs to be able to respond with flexibility to the needs and challenges presented by each individual in the program.

The following summary states the expectations of the judicial and the treatment components at each phase.

**Phase 1** lasts up to 12 weeks and has as its goal to stabilize and orient the participant to the demands and benefits of the program.

*Court Expectations:* This phase is the most highly structured in terms of attending court sessions and support meetings, reporting and observing curfew. The participant is assessed for skills in employment and education as well as for needs in such areas as housing, health and mental health. The participant is expected to participate in treatment and to locate and attend a convenient 12-step or similar group. Once associated with a 12-step or similar group, the participant is expected to look for a sponsor from the self-help group consistent with standard Alcoholics or Narcotics Anonymous practices.

*Treatment Expectations* (DSAT orientation/motivational phase): The participant takes part in decisional balance exercises regarding behavior change and identifies advantages and disadvantages of using alcohol and/or drugs. The participant gains increased awareness that the use of alcohol/drugs is a choice, and has explored and identified the advantages and disadvantages of using treatment to promote change. The



participant has identified any ambivalence related to drug/alcohol use and changing behaviors, and his or her readiness to participate further in treatment. The participant will complete a minimum of 3 Motivational Enhancement Treatment (MET) sessions.

**Advancement from Phase 1 to Phase 2:** Participants at Phase 1 automatically move to Phase 2 unless terminated from the program. Thereafter, advancement is not automatic and may be delayed for good reason.

**Phase 2** lasts 10-15 weeks and has as its goals for the participant to attain increased awareness and understanding of the addiction, including relapse triggers, and to focus on coping strategies and on developing positive relationships both in the 12-step group and elsewhere.

*Court Expectations:* This phase is when the participant obtains a 12-step sponsor and starts working with the sponsor on recovery-related issues and goals. The participant is expected to have a job or equivalent community service position, or to be actively enrolled in an educational or training program. Any appropriate additional services, such as counseling, ordinarily are in place and continuing at this phase. Phase 1 essentially continues the high level of structure and supervision associated with the Orientation Phase, but there may be limited extensions of curfew and other rewards for success in meeting the program's expectations.

*Treatment Expectations (DSAT intensive phase):* The participant has participated in skill building tasks that examine areas of impulsivity, externality, faulty thinking, ego-centricity, logic, judgment, interpersonal relationships, and communication. The participant has examined how substance abuse behaviors have impacted the participant and others. The participant has identified attitudes, cognitions and behaviors that have led to negative life consequences. The participant has been exposed to a range of information to develop positive cognitive and behavioral coping skills. The participant has increased awareness of interpersonal and intrapsychic behaviors and cognitions that need changing and has been exposed to functional skill building activities to improve coping with situations that might lead to relapse and/or criminal activities. The participant completes all other individual/group counseling, psychiatric and/or psychological evaluations, and courses as recommended by the team and/or demonstrates sufficient progress. The participant has developed an individualized relapse prevention plan.

**Advancement from Phase 2 to Phase 3:** To promote insight and planning, any participant who intends to move from Phase 2 to Phase 3 must, either in writing



or in an interview with the case manager, show that he or she has fulfilled or made adequate progress toward the program's goals and expectations for Phase 2. The ADTC will consider the participant's input in deciding whether he or she should advance with the group or be delayed.

The DSAT curriculum is designed to generally parallel the phases of the ADTC leading to successful completion of DSAT prior to graduation from the ADTC. If the ADTC decides to delay a participant at Phase 2, the question will come up as to whether to delay the participant's progress into the DSAT maintenance phase. The ADTC will address this issue on a case-by-case basis, with input from the treatment provider. The ADTC options include:

- requiring the participant to repeat all or part of the DSAT intensive phase if an appropriate other group is available, or
- placing the participant in Phase 3 for the treatment component but not for the judicial component. In that situation, the participant would continue with the original treatment group to the DSAT maintenance phase, but would be limited to the privileges and requirements associated with Phase 2. Participants in that situation could be designated as "Phase 3-Restricted."

**Phase 3** lasts 12-24 weeks and has as its primary goal for the participant to apply consistently the skills and strategies for maintaining sobriety and avoiding relapse.

*Court Expectations:* The participant is expected to be working actively with the 12-step sponsor on recovery. Also, the participant is expected to demonstrate increased stability in personal relationships, employment or education, housing and other important areas of daily life. Assuming continuing compliance, the participant is rewarded with a systematic relaxation of structure and supervision, in such forms as less stringent curfews and less frequent ADTC attendance. Toward the end of Phase 3, the participant and the ADTC team develop an individual plan for the participant to move into Phase 4 (the last phase before graduation), addressing individual treatment needs as well as the participant's goals and other needs. Part of the plan is setting the participant's projected graduation date, assuming continuing compliance, and a weekly schedule for gradually relaxing program requirements so that at graduation the level of structure is the same as after graduation.

*Treatment Expectations (DSAT maintenance phase):* The participant has taken part in activities designed to enhance/refine skills in areas of interpersonal communication, personal relationships, decision-making, management of emotions, job/work, support networks, and relapse



prevention. The participant shows positive changes in attitudes, cognitive and behavioral skills, and behavior intentions in the life skill areas of boundaries, problem solving, managing impulsivity and triggers, interpersonal relationships, communication, and functional choices. The participant has increased awareness of and ability to access community supports/networks. The participant takes part in the development of an Individualized Treatment Plan and group closure.

**Advancement from Phase 3 to Phase 4:** Phase 3 covers the DSAT maintenance phase. To advance to Phase 4, participants must develop a Phase 4 plan that covers at a minimum the following:

- an individual treatment program, if necessary, to meet the participant's needs in light of the fact that the DSAT program has terminated;
- goals in terms of work, living arrangements, and other skills;
- a projected graduation date assuming continued compliance and progress, with a schedule that gradually relaxes program requirements so that by graduation the level of structure approximates what it will be after graduation.

This plan must be approved by the ADTC before the participant can move into Phase 4.

**Phase 4** lasts up to six months and concludes when the participant graduates.

*Court Expectations:* To graduate, the participant is expected to have been in the ADTC program for more than one year and must have ADTC approval. The participant is expected to follow the individual plan for this phase, demonstrating consistently the skills acquired to date. During this phase, the level of structure and supervision transitions gradually from the moderately supervised Phase 4 environment to the post-graduation environment, according to the schedule in the individual plan. During this phase, the participant and the ADTC team develop a post-graduation plan for Phase 5 that includes the Aftercare plan for treatment but also defines the participant's longer-term goals, adjusts any conditions of probation that apply after graduation, and defines the participant's level of participation or contribution to the ADTC after graduation.

*Treatment Expectations (aftercare):* The participant participates in ongoing skill building and maintenance tasks designed to continue and stabilize internal and external changes in thinking, feeling, and behaviors related to alcohol/drug use and criminal activities. The participant continues to develop natural supports leading to lifestyle changes. The participant shows increased lifestyle balance in areas of work, play and interpersonal relationships; displays emotional, spiritual, mental, and



physical health, and shows the ability to navigate the challenges of life without resorting to the use of alcohol/drugs. The participant has addressed further issues of recovery as determined by the individualized treatment plan. The participant has participated in the development/refining of an Aftercare Plan that addresses ongoing recovery/life issues intended to build depth and meaning to his/her life.

**Advancement from Phase 4 to Phase 5:** The participant must meet the graduation requirements, and graduate to advance to Phase 5. The requirements include for the participant to develop and present a post-graduation plan addressing two areas:

- how specifically the participant intends to maintain sobriety, stay employed and otherwise promote positive relationships and influences after graduation. The plan should demonstrate insight into the precise challenges, stressors and relapse triggers that will confront the participant after graduation, and into the strategies, skills and tools that the participant has acquired and will apply to assure continued sobriety.
- what contact or relationship the participant will commit to having with the ADTC after graduation, both in demonstrating continued sobriety and in giving support to future ADTC participants. If on probation, the conditions reflect the requirements and commitments the participant is making.
- the ADTC team may choose to interview the potential graduate to review the aftercare plan.

**Phase 5** begins after graduation and can last as long as the participant and the ADTC agree that it should.

*Court Expectations:* If the participant is on probation, conditions apply. Otherwise, the participant's obligations and responses for non-compliance are whatever has been agreed on between the ADTC and the participant.

*Examples:* agreeing to be tested voluntarily for drugs; returning to the ADTC session, serving as a mentor for a newly admitted ADTC participant, or serving on an advisory committee.

*Treatment Expectations:* Participant refines and performs the Aftercare Plan.





When possible, participants who enter the program together and progress through the treatment phases together will progress through the program together unless the ADTC decides otherwise based on individual performance. Although similarly situated participants will usually enter together and graduate together, no participant has a right or entitlement to advance from one phase to the next. As stated above, a participant may be in one phase for the treatment component and a different phase for the judicial component placing him or her in the more advanced phase on a "restricted basis."

### **Demotion from Later to Earlier Phase**

In exceptional circumstances, a participant may be moved back and required to repeat one or more phases. Generally, this should be decided based on the participant's needs and capabilities, and not be represented as a punishment.

*Example:* Participant serves an extended jail response during Phase 2 and misses numerous treatment sessions. In the view of the treatment provider, he should repeat the intensive phase of treatment. ADTC does not put the participant in Phase 3 with the rest of his group, and he repeats Phase 2.



## D. Drug Testing

The Maine Adult Drug Treatment Court (ADTC) requires alcohol and other drug testing as part of its comprehensive program of treatment and rehabilitation. The purpose is to provide the ADTC with a safe and reliable process for the collection, documentation, and transfer of urine and other samples for the purposes of analysis in determining whether participants are abstaining from alcohol and drugs or ingesting prescribing medications, such as Suboxone. All participants are required to sign documentation of alcohol and drug test results while they are involved in the ADTC program (Appendix H) as well as the specific consent form for laboratory testing for alcohol metabolites (see Appendix I); when the results are being contested a requisition form required by the laboratory must also be signed (see Appendix J).

In rare instances a partner or family member of a Drug Court participant will agree to be tested in order to assure the court that the participant is not residing with someone using drugs. The same protocols shall be followed for these individuals.

Results will be used only to determine if the defendant is progressing satisfactorily, if he or she is a risk to public safety, if the treatment plan needs modifying due to the evidence of relapse, or as an aid in determining if the individual should be sanctioned, terminated, or graduated from the program. **Under no circumstances shall results be used as evidence of a new crime, a violation of probation or in any other manner not consistent with the goals of the ADTC.** However, continued use as detected by drug testing may indicate that the participant poses a significant risk to public safety or dangerousness to self. In these instances, the participant may be incarcerated if an appropriate treatment setting is not available.

Any test sample suspected by the court to be adulterated will be interpreted as a positive test with the additional consideration that the participant was attempting to deceive the court. Similarly, missed tests without adequate justification will be considered a positive test.

All participant medications, both prescription and over the counter, are to be approved by the case manager as a representative of the ADTC team. Please see Appendix K for a list of safe medications. If a participant cannot be drug tested effectively while using a medication, the participant will be given the option to leave the program or seek other options with his/her doctor to find a medication that will not interfere with or affect the program's drug testing product or procedure. However, the termination decision may have consequences, such as liability for the "worst case" sentence agreed upon at admission, rather than being simply a "no fault" withdrawal.



## Procedure

1. **Authority and Consent:** All participants will sign a consent form agreeing to cooperate with the drug testing policy as part of their acceptance into the ADTC. Participants may be expected to pay for a portion of their drug tests if they can afford it.

**Supplies:** All supplies related to the collection and documentation of urine samples shall be kept in an area with access limited to staff. Each ADTC will have a minimum of one alcohol scan device. On-site urine testing is the primary testing method for drugs other than alcohol. Oral testing of saliva may be used in specific circumstances (e.g., lack of same-sex observer, logistical challenges in a participant's home, determination of very recent use). The detection window for saliva testing is relatively narrow compared to urine testing and the results should not be over-interpreted.

Testing should be tailored to the participant's drug of choice and related substances although it is advised that on a random if infrequent basis a full panel be administered. Similarly, laboratory confirmation can be used for quality assurance. Individual tests (single sticks) for a wider variety of substances should be readily available. Supply purchases are made by the contracted case management services agency consistent with the size of each court and budgetary constraints. Supplies will only be purchased from a company designated by the Office of Substance Abuse and Mental Health Services with the agreement of the Administrative Office of the Courts. As of this writing, this company is Redwood Biotech/Redwood Toxicology Laboratory.

2. **Collection:** Upon the request of the case manager, judge, probation officer, or other team member the participant will provide a urine specimen or submit to a breath test for alcohol. If a sample is not provided within two hours it will be considered a refusal. All samples will be monitored by a same-sex staff person selected by the court. Monitoring is defined as "direct observation of the urine stream." If this is absolutely impossible because a same sex staff observer is not available, then the participant will not bring any types of bags or containers into the bathroom and will have all pockets checked prior to entering the bathroom. Participants will stay within the sight of the personnel taking the urine test if there is a waiting period before the sample can be provided. Surgical gloves will be worn by all personnel handling the specimen. After the sample is provided staff will check the temperature of the specimen and determine whether it is in the appropriate temperature range. The test will then proceed. Clinicians will not be required to conduct urine tests, but may if they choose. If a participant claims that



he/she cannot provide a sample for “medical reasons” it will still be considered a refusal unless documentation is provided by a reliable medical professional. All personnel conducting drug testing will have been trained and have been determined by the case management services supervisor to have the knowledge and skills necessary to complete such testing in a competent manner. Drug tests will be conducted a minimum of twice per week on a random schedule. A color code call-in system will be used to guarantee the random nature of the testing schedule. After being notified of the requirement to report for drug testing, the participant will only have a limited amount of time (one to two hours) to do so in order to limit the opportunity for obtaining adulterants, flushing, or obtaining a sample from some other source.

3. **Records and Reports:** Results of the test will be recorded in the participant’s individual drug testing log in DTxC and will be reported to the ADTC judge at the next meeting, unless positive. In that instance, the court, probation officer and treatment provider will be notified immediately, if possible, and in no less than 24 hours after the test results are received. Confidentiality of the testing log will be maintained in accordance with Federal Confidentiality Regulations (42 CFR Part 2).
4. **Responses:** Positive tests may produce a response from the judge. In the absence of serious mitigating factors, incarceration is not indicated for positive drug tests indicating the use of prohibited substances for participants new to the ADTC and early in recovery. It is understood that addiction is a chronic relapsing disease. Incarceration may disrupt treatment, work, and relationships with natural supports to the immediate and possibly long-term detriment of the participant. In general, it is understood that while punitive responses have a value for some participants, such responses may be ineffective and at worst counterproductive for participants with significant histories of incarceration. The philosophy is that punitive responses teach participants what not to do rather than what to do, which is a function of treatment. Therapeutic responses are generally more indicated: increased attendance at 12-step groups, revised treatment options, and increased check-ins with the case manager, among others.

#### **Recommended Protocol for Challenged Drug Tests**

As of this writing, Redwood Biotech provides urine test cups for on-site urine drug testing. The results from these tests are consistent with laboratory based testing and have demonstrated 96 percent concordance with laboratory testing.



Redwood tests are presumptively reliable in the absence of a challenge. Such tests will provide adequate basis for judicial action.

Gas chromatograph/mass spectrometry (GC/MS/MS) and the more recent liquid chromatography-mass spectrometry (LC-MS/MS) are the “gold standards” of drug testing and will provide adequate basis for judicial action even in the face of conflicting evidence.

When there is a positive test and the participant denies the use of illegal drugs, the sample should be preserved. An arrest for what constitutes a relapse should be avoided unless there is a threat to public safety or if this infraction is part of a significant and larger pattern of noncompliance. If the participant denies the use of illegal drugs in court, the participant may be sworn under oath and impressed with the consequences of lying. The test may, at the court's discretion, be sent to the Redwood laboratory for laboratory confirmation.

If the result is positive there will be an emphatic response from the court for lying to the court whether under oath or not. Responses may include expulsion from ADTC. If the laboratory result is negative the participant shall be released from custody forthwith if incarcerated. Participants will be responsible for paying for positive tests if they have denied use.

Precautions should be taken to rule out cross-reactivity with other approved medications by consulting with the drug test supplier and laboratory.

While there are other methods for drug and alcohol testing (blood, sweat, and hair), these methods are not currently consistent with this protocol. The use of continuous alcohol monitoring devices, such as Secure Remote Alcohol Monitoring (SCRAM), may have value with some participants. Any cost associated with these devices must be borne by the participant or some funding source identified for that purpose. Case managers supervising the use of such devices must be appropriately trained in their use.

### **Medication and Use of Illegal Substances**

Participants are provided detailed instructions regarding the use of medication and illegal or psychoactive substances, including alcohol.<sup>10</sup> In summary, participants are responsible for exercising vigilance around either seeking or accepting substances or prescriptions for any medications which could precipitate relapse, otherwise interfere with functioning, or interfere with drug and alcohol testing. Participants are required to address any concerns about substances with their case manager prior to using them. Ignorance or seeking

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<sup>10</sup> See *Handbook* in Appendix for instructions as written to participants.



guidance after the fact is not adequate. Participants must adhere to pharmacy conditions and provide the ADTC form notifying prescribers that the participant is in a Drug Court and rehabilitation program. Case managers will verify all prescriptions by obtaining the necessary medical records. The case manager and participant may collaborate with the prescriber to identify alternative medications. As an example, some antidepressant medications provide superior long-term relief for anxiety compared to the benzodiazepines, which also carry a significant risk of addiction and overdose. Participants may not take over the counter medications containing ephedrine, pseudoephedrine, or phenylpropanolamine, nor any substance containing alcohol. They should avoid any incidental exposure to alcohol such as hand sanitizers. Participants may not ingest any product or food item containing poppy seeds.

Although medical marijuana can be legally prescribed in Maine, it remains illegal according to federal statute. The Drug Courts in Maine are recipients of federal funding. Additionally, the ability to successfully engage in recovery from substance abuse while ingesting prescribed marijuana has not been determined. The risk of diversion of marijuana in a Drug Court setting is also significant. For these reasons, defendants with certificates for medical marijuana are not eligible for admission. A participant who obtains a certificate will be dismissed from the Court and returned to regular case processing. (See Medication Protocol in Appendix L.)

Due to the proliferation of synthetic cannabinoids, such as Spice/K-2, and other designer drugs (e.g., bath salts), it is crucial for Drug Court practitioners to remain current and well informed as to all drugs of abuse.

Urine testing for alcohol detects the presence of alcohol markers: specifically, ethylglucuronide (EtG) and ethyl sulfate (EtS). Such testing must be performed by a certified laboratory. While a detection window of up to 80 hours is advertised, Drug Court practitioners should take the more conservative approach of using a 50-hour window. Due to the sensitivity of this test, participants should avoid even incidental exposure to alcohol and alcohol-containing products. A cutoff of 500 ng/dL should be used to reduce the risk of false positives. Please also see the SAMHSA Advisory, *The Role of Biomarkers in the Treatment of Alcohol Use Disorders, 2012 Revision*, which can be accessed at: [http://kap.samhsa.gov/products/manuals/advisory/pdfs/Advisory\\_Biomarkers\\_Revision.pdf](http://kap.samhsa.gov/products/manuals/advisory/pdfs/Advisory_Biomarkers_Revision.pdf)

There are a variety of methods for circumventing attempts by participants to confound testing. For example, a participant can provide a sample and be required to remain on site to provide another sample at a later time. This can reduce the likelihood that someone else's urine is being substituted. If there is a suspicion that a participant is hiding a container containing urine in a body



orifice, the participant can be instructed to squat and cough. A “hat” collection device can be used for women.

Drug testers are encouraged to be appropriately suspicious and vigilant regarding attempts to sabotage this testing protocol. They should refer to the package inserts and the drug test manufacturer website as well as contact the manufacturer and the laboratory with any questions or concerns.



## E. Incentives and Responses

Incentives and rewards come in many forms, both intangible (e.g., handshake) to tangible (e.g., gift certificate). Whenever possible, solicitation of rewards should be done at a statewide level. No gift given to an ADTC participant will be given in the form of cash. All gift certificates should state on them that they are non-transferable and cannot be redeemed for cash. It is the responsibility of the ADTC team to ensure that all gift certificates denote that they shall not be used to purchase alcohol and/or over the counter drugs. As an example of positive reinforcement for appropriate behavior, relevant to a participant's recovery, no reward shall exceed a \$20 value per week, without approval from the ADTC coordinator. No reward shall depict the logo or trademark of any alcoholic beverage or pharmaceutical drug. No reward shall take the form of a personal engagement between an ADTC professional and participant (e.g., taking participants to lunch, movie or sporting event). Rewards shall not take the form of a participant's use of an ADTC professional's personal property or possession. Rewards must be given to the participant on behalf of the ADTC, should be approved during the pre-court meeting and be presented by the judge in open court. Participants may reserve the right to refuse any reward offered through the ADTC.

According to the most recent summary of relevant Drug Court research, "some sources recommend that rewards should outnumber sanctions by a 4:1 ratio [however] this suggestion is based on after-the-fact clinical observations or correlations rather than on controlled scientific studies. In the absence of definitive guidance, a rule of thumb is to have at least equivalent amounts of positive reinforcement and punishment available for participants."<sup>11</sup>

Drug Court teams should "distinguish between proximal behaviors that participants are already capable of performing and distal behaviors that they are not yet capable of performing. Begin by assigning higher-magnitude sanctions and lower-magnitude rewards to easy proximal behaviors, and assigning lower-magnitude sanctions and higher-magnitude rewards to difficult distal behaviors."<sup>12</sup>

The responses for compliance will vary in intensity and may include the following:

- Handshake
- Verbal praise

<sup>11</sup> Marlowe, D.B. (September 2012) *Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions*. Drug Court Practitioner Fact Sheet. National Drug Court Institute.

<sup>12</sup> *Ibid.*





- Curfew extension
- Jurisdictional pass
- Applause
- Name in reward basket
- Sobriety and phase completion certificates
- Reward box pick
- Encouragement and praise from the bench
- Ceremonies and tokens of progress, including advancement to the next treatment phase
- Gift certificates or sports passes, and so forth
- Reduced supervision
- Decreased frequency of Court appearances
- Reduced fines or fees
- Dismissal of criminal charges or reduction in the term of probation, per plea agreement or upon agreement with the district attorney
- Reduced or suspended incarceration
- Graduation

Responses and responses for non-compliance may include the following:

- Warnings and admonishment from the bench in open court
- Demotion to earlier program phases
- Increased frequency of testing and Court appearances
- Confinement in the Courtroom or jury box
- Increased monitoring
- House arrest
- Suspended sentence
- Written assignment (e.g., apology letter, essay)
- Speech in the Courtroom
- Curfew restrictions
- No Contact Order
- Individual team meeting – round table discussion
- Fines;
- Required community service or work programs
- Escalating periods of jail confinement; however, ADTC participants shall continue to receive treatment services while confined, as may be reasonably provided
- Termination from the program and reinstatement of regular court processing



As noted earlier, the judge may sanction participants to a period of incarceration of up to seven (7) days if they violate the conditions of release imposed by the court or the ADTC contract. Participants have the right to have an attorney present at any hearing to determine whether a response of incarceration over seven (7) days should be imposed.

In the interests of proximal responses to behavior by participants, rewards and responses should be administered as close as possible in time to the behavioral incident. If the presiding judge/justice does not have near-immediate availability to administer a response or reward, it is recommended that the case management, ideally after consultation with all available team members, be empowered to provide a range of relatively low-level consequences. These may include curfew extensions, gift cards, or chocolate for positive behavior and essay assignments or house arrests for negative.

In the event of more serious infractions to which short-term incarceration may be indicated, a probation officer may either choose to put one of his or her ADTC participants on a probation hold or the case manager may submit an affidavit to the court documenting the reasons for arrest.



## **F. Graduation**

The court should ensure that all participants who have successfully completed the program receive appropriate recognition in ADTC. Eligibility for graduation is determined by the Court in consultation with the ADTC team. Graduation from the ADTC requires that the participant complete a minimum of twelve months time in the program encompassing all ADTC phases. The ADTC team should consider employment and continuing education in determining eligibility to graduate. Participants should reside in a home that is supportive of their substance free life style.

All participants will submit a formal aftercare plan, as provided by the case manager, to the ADTC team for review and feedback. The court shall give serious consideration to the aftercare plan when determining participant graduation. The aftercare plan should be a participant-focused product that includes input from ADTC team members. Participants should begin to formulate their aftercare plans under the support of the case manager and treatment provider at an early stage in the program.

Participants are encouraged to maintain contact with the program after graduation. Each member of the ADTC team should be available to respond to aftercare contact by a participant. The case manager should contact graduates by mail and telephone after ninety days and after one hundred eighty days. Adult Community Corrections of the Department of Corrections has responsibility for community supervision after graduation for those still on probation. The treatment provider may continue to provide services to graduates.



## G. Termination

A defendant's participation in the ADTC shall terminate in one of the following ways:

**Graduation.** In connection with a defendant's graduation, a sentencing hearing shall be scheduled. The court will notify the State, defense counsel, and the defendant of its date and time. Typically, these occur directly after the graduation ceremony.

**Voluntary withdrawal.** At any time, outside of having a pending response or termination hearing, a defendant may advise the judge that he or she no longer wishes to participate in the ADTC. When a defendant so advises, the judge shall set the matter for a sentencing hearing and notify the State, defense counsel, and the defendant of its date and time. For purposes of a plea agreement, a defendant who chooses to withdraw prior to graduation shall be considered to have not successfully completed the ADTC program. However, progress made by the defendant (and difficulties experienced by the defendant) may be considered by the judge at the time of sentencing. In some instances, aggravating circumstances posing insurmountable obstacles to satisfactory participation such as physical illness or severe and persistent mental illness will arise. These may form the grounds for withdrawal and a commensurate sentence imposed by the judge, such as probation rather than incarceration.

**Involuntary termination.** A defendant's participation in the ADTC may be terminated for any of the following: any conduct which would constitute criminal contempt (Rule 42 of the Rules of Criminal Procedure); revocation of any waiver of confidentiality; a new criminal offense; failure to follow the directives of the ADTC judge or case manager; failure to follow the provisions of the ADTC contract; failure to attend court sessions, treatment sessions, meetings with the case manager or probation officer, school, or employment; failure to comply with bail or probation conditions; failure to follow treatment recommendations and directives; failure to comply with conditions of probation; tampering or attempting to tamper with a urine specimen; failure of multiple drug/alcohol tests. Typically a pattern of noncompliance, uninterrupted by treatment or other responses, is required for involuntary termination.

If the defendant is charged with a new criminal offense, the judge will schedule the matter for hearing to determine whether or not probable cause exists to believe the defendant committed the new offense and for a sentencing hearing on the original case. Such hearing shall be scheduled to occur within 15 days, unless the defendant agrees to a longer time. The court will notify the State, defense attorney, and defendant of the date and time for the probable cause and sentencing hearing.



The probable cause hearing should be conducted first. If probable cause is not found, then the defendant shall not be terminated from the ADTC and the sentencing hearing will not be held. If probable cause is found, then the defendant's participation in the ADTC will be terminated, unless the court, after consideration of the positions of the case manager, defendant, State, and defense counsel, determines there is good cause for the defendant to continue participation. In some courts an individual is suspended pending the outcome of the charges.

If the court is considering involuntary termination of a defendant's participation in the ADTC, the court will schedule a hearing as soon as possible and shall also schedule a hearing for sentencing on the original case. Defendant shall have the right to counsel at such termination hearing. The court will notify the State, defense attorney, and defendant of the date and time for the termination and sentencing hearing. The termination hearing shall be conducted first. If the court determines that the defendant's participation in the ADTC shall not be terminated, the court will enter such an order and the sentencing on the original case will not be conducted at that time. If the court determines that the defendant's participation in the ADTC shall be terminated, the court will enter such order. The court will then proceed immediately with the original sentencing hearing.



## PART 5. The Service Process

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Concurrent with the Drug Court Process described in Chapter 4, which relates largely to the court handling of a case, the defendant is engaged in a treatment program aimed at helping the person manage and control his or her substance use disorder. This chapter describes the components of the service process.

### A. Treatment Program

ADTCs function within a set of principles known as the **10 Key Components** (see Appendix B). The first of these is active and continuous judicial supervision of the offender's case. The ADTC requires much greater cooperation between the court, the treatment community, the DOC, and other community agencies. Each court event and process, including the application of rewards and responses, should have a therapeutic purpose and value.

Completion of the Differential Substance Abuse Treatment Program (DSAT) for Maine's adult substance abusing offender population is required for adult ADTC Participants. The DSAT Program provides for standardized substance abuse screening and comprehensive assessment for adult offenders. DSAT is a manualized cognitive-behavioral and motivational treatment intervention. The Substance Abuse and Mental Health Services (SAMHS) agency contracts with a network of DSAT-trained agencies and clinicians to serve the adult ADTC participants statewide. DSAT is research-based and utilizes best treatment practices for the ADTC target population. Each drug treatment court participant will complete the level of DSAT treatment appropriate to his or her assessed level of need. DSAT provides a gender specific, structured program that includes pre- and post-treatment outcome measures and provides participants with the knowledge and skills to alter their behaviors.

After the initial DSAT computerized screening, DSAT services consist of the DSAT comprehensive assessment, motivational enhancement treatment, an intensive treatment phase, a skill-building phase, and a re-evaluation prior to discharge.

- 1) Computerized Substance Use Screening Assessment (SUSA): 0.5 hours
- 2) Comprehensive Assessment: 3 hours
- 3) Three to four Motivational Enhancement Treatment (MET) groups (1.5 hrs. each): 4.5-6 hours
- 4) Individual MET session: 1.5 hours
- 5) Ten Intensive Cognitive/Behavioral Groups (3hrs two times per week): 30 hours



- 6) Twelve Skill-building Groups (2hrs each over 12 weeks): 24 hours
- 7) Individual MET Refresher Session: 1.5 hours
- 8) Re-evaluation: 1.5 hours

DSAT Level III treatment is five to seven months' duration. DSAT Level IV may require nine months or more to complete.

Additional treatment programming may be required of ADTC participants by the court to address other specific areas of need. These may include but are not limited to co-occurring mental health disorders, trauma, and criminal thinking. Each participant will leave formal treatment with a continuing care plan that may include participation in self-help groups or on-going recovery groups. Participants may graduate from ADTC after completion of their formal DSAT treatment or maintain ADTC participation beyond this time frame to complete additional required treatment interventions, monitor continuing probation conditions, or stabilize recovery.



## **B. Case Management**

Case management services at each court location will be sufficient to accommodate a population of 25 to 35 offender participants with 30 participants being the minimum target. One full-time case manager will be able to serve this population although a participant population with unusually high needs may preclude serving the higher end of the census range. Similarly, if probation and parole is minimally involved, it may be difficult to serve a relatively large number of participants. This deficit will be most notable in regard to home checks and other accountability measures.

An ADTC case manager will be assigned to each court location. The case manager will be present at all ADTC sessions. The scope of services to be provided by the case manager is contained in the ADTC Case Manager Job Description found in Appendix M.

Case Managers are expected to achieve standards outlined in the Ten Key Components of Drug Courts in an effort to maintain best practice in the field and to promote favorable outcomes in the Drug Courts.

### **Department of Corrections, Probation and Parole, and Bail**

Staffing resources permitting, the Maine Department of Corrections will assign a contact probation and parole officer for information/communication at each court location. The officer will be responsible for monitoring all court-ordered conditions of probation. Probation and parole officers may participate in weekly team meetings and court sessions when requested by the court.

When a violation of probation or of bail is discovered by a probation officer or law enforcement official it must be reported to the defendant's ADTC team and defense counsel. The decision to arrest for a violation of probation/bail rests within the discretion of the probation officer/law enforcement official. When the violation threatens the safety of the public or the defendant, or when new criminal conduct causes the violation, then it is presumed that the defendant will be arrested unless special and articulated circumstances exist making it appropriate to summons the defendant to court or to address the violation at the next scheduled ADTC session.

Probation and parole officers will comply with Department of Corrections' policies that surround their collaboration with the ADTC.





Specifically, probation and parole officers shall:

1. coordinate and communicate with the case managers to facilitate collection of relevant criminal and probation history;
2. work cooperatively with the court, prosecutors and defense attorneys regarding mutual offenders under supervision;
3. complete presentence investigations as requested by courts;
4. provide supervision consistent with the level of risk determined by the LSI-R, which includes residence checks, office contacts and collateral contacts; updated LSI-R scores should be provided to the ADTC team as well; and
5. provide increased drug testing to include a minimum of four tests per month with a minimum of two tests being randomly administered.



## C. Home Supervision and Visits

The random monitoring of ADTC participants through the use of home visits is critical to the ADTC and its ability properly to monitor participant sobriety and living environment. The main goal of the home visit is to assess, observe and report out the participant's home environment and surroundings. Home visits also provide critical venues for the use of random urine tests and more importantly random alcohol tests.

It is the responsibility of the ADTC case manager to facilitate, coordinate and document that home visits are performed and reported to the ADTC team. This does not mean that case managers must perform the home visit, but they are required to ensure that the visit occurs. The case manager must acquire all pertinent information surrounding the visit and report it to the court. All participant home visits should be unannounced.

All participant home visits shall include the following:

- An examination of the participant's living area (i.e., apartment, house or efficiency room) for any contraband. Examinations may include all areas in the participant's living space. This means if the participant lives in an apartment with roommates, all common areas are still examined and not just the participant's individual room.
- A full interaction with and/or interview of the participant and any other persons present at the residence/living space. This is done to ensure that there are no prohibited persons present.
- A monitored urine drug test or alcohol breath test.
- A full documentation of the home visit to include a listing of any contraband or interaction valuable to the court.

The frequency of home visits is determined by the Drug Court process phase and any other considerations deemed sufficient by the court.

This policy is designed to enforce paragraph seven of CR-181 (Entry/Bail Contract and Order Admitting Defendant), which states: *Submit to a random search of my person, vehicle, and/or room or the common areas of my residence at any time as requested by the court, case manager, probation officer, law enforcement or treatment provider. If the residence is occupied solely by myself or myself and my family members and/or a "significant other," the entire residence shall be subject to search.*

Courts may wish to use no-contact lists to restrict the association of participants with antisocial peers, individuals using substances, and others who may interfere



with recovery. Such lists can be difficult to enforce but can have utility in reminding participants of the risks of certain associations. Such lists may also provide participants with judicial support for declining contact with others on the list.



## **PART 6. Administration of Drug Courts**

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### **A. Responsibility of the Administrative Office of the Courts**

The Maine Judicial Branch, through the Administrative Office of the Courts, provides assistance in the planning, implementation and development of ADTCs in selected counties. Recommendations are provided to the ADTC, the Maine Supreme Court, the Chief Justice, and the Trial Court Chiefs concerning legal, policy and procedural issues confronting ADTCs as outlined in this Manual. The Maine Judicial Branch in collaboration with its partners and resources permitting will also assist in the provision of annual training and technical assistance for all ADTC Judges and criminal justice personnel involved in ADTCs.

Resources permitting, the Maine Judicial Branch will monitor ADTC activity through frequent site visits to ensure compliance with the Ten Key Components of Drug Court. Monitoring will include a review of both fiscal and program operations. This intervention may include a variety of responses ranging from the delivery of technical assistance and training to the elimination of a specific court.

An annual review of each of the ADTCs will be conducted by the Coordinator of Specialty Dockets and Grants and provided to the Chief Justice, Trial Court Chiefs, and State Court Administrator by February 15 of each year. These reviews will include process and outcome data analysis with the goal of identifying challenges to fidelity and possible solutions.



## **B. Courts, Public Agencies and Community Partnerships**

Coordination of the ADTC is a responsibility of the Coordinator of Specialty Dockets and Grants of the Administrative Office of the Courts in collaboration with the Office of Substance Abuse and Mental Health Services, service providers, and other partners. This office reviews and updates policies, organizes conferences and training, provides technical assistance, applies for federal grants, problem-solves, coordinates with partners and stakeholders, performs internal audits of court performance, manages implementation and enhancement grants awarded to the Judicial Branch and oversees the program evaluations.

It is the responsibility of the Administrative Office of the Courts, the presiding judicial officer, and partners to forge partnerships between and among the courts, with other public agencies such as the Office of Substance Abuse and Mental Health Services of the Department of Health and Human Services and with community agencies such as those providing treatment and case management services, consistent with judicial ethical standards.

Whenever feasible, agencies will make full or part-time team member assignments to the ADTC for a minimum term of two years to ensure stability and continuity of day-to-day operations and to strengthen collaborative relationships between the key professionals.

All of the participating agencies agree to support qualified ADTC programs by making appropriate adjustments to internal policies, practices and procedures to ensure successful operations.

The Administrative Office of the Courts will establish a jurisdictional Memorandum of Understanding (MOU) with all agencies/departments to ensure the continuity of all legal policies and other standards necessary to the operation of ADTC.



### **C. Interdisciplinary Education and Training**

On-going training and education of ADTC team members is vital to the development and maintenance of necessary skills for competent practice. Team members are encouraged to suggest training topics to the ADTC coordinator who will, in turn, seek resources to plan and implement training opportunities. Team members are also encouraged to take responsibility for their own professional development. A statewide specialty court training conference will be held no less than annually, resources permitting. It is imperative that all team members be intimately familiar with and supportive of the Drug Court model through self-education and attendance at state, regional, and national trainings.

The National Association of Drug Court Professionals has an on line curriculum for adult Drug Court practitioners

[https://courses.ncsc.org/course/NDCI\\_Essentials](https://courses.ncsc.org/course/NDCI_Essentials)

The Center for Court Innovation has on line curricula as well  
<http://www.drugcourtonline.org/>

### **D. DTxC System**

ADTCs shall utilize the DTxC system for data collection. DTxC provides local ADTCs, the Office of Substance Abuse and Mental Health Services, and the Maine Judicial Branch with necessary data to assess the effectiveness of the ADTCs.

A User Access Form shall be completed before access is given. The User Access Form mandates that all information obtained through DTxC shall be used ONLY for official criminal justice activities. Such information shall be used and disseminated in strict compliance with applicable federal and state laws, regulations, policies and procedures including, but not limited to, Drivers Privacy Protection Act. The local ADTC shall notify the DTxC Administrator of any changes in staff, which require the removal of access to DTxC.

Misuse of the DTxC system may result in the revocation or suspension of the User's and/or ADTC's use of DTxC. Misuse includes any violation of federal or state law, regulation, policy or procedure; non-compliance with this security agreement; or non-compliance with DTxC policy as stated by the Maine Judicial Branch and the Office of Substance Abuse and Mental Health Services.

On-site training and technical assistance for DTxC is available through the Office of Substance Abuse and Mental Health Services upon request.



## **F. Program Evaluation**

ADTCs will participate in program evaluations conducted by a contracted evaluator if funding is allocated for that purpose. Data collection and information management requirements will be set forth by the evaluator, who will seek approval from the Coordinator of Specialty Dockets and Grants and the Office of Substance Abuse and Mental Health Services. Appropriate ADTC personnel are responsible for submitting the necessary data through channels such as DTxC, described above, as directed by the evaluator and coordinator. All program goals will be uniform throughout the state so as to create measurable results on a statewide basis. Evaluation criteria and procedures to gather data will be established to include tracking the status of participants after they are no longer part of the program. The ADTC treatment providers will use the DSAT Web information system for collecting and reporting of the DSAT screening (SUSA), assessment, and treatment program pre- and post- treatment progress measures.



## APPENDIX A

### MRSA Chapter 8: ALCOHOL AND DRUG TREATMENT PROGRAMS

#### 4 §421. ESTABLISHMENT

**1. Programs.** The Judicial Department may establish alcohol and drug treatment programs in the Superior Courts and District Courts and may adopt administrative orders and court rules to govern the practice, procedure and administration of these programs. Alcohol and drug treatment programs must include local judges and must be community based and operated separately from juvenile Drug Courts.

[ 1999, c. 780, §1 (NEW) .]

**2. Goals.** The goals of the alcohol and drug treatment programs authorized by this chapter include the following:

- A. To reduce alcohol and drug abuse and dependency among criminal offenders; [1999, c. 780, §1 (NEW).]
  - B. To reduce criminal recidivism; [1999, c. 780, §1 (NEW).]
  - C. To increase personal, familial and societal accountability of offenders; [1999, c. 780, §1 (NEW).]
  - D. To promote healthy and safe family relationships; [1999, c. 780, §1 (NEW).]
  - E. To promote effective interaction and use of resources among justice system personnel and community agencies; and [1999, c. 780, §1 (NEW).]
  - F. To reduce the overcrowding of prisons. [1999, c. 780, §1 (NEW).]
- [ 1999, c. 780, §1 (NEW) .]

**3. Collaboration.** The following shall collaborate with and, to the extent possible, provide financial assistance to the Judicial Department in establishing and maintaining alcohol and drug treatment programs:

- A. District attorneys, the Department of the Attorney General and statewide organizations representing prosecutors; [1999, c. 780, §1 (NEW).]
- B. Defense attorneys, including statewide organizations representing defense attorneys; [1999, c.780, §1 (NEW).]
- C. The Department of Corrections; [1999, c. 780, §1 (NEW).]
- D. The Department of Health and Human Services; [1999, c. 780, §1 (NEW); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV).]
- E. The Department of Public Safety; [1999, c. 780, §1 (NEW).]
- F. The Department of Education; [1999, c. 780, §1 (NEW).]
- G. The business community; [1999, c. 780, §1 (NEW).]
- H. Local service agencies; and [1999, c. 780, §1 (NEW).]
- I. Statewide organizations representing Drug Court professionals. [1999, c. 780, §1 (NEW).] [ 1999, c. 780, §1 (NEW); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]





#### **4 §422. PROGRAMS**

**1. Coordinator of Diversion and Rehabilitation Programs.** The judicial branch shall employ a Coordinator of Diversion and Rehabilitation Programs. The Coordinator of Diversion and Rehabilitation Programs is responsible for helping the judicial branch establish, staff, coordinate, operate and evaluate diversion and rehabilitation programs in the courts. [ 2003, c. 711, Pt. A, §1 (RPR) .]

**2. Pass-through services.** The Administrative Office of the Courts, with the assistance of the Coordinator of Diversion and Rehabilitation Programs, may enter into cooperative agreements or contracts with:

- A. The Department of Health and Human Services or other federal-licensed treatment providers or state licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the alcohol and drug treatment programs must access existing substance abuse treatment resources for alcohol and drug treatment program participants; [2011, c. 657, Pt. AA, §2 (AMD).]
- B. The Department of Corrections, Division of Community Corrections or other appropriate organizations to provide for supervision of alcohol and drug treatment program participants; [1999,c. 780, §1 (NEW).]
- C. The Department of Corrections or other appropriate organizations to provide for drug testing of alcohol and drug treatment program participants; [1999, c. 780, §1 (NEW).]
- D. Appropriate organizations to provide for a Drug Court manager at each alcohol and drug treatment program location; [2003, c. 711, Pt. A, §2 (AMD).]
- E. Appropriate organizations and agencies for training of alcohol and drug treatment program staff and for evaluation of alcohol and drug treatment program operations; [2003, c. 711, Pt. A, §2 (AMD).]
- F. Appropriate local, county and state governmental entities and other appropriate organizations and agencies to encourage the development of diversion and rehabilitation programs; and [2003, c.711, Pt. A, §2 (NEW).]
- G. Appropriate organizations and agencies for the provision of medical, educational, vocational, social and psychological services, training, counseling, residential care and other rehabilitative services designed to create, improve or coordinate diversion or rehabilitation programs. [2003, c. 711, Pt. A, §2 (NEW). [ 2011, c. 657, Pt. AA, §2 (AMD) .]

#### **4 §423. REPORTS**

The Judicial Department shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 2002 and annually thereafter on the establishment and operation of alcohol and drug treatment programs in the courts. The report must cover at least the following: [1999, c. 780, §1 (NEW).]



**1. Training.** Judicial training;  
[ 1999, c. 780, §1 (NEW) ]

**2. Locations.** Locations in which the alcohol and drug treatment programs are operated in each prosecutorial district;  
[ 1999, c. 780, §1 (NEW) .]

**3. Participating judges and justices.** Judges and justices participating in the alcohol and drug treatment programs at each location;  
[ 1999, c. 780, §1 (NEW) .]

**4. Community involvement.** Involvement of the local communities, including the business community and local service agencies;  
[ 1999, c. 780, §1 (NEW) .]

**5. Education.** Educational components;  
[ 1999, c. 780, §1 (NEW) .]

**6. Existing resources.** Use of existing substance abuse resources;  
[ 1999, c. 780, §1 (NEW) .]

**7. Statistics.** Statistical summaries of each alcohol and drug treatment program;  
[ 1999, c. 780, §1 (NEW) .]

**8. Collaboration.** Demonstration of the collaboration required under section 421, subsection 3, including agreements and contracts, the entities collaborating with the Judicial Department, the value of the agreements and contracts and the amount of financial assistance provided by each entity; and  
[ 1999, c. 780, §1 (NEW) .]

**9. Evaluation of programs.** Evaluation of alcohol and drug treatment programs individually and overall.  
[ 1999, c. 780, §1 (NEW) .]



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## **Appendix B**

### **Ten Key Components<sup>13</sup>**

#### **Key Component #1**

Drug Courts integrate alcohol and other drug treatment services with justice system case processing.

#### **Key Component #2**

Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

#### **Key Component #3**

Eligible participants are identified early and promptly placed in the Drug Court program.

#### **Key Component #4**

Drug Courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

#### **Key Component #5**

Abstinence is monitored by frequent alcohol and other drug testing.

#### **Key Component #6**

A coordinated strategy governs Drug Court responses to participants' compliance.

#### **Key Component #7**

Ongoing judicial interaction with each Drug Court participant is essential.

#### **Key Component #8**

Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

#### **Key Component #9**

Continuing interdisciplinary education promotes effective Drug Court planning, implementation, and operations.

#### **Key Component #10**

Forging partnerships among Drug Courts, public agencies, and community-based organizations generates local support and enhances Drug Court program effectiveness.

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<sup>13</sup> Defining Drug Courts: The Key Components. Office of Justice Programs, U.S. Department of Justice. 1997 (first publication)



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APPENDIX C

AUTHORIZATION TO RELEASE INFORMATION

Name of participant: \_\_\_\_\_

DOB: \_\_\_\_\_

SS #: \_\_\_\_\_

Docket number(s): \_\_\_\_\_

*I have read or had explained to me the Notice to patients pursuant to 42 C.F.R. section 2.22 about the disclosure of my substance abuse treatment and mental health treatment information, understand this form, and hereby consent to the exchange of the following information by the Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court, its staff members, authorized employees, or agents with:*

Name \_\_\_\_\_

Address: \_\_\_\_\_

Name \_\_\_\_\_

Address: \_\_\_\_\_

Name \_\_\_\_\_

Address: \_\_\_\_\_

Name \_\_\_\_\_

Address: \_\_\_\_\_

*(Participant checks the following types of information agreeing to release)*

- ☐ Results of case management screening
- ☐ Case management intake assessment
- ☐ Results of DSAT screening and assessment
- ☐ Progress in Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court
- ☐ Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court **service plan**
- ☐ Aftercare plan
- ☐ Progress in substance abuse treatment, mental health treatment, medical and dental treatment, all other forms of treatment and social services, including case management
- ☐ Prescribed medication

*I \_\_\_ do \_\_\_ do not authorize the release of information regarding HIV/AIDS diagnosis or treatment.*

*Other information to be released:* \_\_\_\_\_

*I authorize the Court team to discuss information regarding me during pre-court staffings without me or my attorney present and in status hearings in the courtroom with other Court Participants present.*



**The purpose of the release is to:** permit discussion of my progress in treatment, my progress on probation, if applicable; my service plans, my compliance with Court expectations (Specify any other)

***I understand that I may refuse to sign this authorization, which may result in my termination from the Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court.***

***I understand that this consent will remain in effect and cannot be revoked by me until I have been discharged from the Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court. This discharge may be due to graduation or termination for not meeting the expectations of the Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court agreement and/or probation violation, if I am on probation.***

***I understand that information about my progress in treatment and the court program may be shared with the program evaluators. The evaluators may provide reports to the court or state agencies. Any information used by the evaluators will not include identifying information about me.***

***I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations, which governs the confidentiality of substance abuse participant records and that upon receiving this information may re-disclose it only in connection with their official duties. I may have a copy of this authorization form upon request.***

***I understand that if this information is disclosed to a third party, the information may no longer be protected by federal privacy regulations and may be re-disclosed by the person or organization that receives the information.***

***I release the Adult Drug Treatment Court, Co-Occurring Disorders and Veterans Court, or Family Treatment Drug Court, its staff members, authorized employees, or agents from any legal responsibility or liability for the disclosures of the information about me to the extent indicated and that I have authorized on this form.***

**Signature of participant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Signature of parent/guardian:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Witness:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Notice to patients pursuant to 42 C.F.R. Sec. 2.22

The confidentiality of alcohol and drug abuse participant records maintained by this program is protected by federal law and regulations. Generally, the program may not say to a person outside the program that a participant attends the program, or disclose any information identifying a participant as an alcohol or drug abuser unless:



- (1) The participant consents in writing;**
- (2) The disclosure is allowed by a court order; or**
- (3) The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.**

**Violation of federal law and regulations by a program is a crime. Suspected violations may be reported to appropriate authorities in accordance with federal regulations. Federal law and regulations do not protect any information about a crime committed by a participant either at the program or against any person who works for the program or about any threat to commit such a crime. Federal laws and regulations do not protect any information about suspected child abuse or neglect from being reported under state law to appropriate state or local authorities.**

**Per 42 U.S.C. § 290dd-3 (c) Prohibition against use of record in making criminal charges or investigation of participant Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against a participant or to conduct any investigation a participant.**

**See 42 U.S.C. Sec. 290dd for federal law and 42 C.F.R Part 2 for federal regulations.**





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## APPENDIX D

### GENERAL PROVISIONS OF HIPAA PRIVACY REGULATIONS

Pursuant to HIPAA's privacy regulations, a covered entity may only use or disclose protected health information in the following types of situations:

- to the individual who is the subject of the protected health information<sup>14</sup>;
- to carry out treatment, payment, or health care operations, if a valid consent has been obtained in accordance with Section 164.506 or, if a consent is not required, pursuant to Section 164.506(a)<sup>15</sup>;
- under an allowed exception (for example, for judicial and administrative proceedings, for law enforcement purposes, for research purposes, or pursuant to a valid subpoena)<sup>16</sup>;
- pursuant to a valid "authorization", if the disclosure is not to carry out treatment, payment, or health care operations<sup>17</sup>;
- where the protected health information has been "identified" in accordance with Section 164.514 (and is, therefore, no longer protected health information)<sup>18</sup>;
- to a "business associate," if the covered entity receives satisfactory assurances that the business associate will appropriately safeguard the information<sup>19</sup>.

When making a disclosure, a covered entity must make reasonable efforts to limit the use or disclosure of protected health information to the "minimum necessary" to accomplish the intended purpose, except when treating the individual or where authorization has been granted.<sup>20</sup>

Covered entities must provide individuals with a written notice informing them of their rights and the covered entity's legal duties with respect to protected health information. Section 164.520 of the regulations provides detailed guidance on the information that must be contained in the notice.

The regulations also spell out certain "Administrative Requirements" that a covered entity must follow with respect to the safeguarding of health information, namely,

- (1) that it designate a "privacy official" to be the person responsible for the development and implementation of the policies and procedures of the entity;
- (2) that it designate a contact person or office to be the person to whom

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<sup>14</sup> 45 C.F.R. 164.502(a).

<sup>15</sup> 45 C.F.R. 164.502(a), 164.506.

<sup>16</sup> 45 C.F.R. 164.510, 164.512, 164.514.

<sup>17</sup> 45 C.F.R. 164.502(a).

<sup>18</sup> 45 C.F.R. 164.502(d).

<sup>19</sup> Certain third parties who transmit or receive protected health information to or from covered entities may fall under the definition of a "business associate". Business associates must sign agreements in which they agree to handle such information in compliance with HIPAA's regulations. 45 C.F.R. 164.502(e).

<sup>20</sup> 45 C.F.R. 164.502(b).



complaints or questions concerning the information contained in the privacy notices will be directed; and (3) that it put in place “appropriate administrative, technical and physical safeguards to protect the privacy of protected information.”<sup>21</sup>

A covered entity must also keep records and submit compliance reports so that the Secretary of the Department of Health and Human Services can ascertain whether the covered entity is in compliance with HIPAA.<sup>22</sup> Covered entities are required to comply with the privacy standards by April 14, 2003, except for small health plans, which have been given until April 14, 2004.

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<sup>21</sup> 45 C.F.R. 164.530.

<sup>22</sup> 45 C.F.R. 160.310.



## APPENDIX E

### SAMPLE MASTER SERVICE PLAN

Individual Case

Plan

Case Manager

Name:

Participant Name:

Plan Start Date:

Identify the 2 top scoring domains contained in the LSI-R and insert under Problem/Need #1 and #2.

#1 Problem/Need:

Goal:

Strengths in this  
area:

Barriers:

OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED

#2 Problem/Need:

Goal:

Strengths in this  
area:

Barriers:

OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED

#3 Problem/Need:

Goal:



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Strengths in this  
area:

Barriers:

OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED

#4 Problem/Need:

Goal:

Strengths in this  
area:

Barriers:

OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED

#5 Problem/Need:

Goal:

Strengths in this  
area:

Barriers:

OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED

#6 Problem/Need:

Goal:

Strengths in this  
area:

Barriers:



OBJECTIVE	TASK	CONSEQUENCES	PERSON RESPONSIBLE	TARGET DATE	DATE COMPLETED



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## APPENDIX F

### PARTICIPANT HANDBOOK

#### Introduction

The Maine Adult Drug Treatment Court has been developed to help you achieve abstinence from alcohol, illicit and illegal drugs and to no longer commit crimes. This court docket is designed to promote your self-sufficiency and for you to be a productive and responsible citizen. The court is voluntary and is your personal choice. Making a decision to participate was a courageous act on your part, and this is well recognized. The Drug Court judge, court staff, case manager, probation officer, prosecutor, defense attorney, and treatment counselors are present to guide and assist you, but the final responsibility is yours. You must be motivated to make this change and commit to a drug-free and prosocial life.

The program involves working with the court, treatment and a supervision team, all dedicated to your recovery. **Your sentence has been lessened in exchange for compliance with the conditions of the program and successful graduation.**

You will be required to attend office visits as scheduled by a case manager, make regular appearances in court for progress updates and submit to random drug testing. Our team will be working with you towards successful completion of the court.

#### Program Description

The Maine Adult Drug Treatment Court is a court-supervised, comprehensive treatment program for defendants convicted of varying crimes. This is a voluntary program, which includes regular court appearances before a designated Drug Court judge.

When you join the Drug Court, your case manager and treatment provider will talk with you to plan your treatment. You may need more than just help with alcohol and drug abuse issues. You may also benefit from job training, education, literacy classes, anger management, medical services, and other social services. Both you and the Drug Court team will figure out your goals in the program. While you are in treatment, the judge will monitor your progress. Your case manager will be in constant contact with your counselors. You will also be required to appear in court before the judge weekly. If you do well in treatment, the court may reward you. If you fail to follow the rules of the court or the treatment program, the court will impose a "sanction." In serious cases, this means you may go to jail for a period of time. While you are being monitored by the Adult Drug Treatment Court, you will move through phases of participation. Once you complete the requirements for each level, you will graduate from the Maine Adult Drug Treatment Court and your sentence will reflect your original plea agreement.

#### Your Rights





In the Adult Drug Treatment Court, you have the right to

- Be treated with respect
- Get help without regard to race, sex, age, religion, or disability
- Talk about your feelings and opinions
- Question anything regarding your treatment
- Have a full understanding of all the rules
- A hearing with an attorney present, if the judge is contemplating terminating you from the program or a jail sanction of over 7 days unless you are on a probation hold, which also requires appearance before a judge, who may or may not be your Drug Court judge.

The judge may have *ex parte* communication, that is, communication about you when you are not present, with the ADTC case manager, probation officers, treatment providers and any other persons who have information about you. However, your private information is not shared with anyone else unless they have a need to know and you have signed an authorization to release that information. The judge may also speak with you outside the presence of other people.

### **Your Responsibilities**

You are required to do the following:

#### **A. Participate in Treatment as Indicated**

1. You are required to be involved in treatment, as identified by the treatment provider, in conjunction with the Drug Court team.
2. You will be expected to attend a minimum of five self-help group meetings such as AA or NA per week when you join the Drug Court. You may be allowed to reduce the number of meetings as you progress.

#### **B. Meetings with Drug Court Team**

1. You will be required to meet with various Drug Court team members as directed to discuss progress, difficulties and referrals to outside agencies. Meetings may be held at the court, your home, the treatment provider's facility, probation office or various other public places.
2. You may be required to communicate by phone everyday with your case manager except the one day per week you are at court sessions and on your personal report day with the case manager. You are required to report in person to your case manager one day per week aside from your ADTC session days.



**C. Attend Weekly Court Sessions**

Mandatory weekly or biweekly court sessions are held on Friday unless the Drug Court judge chooses to use another day. You are required to attend sessions and share progress, problems and needs with the court and case manager. You are required to be present for the duration of the sessions and exhibit behavior and dress appropriate for a court proceeding (for example, no torn clothing, halter tops, or T-shirts with drug slogans). If inappropriate behavior is observed (i.e., loitering, excessive talking), swift sanctions are administered (i.e. clean up the courtroom after court has concluded, removed from the courtroom, etc.).

**D. Submit to Periodic Drug and Alcohol Testing**

You are required to submit to periodic urinalysis or saliva testing at a minimum of twice per week. You may be required to report to a particular site to submit to a test. Refusal to submit to a test, inability to provide a sample, or a no show for the test will be considered a violation of the program and carry the same weight as a positive test result.

**E. Comply with Conditions of Bail**

If accepted as an ADTC participant, a bail contract will be set by the Drug Court judge. Bail contracts may list several conditions for release, which are to be adhered to at all times by you.

You must comply with all conditions placed upon you by the Drug Court judge, including no contact orders made by the court.

**F. Reconciliation of Restitution/Fines/Treatment Payment**

It is the policy of the ADTC for you to pay any restitution, fine and treatment bills as expected by the Drug Court judge. Your ability to pay this money shall be assessed by the court. Once monthly reconciliation amounts are developed by the court, they shall be placed in a "Restitution Agreement/Order" that will outline the required recipients of payments, total monthly payment, when monthly payments should begin, and instructions on where and how to make a restitution payment.

**G. Probationer Responsibilities**

If you are also on probation you must continue reporting to their specified probation officer and comply with any other conditions of your probation.



**H. Law Enforcement Contact**

You will tell any law enforcement official that speaks with you that you are involved with the Adult Drug Treatment Court.

**I. Daily Records & Weekly Goals**

You are expected to maintain a daily record of activities. This daily log will be submitted to the case manager weekly. The case manager will in turn share relevant information with the Judge, in preparation for the Drug Court session. The purpose for the log is to monitor progress, teach you how to structure time and activities, and teach you self-monitoring skills. It is also important for you to monitor what you are doing that is healthy for yourself, e.g., physical fitness, and family activities.

Part of the Adult Drug Treatment Court process, is the encouragement of the Court for you to set weekly goals for growth and accomplishment. Each week the Judge will ask you for an update on your goals to determine progress and motivation by you. The Judge will also review with you the goals for the following week and document them for future review at the proceeding session. If you are showing a lack of motivation or work ethic towards accomplishing your goals, the Judge may impose an incentive to encourage growth and positive participation in your own recovery.

**J. Other Referrals**

You are responsible for following through with any referrals for other services ADTC team members deem appropriate and necessary.

**K. Fees**

You agree to pay program treatment fees, which are based upon your reasonable ability to pay. These fees will be determined by the ADTC judge, after fully considering your financial status. Fees will be paid directly to the service provider. Payment records will be reported to the Judge as part of your regular progress report. If the Sheriff's Office is required to transport you, a reasonable transportation fee may be assessed to you. This fee would be payable to the Sheriff's Office.



**L. Consent for Disclosure of Confidential Substance Abuse Information**

You will be required to sign a Consent for Disclosure of Confidential Substance Abuse Information form. The purpose of, and need of, this disclosure is to inform the Court and all other named parties of eligibility and/or acceptability for substance abuse treatment services and treatment attendance, prognosis, compliance and progress in accordance with the Adult Drug Treatment Court program. In order to properly monitor the areas of attendance, prognosis, progress, motivation, compliance and participation, by the ADTC Judge/Justice may find it necessary to address items shared by you during a treatment session, while in court.

**Your Responsibilities During Drug Court Sessions**

1. All Adult Drug Treatment Court sessions will take place within a courtroom. The presiding judge will wear a robe and sit at the bench.
2. You are expected to be in the courtroom on time. Those found late for court or not in attendance will be subject to Court ordered sanctions, at the discretion of the judge. A missed court appearance may result in the issuance of a warrant. Each member of the Drug Court team will be seated before the judge and the participants in the benches behind them.
3. You must not bring drugs, weapons, urine or other contraband onto the court premises. You may be searched upon entering the building. If you are charged with having such items in your possession, you may be subject to arrest and prosecution.
4. Initially, you should attend court sessions weekly or every other week if that is when your court meets. The frequency may be altered depending on the phase of the treatment the participant is in.
5. You will address the Court as "Judge (and judge's last name)" or "Your Honor".
6. If you who have violated your conditions of participation and are being sanctioned to jail, you will be immediately placed in the dock by the Drug Court marshal.
7. You will be called before the judge individually.
8. You will approach the bench when called upon and stand before the judge. You are expected to answer the judge's questions and are given an opportunity to make any relevant remarks. Members of the Drug Court team are expected to



correct any untruthful remarks made by you and provide information as requested by the judge.

9. A positive report may be acknowledged with applause from the Drug Court team as well as from the participants and accompanied by verbal praise from the judge. A negative report will receive no praise or applause from the Drug Court team.
10. When you are promoted to the next phase of treatment you will receive a promotion certificate from the judge and the case manager as a special recognition for your accomplishments.
11. You must respect all Adult Drug Treatment Court peers, staff and other court personnel and property at all times. You, in turn, will also be respected.

### **Rewards & Sanctions**

You must clearly understand your responsibilities, the rewards for successful behaviors and the consequences for non-compliance.

*The responses for compliance vary in intensity (all rewards subject to the discretion of the judge) and shall include but not be limited to:*

- Encouragement and praise from the bench;
- Ceremonies and tokens of progress, including advancement to the next treatment phase;
- Reduced supervision;
- Decreased frequency of court appearances;
- Reduced fines or fees;
- Dismissal of criminal charges or reduction in the term of probation, per plea agreement or upon agreement with the district attorney;
- Reduced or suspended incarceration; and
- Graduation

*Responses to or sanctions for noncompliance vary in intensity (all sanctions subject to the discretion of the Judge) and may include but not be limited to:*

- Warnings and admonishment from the bench in open court;
- Demotion to earlier program phases;
- Increased frequency of testing and court appearances;
- Confinement in the courtroom or jury box;
- Increased monitoring;



- Fines;
- Required community service or work programs;
- Escalating periods of jail confinement; and
- Termination from the program and reinstatement of regular court processing after a hearing before the judge.

### **Medication and Illegal Use of Substances**

As a participant in the Adult Drug Treatment Court you are agreeing not to use alcohol and other drugs during your time in the program. If you use alcohol or other drugs you can expect the judge to respond and question your intentions for being in the program.

If your doctor gives or has given you a prescription, you must:

1. Tell the doctor you are in Drug Court and treatment.
2. Obtain approval from the team for all medications, including those prescribed and over-the counter. If you cannot be drug tested effectively while using a medication, you will be given the option to leave the program or seek other options with your doctor to find a medication that will not interfere or affect the program's drug testing procedures.
3. Sign a release for the case manager to communicate with your doctor about the prescription.

**No one may take over the counter medications containing ephedrine, pseudoephedrine, alcohol, or phenylpropanolamine (PPA).** Examples of these medications are: Sudafed®, Nyquil®, Contac®, Sine-Off®, and Allerest®. This is not a complete list – read the package labels or, better still, ask the pharmacist for a medication that does not contain these substances.

**No one may consume any product or food item containing poppy seeds,** for example breads, muffins, etc. Again, read the label/ingredients or ask the salesperson. If you don't know, don't eat it!

**Ignorance of having these products in what you consume will not be an acceptable excuse.** Positive tests for these substances will be treated like any other positive test by the ADTC. It is your responsibility to ask and be aware of the products you are buying. The best way to deal with a situation where you believe that you need medicine is to see a doctor. If a doctor prescribes a medication for you, you may take it but have to inform your case manager. You can ask the pharmacist for advice about a medication's ingredients.

**You are responsible** to see that you do not take any of these drugs listed above. It is still your responsibility to register any medicine, prescription or over the



counter, with the ADTC case manager. (If you notify your case manager about a medicine and use it for a while, stop, then start taking the medicine again, you must notify your case manager again when you resume taking it.)

**If you test positive for drugs** and claim it is because you took one of these drugs, the Drug Court team will not accept your excuse unless a doctor prescribed the drug and you told the doctor you were in a drug rehabilitation program. As always, if you have a question about this policy, ask about it before taking a questionable medication.

### Termination

Your participation in the Adult Drug Treatment Court shall terminate in one of the following ways:

1. **Graduation.** In connection with your graduation, a sentencing hearing shall be scheduled. The Court will notify the State, defense counsel and the defendant of the date and time for the sentencing hearing.
2. **Voluntary withdrawal.** At any time you may advise the Judge that you no longer wish to participate in the Adult Drug Treatment Court. When you so advise the judge, the judge shall set the matter for a sentencing hearing. The court will notify the State, defense counsel and the defendant of the date and time for the sentencing hearing. For purposes of plea agreement, if you choose to withdraw from the Adult Drug Treatment Court prior to graduation you shall be considered to have not successfully completed the Adult Drug Treatment Court program. However, your progress (and difficulties you may have experienced) may be considered by the judge at the time of sentencing.
3. **Involuntary Termination.** Your participation in the Adult Drug Treatment Court may be terminated for any of the following:
  - a. Any conduct which would constitute criminal contempt (Rule 42 of the Maine Rules of Criminal Procedure);
  - b. Revocation of any Drug Court waiver of confidentiality;
  - c. A new criminal offense. If you are charged with a new criminal offense, the judge will schedule the matter for hearing on whether or not probable cause exists to believe that you committed the new offense and for sentencing hearing on the original case. Such hearing shall be scheduled to occur within 15 days, unless you agree to a longer time. The court will notify the State, defense attorney and defendant of the date and time for the probable cause and sentencing hearing.
    - i. The probable cause hearing will be conducted first. If probable cause is not found, then you shall not be terminated from the



Adult Drug Treatment Court and the sentencing hearing will not be held.

- ii. If probable cause is found, then your participation in the Adult Drug Treatment Court will be terminated — unless the court, after consideration of the positions of the case manager, defendant, State, and defense counsel determines there is good cause for you to continue participation in the Adult Drug Treatment Court;
- d. Failure to follow the directives of the Adult Drug Treatment Court judge or case manager;
- e. Failure to follow the provisions of the Drug Court contract;
- f. Failure to attend court sessions, treatment sessions, meetings with the case manager or probation officer, school, or employment;
- g. Failure to comply with bail or probation conditions;
- h. Failure to follow treatment recommendations and directives;
- i. Failure to comply with conditions of probation;
- j. Tampering or attempting to tamper with a urine specimen; or
- k. Failure of multiple drug/alcohol tests.

If the court is considering involuntary termination of a defendant's participation in the Adult Drug Treatment Court, the court will schedule a hearing as soon as possible and shall also schedule a hearing for sentencing on the original case. You shall have the right to counsel at such termination hearing. The court will notify the State, defense attorney and you of the date and time for the termination and sentencing hearing. The termination hearing shall be conducted first. If the court determines that the your participation in the Adult Drug Treatment Court shall not be terminated, the court will enter such order and the sentencing on the original case will not be conducted at that time. If the court determines that your participation in the Adult Drug Treatment Court shall be terminated, the court will enter such Order. The court will then proceed immediately with the original sentencing hearing.

### **Field and Home Visits**

The case manager, probation officers, and various law enforcement officials will make random field and home visits to assess and observe the your home and/or work environment. Random urinalysis testing or alcohol testing may be conducted during these visits.





## **Friends and Associates**

Living a clean and sober life means avoiding old alcohol and drug abusing friends and hangouts. If you continue to hang out with people who are using, especially if the police report suspicious activity, it will affect your status and progression in the Adult Drug Treatment Court.

**Phase System** Please see attached charts

## **Graduation**

The court will ensure that when you have successfully completed the program you will receive appropriate recognition in front of the full Drug Court group of participants, if appropriate. Every effort will be made to ensure you understand you have made a major step in rehabilitating your life and have the potential to become a productive citizen. The judge will preside over the celebration of your recovery and completion of the program.

- \* Eligibility for graduation is determined by the judge and the Drug Court team.
- \* You shall complete all four ADTC steps, which will include:
  - Phase I - Orientation/Motivation Phase (Approximately 4-12 weeks)
  - Phase II - Intensive Phase (Approx. 10-15 weeks)
  - Phase III - Maintenance Phase (Approx. 12-24 weeks)
  - Phase IV - Post DSAT/Aftercare Phase ( 12 weeks - Until selected graduation time)
- \* Graduation from the ADTC requires that you should serve a minimum of twelve months' time in the program before graduating.
- \* You shall complete all ADTC phases.
- \* The Drug Court team should consider employment and continuing education in determining eligibility to graduate.
- \* Reside in a home that is supportive of your substance free life style.
- \* You will be required to submit a written long-term sobriety plan outlining your future plans for leading a chemical-free life. You should consult your case manager and treatment provider for help and support with your plan. All plans will be reviewed by the Drug Court team prior to approval for graduation. You may be required to participate in a review of your plan to support those issues you have presented. Final approval for graduation will be up to the judge.
- \* You will graduate with a personalized plan for your recovery.



### **Aftercare/Post-Graduation**

1. You are encouraged to maintain contact with the program after graduation. Each member of the Drug Court team should be available to respond to aftercare contact by you.
2. The case manager should contact graduates by mail and telephone after ninety days and after one hundred eighty days.
3. The Probation office has responsibility for community supervision after graduation, for those still on probation.
4. The treatment provider may continue to provide services to graduates.

### **Conclusion**

The Maine Adult Drug Treatment Courts' goal is for you to have a satisfying life free from alcohol and other drugs and free from crime. The Drug Court team's hope is that you will be self-sufficient and will return to your family as a productive and responsible member. ADTC is your personal choice. The judge and court staff are here to guide and help you, but, you are responsible for your success. It will be both important and helpful for you to write down critical Drug Court phone numbers in your handbook for future references and easy access.

The Drug Court team hopes this handbook has been helpful and answered most of your questions.

I \_\_\_\_\_ have read with the treatment provider and understand the contents of the Adult Drug Treatment Court Handbook.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Case Manager Signature



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APPENDIX G

SAMPLE ENTRY/BAIL CONTRACT

STATE OF MAINE

SUPERIOR COURT

DISTRICT COURT

, ss.

Location \_\_\_\_\_

Docket No. \_\_\_\_\_

Docket No. \_\_\_\_\_

STATE OF MAINE

v.

**ENTRY/BAIL CONTRACT and  
ORDER ADMITTING DEFENDANT  
INTO THE ADULT DRUG  
TREATMENT COURT**

Pursuant to the policies and procedures of the Adult Drug Treatment Court and the post conviction bail statute, 15 M.R.S.A. § 1026 and § 1051, I, the above named defendant agrees to:

- \_\_\_\_ 1. Appear in court and attend all regular Drug Court sessions as required by the court, and participate in all Drug Court programs, activities, or assignments as ordered by the court; and comply with all treatment recommendations made by my treatment provider as provided in a specific case plan.
- \_\_\_\_ 2. Answer all questions presented by the Judge or Drug Court staff truthfully, including full disclosure if asked if I will be positive if tested for recent alcohol and/or drug use.
- \_\_\_\_ 3. Attend all scheduled meetings/counseling sessions as directed by the Drug Court Judge, case manager and/or probation officer, including but not limited to meetings with the case manager, probation officer and substance abuse counselors.
- \_\_\_\_ 4. Attend all substance abuse counseling sessions, both group and individual, and participate in a meaningful way in all such sessions.
- \_\_\_\_ 5. Not use or possess any alcohol, scheduled drugs, any and all "designer drugs" that can be purchased legally and or over the counter without a physician's prescription, any "smoking mixtures" (other than products specifically designed to contain only tobacco), any products sold or marketed under false pretenses with the warning "not for human consumption", and any prescription medication unless approved by my treatment provider in writing; and not allow any alcohol, scheduled drugs, empty alcohol containers or drug paraphernalia of any kind including "designer drugs" and "smoking mixtures" as well as any hypodermic apparatus to be in my possession, in my vehicle, or at my residence.
- \_\_\_\_ 6. Submit to testing for alcohol, scheduled and prescription drugs as well as other prohibited substances at all times as requested by the adult Drug Court, case manager, probation officer, law enforcement, or treatment provider, and not to tamper with any drug test or drug testing procedure.
- \_\_\_\_ 7. Submit to a random search of my person, vehicle, and/or room or the common areas of my residence at any time as requested by the court, case manager, probation officer, law enforcement or treatment provider. If the residence is occupied solely by myself or myself and my family members and/or a "significant other", the entire residence shall be subject to search.



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- \_\_\_ 8. Obey all rules, conditions and directives of the adult drug treatment court. I understand that the Drug Court may impose additional conditions, rules or directives or may adjust or eliminate a condition(s) or term(s). CR-181, Rev. 6/11
- \_\_\_ 9. Commit no unlawful conduct, understanding that reliable information of such conduct may result in expulsion from Adult Drug Treatment Court and imposition of the unsuccessful plea agreement sentence.
- \_\_\_ 10. Identify myself as being in the adult drug treatment court if arrested or questioned by law enforcement and identify the name of my case manager.
- \_\_\_ 11. Not leave the state of Maine or \_\_\_\_\_ county without written approval of the case manager and inform the case manager and probation officer of any arrests or contact with law enforcement.
- \_\_\_ 12. Reside at the following residence unless a change of address is approved by the Court: \_\_\_\_\_  
\_\_\_\_\_
- \_\_\_ 13. Obey the following curfew: Sunday through Thursday \_\_\_\_\_ p.m. through a.m., and Friday and Saturday \_\_\_\_\_ p.m. through \_\_\_\_\_ a.m., (unless going directly to and from employment).
- \_\_\_ 14. Have no contact direct or indirect with named victims, specifically including:  
Except: \_\_\_\_\_
- \_\_\_ 15. Follow all terms and conditions of other release and probation, if any.
- \_\_\_ 16. Sign and not revoke all required release of information forms as long as I participate in the adult drug treatment court. I understand that if I revoke a required release of information form or authorization my participation in the adult drug treatment court will be terminated.
- \_\_\_ 17. Have no contact with anyone who is drinking alcohol or who is in possession of or using scheduled drugs.
- \_\_\_ 18. Pay all fines or restitution in the amount of \$ \_\_\_\_\_ at a rate of \$ \_\_\_\_\_ per week as ordered.
- \_\_\_ 19. Maintain gainful employment and/or continue participation in an approved educational program, or if not gainfully employed or participating in an approved educational program, seek such in good faith.
- \_\_\_ 20. Pay the adult drug treatment court \$ \_\_\_\_\_ per alcohol or drug test and/or a treatment provider fee of \$ \_\_\_\_\_ per week.
- \_\_\_ 21. Pay all financial obligations including but not limited to any court ordered restitution, child support payments and fines including those which may result from other pending charges, subject to ability to pay.
- \_\_\_ 22. Contact adult drug treatment court case manager in the following manner, unless good cause is shown for variance:  
a. By telephone (207) \_\_\_\_\_ - \_\_\_\_\_ once per day;  
b. In person visit once per week, on \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.
- \_\_\_ 23. If on probation, I understand that my probation will be tolled while I participate in the adult drug treatment court, and that I will be obligated to fulfill probation requirements after completing Drug Court, unless such are amended by the plea agreement or further order of the court. I am required to follow probation conditions, including but not limited to reporting to my probation officer, while participating in Drug Court.
- \_\_\_ 24. Other: \_\_\_\_\_



I agree to participate in the adult drug treatment court.

**IF ANY OF THE ABOVE CONDITIONS ARE VIOLATED, I MAY BE SUBJECT TO ARREST AND DETENTION, MAY BE REQUIRED TO MEET DIFFERENT OR ADDITIONAL CONDITIONS OF RELEASE, MAY BE GIVEN COURT IMPOSED SANCTIONS, OR MAY BE SUBJECT TO TERMINATION FROM THE ADULT DRUG TREATMENT COURT**

By signing here, I acknowledge that I understand the provisions of this entry contract and that I have received a copy of this contract, and I agree to the above conditions and the conditions of release order as entered by the court.

Date: \_\_\_\_\_

\_\_\_\_\_  
Defendant

As counsel for the defendant, I have thoroughly explained to the defendant the adult drug treatment court participant entry contract. I believe the defendant fully understands the meaning of this contract and has the capacity to evaluate and to knowingly and intelligently enter into this contract.

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney

**ORDER**

Based upon the forgoing, the defendant is hereby ADMITTED into the adult drug treatment court, subject there to.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge/Justice



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APPENDIX H

MAINE ADULT DRUG TREATMENT COURT  
DRUG/ALCOHOL TEST DOCUMENTATION

This form must be completed for each test by those individuals performing the indicated procedures and must be kept with the specimen.

Testing Site: \_\_\_\_\_ MPS \_\_\_\_\_

Request Made By \_\_\_\_\_ Case Management \_\_\_\_\_ Date: \_\_\_\_\_

Sample Number \_\_\_\_\_

Participant

Name \_\_\_\_\_

Note: Participant name is only to be completed if the specimen will be tested immediately and in the presence of the participant. If to be tested later please use only a number and place both the name and number on the testing log.

Substance(s) to be tested for \_\_\_\_\_

Current approved medications for  
participant \_\_\_\_\_

Reason for request (if not random explain suspicion) \_\_\_\_\_

\*\*\*\*\*

Participant refused to submit specimen: Yes \_\_\_\_\_ No \_\_\_\_\_

Were there any problems with obtaining a specimen? Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, Explain: \_\_\_\_\_

Specimen witnessed and collected by \_\_\_\_\_ MPS (see SOP for testing males).

Date \_\_\_\_\_ Time \_\_\_\_\_

\*\*\*\*\*

Specimen tested by \_\_\_\_\_

MPS \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

Test Results: Negative \_\_\_\_\_ Positive \_\_\_\_\_ Positive Drug

Type(s) \_\_\_\_\_

I voluntarily admit that this test is positive because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Participant Signature: \_\_\_\_\_

Date: \_\_\_\_\_





Witnessed by: \_\_\_\_\_



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## APPENDIX I

### SAMPLE ETG DRUG COURT PARTICIPANT CONTRACT

The following document is an **example** of a participant contract for use with Drug Court participants undergoing alcohol abstinence monitoring that employs the laboratory test for ethyl glucuronide (EtG). As with any participant contract, the primary purpose is to outline the behavioral requirements and compliance standards necessary for continued participation in Drug Court. In addition, this participant contract serves to educate, alert and advise Drug Court participants to the potential (incidental) sources of alcohol that could produce a positive urine EtG test result. This contract is designed to inform Drug Court Participants of the numerous commercial products that contain ethyl alcohol and to provide them with a list of substances to avoid while in a Drug Court program. Courts utilizing EtG testing should consider this contract as a tool for advising participants on inadvertent sources of alcohol. This contract may also be useful in the sanctioning of Drug Court Participants when used in combination with a positive EtG test result. Programs should revise this example contract as needed to conform to specific program goals and objectives.

#### URINE ABSTINENCE TESTING AND INCIDENTAL ALCOHOL EXPOSURE CONTRACT

Recent advances in the science of alcohol detection in urine have greatly increased the ability to detect even trace amounts of alcohol consumption. In addition, these tests are capable of detecting alcohol ingestion for significantly longer periods of time after a drinking episode. Because these tests are sensitive, in rare circumstances, exposure to non-beverage alcohol sources can result in detectable levels of alcohol (or its breakdown products). In order to preserve the integrity of the Drug Court testing program, it has become necessary for us to restrict and/or advise Drug Court participants regarding the use of certain alcohol-containing products.

It is **YOUR** responsibility to limit your exposure to the products and substances detailed below that contain ethyl alcohol. It is **YOUR** responsibility to read product labels, to know what is contained in the products you use and consume and to stop and inspect these products **BEFORE** you use them. ***Use of the products detailed below in violation of this contract will NOT be allowed as an excuse for a positive test result. When in doubt, don't use, consume or apply.***

**Cough syrups and other liquid medications:** Drug Court participants have always been prohibited from using alcohol-containing cough/cold syrups, such as Nyquil®. Other cough syrup brands and numerous other liquid medications, rely upon ethyl alcohol as a solvent. Drug Court participants are required to read product labels carefully to determine if they contain ethyl alcohol (ethanol). All prescription and over-the-counter medications should be reviewed with your case manager before use. Information on the composition of prescription medications should be available upon request from your pharmacist. Non-alcohol containing cough and cold remedies are readily available at most pharmacies and major retail stores.



**Non-Alcoholic Beer and Wine:** Although legally considered non-alcoholic, NA beers (e.g. O'Douls®, Sharps®) do contain a residual amount of alcohol that may result in a positive test result for alcohol, if consumed. Drug Court participants are **not** permitted to ingest NA beer or NA wine.

**Food and Other Ingestible Products:** There are numerous other consumable products that contain ethyl alcohol that could result in a positive test for alcohol. Flavoring extracts, such as vanilla or almond extract, and liquid herbal extracts (such as Ginkgo Biloba), could result in a positive screen for alcohol or its breakdown products. Communion wine, food cooked with wine, and flambé dishes (alcohol poured over a food and ignited such as cherries jubilee, baked Alaska) must be avoided. Read carefully the labels on any liquid herbal or homeopathic remedy and do not ingest without approval from your case manager.

**Mouthwash and Breath Strips:** Most mouthwashes (Listermint®, Cepacol®, etc.) and other breath cleansing products contain ethyl alcohol. The use of mouthwashes containing ethyl alcohol can produce a positive test result. Drug Court participants are required to read product labels and educate themselves as to whether a mouthwash product contains ethyl alcohol. Use of ethyl alcohol-containing mouthwashes and breath strips by Drug Court participants is not permitted. Non-alcohol mouthwashes are readily available and are an acceptable alternative. If you have questions about a particular product, bring it in to discuss with your case manager.

**Hand sanitizers:** Hand sanitizers (e.g. Purell®, Germex®, etc.) and other antiseptic gels and foams used to disinfect hands contain up to 70% ethyl alcohol. Excessive, unnecessary or repeated use of these products could result in a positive urine test. Hand washing with soap and water are just as effective for killing germs.

**Hygiene Products:** Aftershaves and colognes, hair sprays and mousse, astringents, insecticides (bug sprays such as Off®) and somebody washes contain ethyl alcohol. While it is unlikely that limited use of these products would result in a positive test for alcohol (or its breakdown products) excessive, unnecessary or repeated use of these products could affect test results. Participants must use such products sparingly to avoid reaching detection levels. Just as the court requires Drug Court participants to regulate their fluid intake to avoid dilute urine samples, it is likewise incumbent upon each participant to limit their use of topically applied (on the skin) products containing ethyl alcohol.

**Solvents and Lacquers.** Many solvents, lacquers and surface preparation products used in industry, construction, and the home, contain ethyl alcohol. Both excessive inhalation of vapors, and topical exposure to such products, can potentially cause a positive test result for alcohol. As with the products noted above, Drug Court participants must educate themselves as to the ingredients in the products they are using. There are alternatives to nearly any item containing ethyl alcohol. Frequency of use and duration of exposure to such products should be kept to a minimum. A positive test result will not be excused by reference to use of an alcohol-based solvent. If you are in



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employment where contact with such products cannot be avoided, *you need to discuss this with your Case Manager.* Do not wait for a positive test result to do so.

**Remember! When in doubt, don't use, consume or apply.**

**I HAVE READ AND UNDERSTAND MY RESPONSIBILITIES:**

\_\_\_\_\_  
PARTICIPANT

\_\_\_\_\_  
DATE

*Paul Cary would like to thank Michael Hollenbeck and Ron Michaelson of the Dearborn, MI Drug Court program for the concept of this contract and the original draft used to produce this example.*



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APPENDIX J

URINE DRUG TEST LABORATORY REQUISITION FORM

**Urine Drug Test**  
laboratory test requisition

Form ID: 115833  
Androscoggin Drug Court

URINE TEST REQUISITION

URINE DRUG SCREEN TYPE

☐ Pre-Employment ☐ Periodic Medical ☐ Random ☐ Other ☐ Chain of Custody ☐ Yes ☐ No  
☐ Post-Treatment ☐ Periodic Court ☐ Directed ☐ No record specimen temperature here

LABELING AND TESTS ORDERED

Label usage example



1. Remove cap.
2. Place security seal around lid and label.
3. Place patient ID label around label.

**Security Seal**

(Donor's initials)

REDWOOD TOXICOLOGY LABORATORY

Redwood Toxicology Laboratory, 1100 Elm Street, Suite 200, Portland, ME 04101 Laboratory phone: 800-444-0441

( ) 552 Screen 2, POP ( ) 551 E15

( ) Other: \_\_\_\_\_ Collector: \_\_\_\_\_

Form ID: 115833 Androscoggin Drug Court

DONOR CERTIFICATION (to be completed by donor)

I certify that I provided my urine specimen to the collector and that I have not adulterated it in any manner. This specimen was sealed in my presence with a tamper-evident seal and the information provided on this form and on the label affixed to the specimen tube is correct. I authorize Redwood Toxicology Laboratory to perform the tests listed and release the results of this testing.

Donor's signature:

115833 Androscoggin Drug Court

Donor's name as listed above (last, first, middle)

\_\_\_\_\_

Donor's ID (last, first, middle)

\_\_\_\_\_

COLLECTOR VERIFICATION (to be completed by collection person personnel)

I certify that this specimen was collected from the above person following established protocols, and the specimen has been properly sealed and labeled.

Collector's signature:

\_\_\_\_\_

Date and time of collection

\_\_\_\_/\_\_\_\_/\_\_\_\_ :\_\_\_\_ :\_\_\_\_ AM/PM

Collector's name as listed above (last, first, middle)

\_\_\_\_\_

Collector's ID (last, first, middle)

\_\_\_\_\_

RECEIVING (to be completed by laboratory)

Specimen received by:

\_\_\_\_\_

Date received:

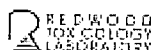
\_\_\_\_/\_\_\_\_/\_\_\_\_

Seal intact?

☐ Yes ☐ No

Label matches?

☐ Yes ☐ No



1100 Elm Street, Suite 200, Portland, ME 04101 Laboratory phone: 800-444-0441  
Fax: 207-572-0441 or 207-572-0442

2-PART FORM 1 OF 2 LABORATORY COPY

11000 07/29/2011



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## APPENDIX K SAFE MEDICATION LIST

Classification	Ingredient to Avoid	Do NOT Take	Safe Medication
<b>Allergy/ Decongestant (Systemic)</b>	Brompheniramine	Bromofed <sup>®</sup> , Dimetapp <sup>®</sup>	Tavist <sup>®</sup> (Clemastine Fumarate)
	Chlorpheniramine	Chlor-Trimeton <sup>®</sup> , Deconamine SR <sup>®</sup> , Extendryl <sup>®</sup> , Kronofed-A <sup>®</sup> , Ryantan <sup>®</sup>	OTC: Claritin <sup>®</sup> , Alavert <sup>®</sup> (Loratadine)
	Dexbrompheniramine	Tussal-ER <sup>®</sup>	Zyrtec <sup>®</sup> (Cetirizine)
	Dexchlorpheniramine	Tannafed DMX <sup>®</sup> , Tannafed DP <sup>®</sup>	Clarinox <sup>®</sup> (Desloratadine)
	Diphenhydramine	Benadryl <sup>®</sup> or its Generic	Allegra <sup>®</sup> (Fexofenadine)
	Acrivastine	Semprex-D <sup>®</sup>	
	Azatadine	Trinalin <sup>®</sup>	
	Carbinoxamine	Palgic <sup>®</sup>	
	Cyproheptadine	Periactin <sup>®</sup>	
	Phenylephrine	Ah-Chew <sup>®</sup> , Deconsal II <sup>®</sup> , Entex LA <sup>®</sup> , Nalex-A <sup>®</sup> , Prolex-D <sup>®</sup> , Sinutuss DM <sup>®</sup> , Tussafed-EX <sup>®</sup>	
	Promethazine	Phenergan <sup>®</sup>	
	Pseudoephedrine	Aquatab D <sup>®</sup> , Duratuss <sup>®</sup> , Entex PSE <sup>®</sup> , Lodrane <sup>®</sup> , Profen <sup>®</sup> , Sudafed <sup>®</sup> , Claritin D <sup>®</sup> , Allegra D <sup>®</sup> , Zyrtec D <sup>®</sup>	
	Triprolidine	Actifed <sup>®</sup> , Allerfrim <sup>®</sup> , Cenafed <sup>®</sup> , Others	



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## **APPENDIX L**

### **MEDICATION PROTOCOL**

#### **Medication and Adult Drug Treatment Court Participants**

Maine's Adult Drug Treatment Courts require that all Participants engage satisfactorily in treatment interventions consistent with best practices in the fields of substance abuse and mental health. These practices may include medication-assisted treatment for addictions and to treat symptoms of mental illness. Prescribing decisions concerning the type and dosage of medication shall only be made by an appropriately licensed consulting physician or other appropriately licensed medical professional, including dentists. The Drug Court retains the responsibility to monitor medication compliance in the context of the Drug Court structure, management, and public safety. Participants are responsible for ensuring that the Drug Court is proactively aware of any medications they are taking and for taking those medications in a manner consistent with the prescription.

- In the process of comprehensively screening and assessing all Drug Court candidates, the potential need for medication, in addition to medications already being prescribed, will be identified and communicated to the participant. This information will also be shared with the Drug Court team.
- The participant will be referred by the Drug Court case manager in collaboration with the Drug Court clinician to a qualified medical professional for further assessment of medication needs and for the prescribing of medication if indicated.
- Ideally, with the exception of dentistry, the prescriber will be an employee of the contracted agency providing substance abuse services to the Drug Court. Alternatively, the prescriber should be familiar with Drug Court practices and procedures, criminal justice Participants, and be willing and able to work closely with the Drug Court team. If a prescriber is unwilling to cooperate with the Drug Court, the participant will be required to retain a new prescriber who is within 30 days of the determination by the Drug Court team.
- Participants will use only one prescriber and pharmacy unless specialized treatment is needed.
- The Drug Court case manager will ensure that the participant has provided the prescriber with notification that the participant is a participant in the Drug Court. The case manager will also ensure that a release is signed by the participant to permit mutual communication with the prescriber, the case manager, and the clinician. If on probation, the probation officer will be also authorized to share and receive information.



- The participant is obliged to inform the case manager of any prescriptions. In the event that the clinician, case manager or other Drug Court team members have concerns about the appropriateness of the prescription, the clinician or the case manager will contact the prescriber to discuss those concerns after communicating those concerns to the participant.
- Although medical marijuana can be legally prescribed in Maine, it remains illegal according to federal statute. The Drug Courts in Maine are recipients of federal funding. Additionally, the ability to successfully engage in recovery from substance abuse while ingesting prescribed marijuana has not been determined. The risk of diversion of marijuana in a Drug Court setting is also significant. For these reasons, defendants with certificates for medical marijuana are not eligible for admission. A participant who obtains a certificate will be dismissed from the Court and returned to regular case processing.
- The case manager, substance abuse counselor, and mental health clinician will update each other continually regarding their conversations with the prescriber.
- Medication prescribed in the treatment of addiction and/or mental illness should be prescribed in limited quantities to reduce the risk of overdose and/or diversion. Blister packs should be used when Suboxone and Subutex are prescribed.
- If a participant is demonstrating behavioral indicators of excessive dosing, such as nodding off, the clinician or the case manager will discuss the matter with the participant before contacting the prescriber. The goal is for the prescribed dose to be modified to eliminate these behavioral indicators. The prescriber may require the participant to undergo testing, including blood tests, to determine if the participant is supplementing the prescribed dose.
- If a participant's presentation while appropriately medicated continues to be disruptive to treatment or other aspects of participation in the Drug Court, the participant may be terminated from the Drug Court, with no sanctions being suggested.
- Any inappropriate use of a prescription or over-the-counter medication will be reported to the Drug Court team and the prescriber. Such behavior may result in the participant receiving a sanction or being expelled from Drug Court if appropriate.
- If it is determined that a participant is using prescription medication illegally to self-medicate and manage symptoms such as anxiety or cravings, the participant will be offered the opportunity for a medication evaluation, which may result in a legal prescription for this medication. Unwillingness to participate in medically supervised medication assisted treatment may result in a sanction or being expelled from Drug Court if appropriate.



- Drug Courts considering the admission of individuals with pre-existing medical conditions for which they are receiving narcotics for pain relief, stimulants for attention deficit disorder, tranquilizers for anxiety, or other medications with a mood-altering effect must obtain an assessment as to whether alternative medications can be appropriately prescribed prior to admission. If this is not the case, compliance management and the risk of diversion must be factored in to the admission decision and subsequent service plan. The same procedure applies for Participants whose medical or mental health status changes while in the Drug Court.
- Participants should be informed in detail upon admission and as indicated throughout their course of participation in the Drug Court of this protocol.



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## **APPENDIX M**

### **CASE MANAGEMENT JOB DESCRIPTION**

#### **Case Manager**

The Case Management Provider will commit its resources to case manager(s) by providing education, orientation, training and experience regarding Adult Drug Treatment Court case management services to case manager(s). The case manager shall have knowledge of criminal justice issues and substance abuse issues and shall commit to best practices for case management.

The case manager's duties are as follows:

- identify pretrial detainees and probation violators eligible for application to the ADTC through coordination with pretrial staff, district attorney's offices, defense bar, courts, jails, other institutions and the local community treatment and resource providers
- accept and process all referrals submitted to the court for application and notify all team members of the referral
- verify if counsel is assigned to eligible defendants, assist counsel and defendant in navigating the referral process and work with counsel to ascertain defendant's interests in ADTC
- perform criminal history checks using all resources available, including but not limited to arrest data, NCIC, SBI, District and Superior Court records and probation records
- interview defendants to assess eligibility, risk and need using various evidenced based methods and tools such as motivational interviewing, AC-OK screening, TCU II, Mental Health Screening III, MPRAI, ODARA and the LSI-R:SV, and LSI-R.
- execute releases of information with every individual in which the information disclosed is protected under 42 CFR Part 2.
- comply with Federal and State laws and agency policy regarding participant confidentiality
- verify all participant reported information by at least one viable and credible source
- conduct investigations, exploring and verifying information gained during the participant interview speaking with but not limited to family, friends, employers, educators, treatment and medical providers, law enforcement, probation, district attorney's and jail staff
- refer candidates to designated treatment providers for comprehensive assessments
- provide information to the court team in the form of a presentation for each participant for consideration for acceptance



- develop recommendations for the Court for the setting of bail, including written contracts for supervised release for review of district attorney, defense counsel, court and if applicable, probation officers
- supervise compliance with terms of release contracts, including preparation of revocation documents for non-compliance by participants
- establish and maintain a reporting procedure for participants that consists of, at a minimum, one time per week, in person meeting to discuss progress made on case plan AND compliance with conditions
- utilize tools such as the LSI-R to implement a case plan addressing needs for each participant accepted into the court
- perform various case management tasks, including but not limited to assistance with MaineCare, referrals to housing, education, employment, training, substance abuse, mental health and medical treatment
- perform random drug and alcohol tests by way of a random color system giving consideration to risk of recidivism and risk of substance abuse
- jointly monitor with probation the progress of participants on probation and exchange information regularly with probation.
- notify Probation immediately following participants' violation when the participant is on probation
- obtain certification of drug testing through Redwood Toxicology
- perform random home visits on participants while accompanied by law enforcement
- provide weekly court team agendas and written updates on each participant for discussion
- maintain regular communication with the Clerk of Courts to manage the court docket, transportation of in custody participants and scheduling of admissions/termination hearings
- maintain and coordinate a tangible reward system using an evidenced based practice and donations solicited from the local area
- execute documents and maintain files in accordance with agency policy
- document every event as it pertains to the bail compliance and overall supervision of each participant
- enter and maintain data in the DTxC management information system on a regular basis for the purpose of program evaluation and research
- attend all DSAT, ADTC and staff trainings and meetings
- attend all appropriate criminal justice and treatment meetings and participate in appropriate sub-committees
- network with other agencies and providers of services necessary to the provision of ADTC services
- report weekly to the management team or assigned supervisor
- perform duties outlined in the "Ten Key Components" which defines evidenced based practice for the ADTCs





**APPENDIX N**

**ADULT DRUG COURT BEST PRACTICE STANDARDS  
VOLUME ONE  
(SEE ATTACHED AND AT [HTTP://WWW.NDCI.ORG/STANDARDS](http://www.ndci.org/standards))**