TREATMENT COURT PRACTITIONER TOOL KIT

Model Agreements and Related Resources to Support the Use of Medications for Opioid Use Disorder

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INTRODUCTION

Approximately 15% to 30% of adult treatment court participants have a moderate to severe opioid use disorder (OUD) or report primarily having problems with opioid use (Marlowe et al., 2016; Matusow et al., 2013).

Studies in treatment courts have reported significantly lower graduation rates and higher recidivism rates for participants with OUD (Gallagher et al., 2018; Rempel et al., 2003) and high rates of overdose deaths (Kearley et al., 2019). When treatment courts have adopted the full range of FDA-approved medications for opioid use disorder (MOUD) — including methadone, buprenorphine (e.g., Suboxone, Subutex), and naltrexone (e.g., Revia, Vivitrol) — they have produced significantly better outcomes, including improvements in treatment retention, drug test results, graduation rates, employment, and cost-effectiveness (Dugosh et al., 2019).

The National Association of Drug Court Professionals (NADCP) *Adult Drug Court Best Practice Standards* (2013, 2015) are the blueprint on which successful adult treatment courts are built. Representing 25 years of empirical study on addiction, pharmacology, behavioral health, and criminal justice, these standards are the foundation upon which all adult treatment courts should operate. The standards require treatment courts to provide medications for addiction treatment when it is reasonably available and medically indicated and prohibit programs from requiring participants to discontinue the medication as a condition of entry or graduation from the program. For the past decade, NADCP has provided training and technical assistance to treatment courts across the country on understanding and implementing MOUD in their court. This tool kit is the culmination of the current research on MOUD and lessons learned as a result of our training and technical assistance.

This tool kit offers practical resources to help treatment courts implement MOUD in accordance with scientific knowledge, treatment court best practices, and emerging legal precedent. It is intended for treatment courts that are implementing or preparing to implement MOUD in their program and assumes that staff are already familiar with the medications and how they work. Online trainings are available from NADCP and other organizations to educate staff about MOUD and other evidence-based treatments for OUD:

NADCP and American Academy of Addiction Psychiatry (AAAP), Medication-Assisted Treatment course

Health Resources and Services Administration (HRSA) trainings on MOUD:

SAMHSA free training on MAT
How to Receive MAT Training (from HRSA)

In addition, the following resources provide further information on the use of MOUD in treatment court:

The ASAM National Practice Guideline for the Treatment of Opioid Use Disorder, 2020 Focused Update

National Drug Court Institute (NDCI) resources for MOUD

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This tool kit includes three model memoranda of understanding, two letter templates, and an informational brochure for treatment court participants and their loved ones. You can download Word versions of these documents from https://www.ndci.org/resource/training/medication-assisted-treatment/moud-toolkit/ and customize them as needed.

Partner Agencies Agreement. Appendix A contains a model memorandum of understanding specifying the mutually agreed-upon roles and responsibilities of the partnering agencies working in the treatment court. The purpose of this agreement is to ensure that all team members are on the same page, follow best practices, and do not work at cross purposes or inadvertently undermine MOUD effectiveness. Staff responsibilities outlined in the memorandum include screening participants for their possible indications for MOUD, making suitable referrals, monitoring medication compliance, responding appropriately to infractions, delivering complementary services to facilitate success with MOUD, seeking funding for the medications, and identifying qualified medical providers.

Medical Practitioner Agreement. Appendix B contains a model agreement between MOUD providers and the treatment court team. The agreement clarifies the respective domains of authority of medication prescribers and treatment court staff to ensure that these professionals stay in their own lanes and practice within their appropriate areas of training and expertise. Medical providers are the parties responsible for making all medication-related decisions but must agree to work collaboratively with the treatment court team, share pertinent information as necessary to coordinate participant care, and respond in a timely manner to questions or concerns about the treatment plan.

Participant Agreement. Appendix C contains a model agreement for treatment court participants. Written in easy-to-understand language (which can be read aloud for persons with reading difficulties), it clarifies participants' rights and responsibilities in the program related to MOUD, including the choice of medical providers and medication regimens, sharing of treatment-related information, medication monitoring procedures, and potential consequences for misuse or diversion of the medication.

Participant Brochure. Appendix D contains an informational brochure written in plain language designed to inform participants and their loved ones about MOUD, dispel common misconceptions they may have about the medications, and invite those who are interested to get further information from treatment court staff. The brochure is intended to be available widely at the courthouse, treatment programs, and other agencies affiliated with the treatment court and distributed freely to family members and significant others of participants. Programs may also elect to audiotape or videotape a recitation of the material for persons with reading difficulties.

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Recruitment Letter for Medical Providers. Appendix E contains a modifiable template for a letter from the treatment court judge to prospective MOUD providers introducing them to the program and inviting them to meet with the team and consider providing needed services for participants. The letter seeks to dispel common misconceptions that medical practitioners may have about treatment courts, underscores that participants receive treatment and other rehabilitative services in lieu of traditional criminal justice sanctions, and provides assurances that treatment court staff will work collaboratively with the medical practitioner to enhance both public health and public safety objectives.

Letter to Jail Officials. Finally, Appendix F contains a modifiable template for a letter from the treatment court judge to jail officials who may deny or place undue restrictions on MOUD for inmates. Treatment courts may, at times, administer brief jail sanctions for serious program infractions, and many participants are unwilling to begin or continue methadone or buprenorphine for fear of being taken off the medication precipitously and suffering acute withdrawal, cravings, or other mental health symptoms (Sharma et al., 2017). Involuntary withdrawal from opioids during custody can be medically hazardous, reduces the likelihood that individuals will resume substance use treatment or MOUD after release, and poses a serious risk of overdose or death if the individual returns to preincarceration levels of opioid use (Green et al., 2018; National Academies of Sciences, Engineering, and Medicine [NASEM], 2019; Rich et al., 2015). The letter seeks to begin a collaborative discussion about ways to continue MOUD safely and affordably during custody. The template can also be modified readily for use by participants, defense counsel, or treatment providers to raise concerns with treatment court officials who may place unwarranted restrictions on the use of MOUD.

COMMON PRINCIPLES AND BEST PRACTICES

The documents in the appendices are written for different parties and contexts and emphasize different issues, and the language is simplified for participants and their significant others. However, common principles and best practices are reflected in each of the documents and are required for safe and effective MOUD service delivery.

Right to Receive MOUD

Each document affirms participants' right to receive MOUD when prescribed lawfully by a duly trained and credentialed medical practitioner who has personally examined the participant and will continue to monitor treatment progress. This is the accepted standard of care in the substance use treatment field, affirms the treatment court's commitment to professional best practice standards, and conforms with emerging legal precedent. MOUD, in combination with counseling and social services, is the recognized standard of care for treating OUDs according to nearly all leading scientific and professional organizations, including the National Institute on Drug Abuse (NIDA, 2014, 2018), Substance Abuse and Mental Health Services Administration [SAMHSA] (2019, 2020), Office of the Surgeon General (2018), NASEM (2019), and World Health Organization (WHO, 2009).

Participant Obligations

Participants receiving MOUD incur several concomitant obligations to behave responsibly and avoid misusing the medication. This includes a strict requirement to execute any releases of information necessary for treatment court staff to communicate with the medical prescriber about the participant's diagnosis, indications for MOUD, and clinical progress. Participants must, of course, refrain from nonprescribed use or illicit diversion of the medication, and toward these aims staff may institute any of several procedures delineated in the agreements to monitor medication compliance, such as observed ingestion or random pill counts. These procedures should be employed only when necessary to prevent foreseeable misuse of the medication and should be discontinued when no longer necessary, to avoid placing undue burdens on participants' access to needed treatment.

Programs may sanction participants for willful misuse or diversion of prescription medications pursuant to treatment court best practice standards (NADCP, 2013). Some infractions, referred to as *proximal* infractions, reflect inattention to one's responsibilities or willful misconduct, and merit a higher magnitude of sanctions to ensure that participants take their responsibilities in the program seriously (Marlowe, 2017). Examples of proximal infractions might include combining MOUD with an illicit substance to achieve an intoxicating effect, taking more than the prescribed dosage to achieve an intoxicating effect, or obtaining an unapproved prescription for another controlled medication. Other infractions, referred to as *distal* infractions, are commonly symptoms of a participant's illness and require therapeutic intervention to treat debilitating clinical symptoms and remediate skill deficits. Appropriate responses to distal infractions may include adjusting the medication regimen if medically indicated, adding complementary counseling services (e.g., motivational enhancement therapy, cognitive-behavioral therapy), increasing supervision requirements (e.g., day reporting, home visits), or assigning low-magnitude instructive homework assignments (e.g., journaling exercises, daily activity scheduling).

For participants with an OUD, relapse to opioid use should ordinarily be considered a distal infraction until they have reached a therapeutic dosage of the medication as determined by the prescribing physician and are no longer experiencing clinically significant withdrawal

symptoms, opioid cravings, or associated mental health symptoms such as depression, irritability, or anhedonia (loss of pleasure). Applying high-magnitude sanctions for opioid use prior to this level of clinical stabilization is likely to trigger feelings of learned helplessness, cause the treatment court team to use up its available sanctions prematurely, and worsen outcomes.

Treatment Court Responsibilities

Treatment court staff have critical responsibilities for ensuring the safe and effective use of MOUD. In addition to monitoring medication compliance and responding to infractions, other important duties include screening participants proactively for possible indications for MOUD, making suitable referrals where indicated, motivating participant acceptance of referrals, delivering complementary counseling and social services to facilitate success on MOUD, and working to find adequate funding for MOUD and qualified medical providers.

Screening and referral. All participants entering the treatment court should be screened at intake (and thereafter if their clinical presentation changes) for possible indications for MOUD. Because many treatment courts do not have a medical practitioner on staff, this function may be performed by a trained social worker, psychologist, certified addiction counselor, or other clinically credentialed professional. The screening should assess whether the participant has an OUD and is at risk for serious repercussions from this disorder, such as overdose, treatment dropout, or nonresponse to treatment without MOUD. Participants screening positive should be referred as soon as possible to a qualified medical practitioner for a comprehensive medical evaluation and determination of their suitability for MOUD. Examples of publicly available and validated screening tools that are commonly used for these purposes include, but are not limited to, the following:

Screening for Opioid Use Disorder

- Rapid Opioid Dependence Screen (RODS) (see the appendix in this article)
- Texas Christian University (TCU) Drug Screen-5-Opioid Supplement

Screening for Opioid Withdrawal Symptoms

- Clinical Institute Narcotic Assessment (CINA) Scale for Withdrawal Symptoms
- Clinical Opiate Withdrawal Scale (COWS)
- Subjective Opiate Withdrawal Scale (SOWS)

Screening for Opioid Cravings

- Brief Substance Craving Scale (BSCS)

Motivating acceptance of referrals. Not all participants needing MOUD will be motivated to accept a referral. Some participants may have heard negative or stigmatizing comments about MOUD — for example, that it merely substitutes one addiction for another or keeps people dependent on substances indefinitely. Although deciding whether to take medication is a voluntary choice, exploring and reality-testing these sentiments is critical. Despite a repeated history of failed attempts in medication-free counseling, some participants may cling to the all-or-nothing belief that there is only one road to success. Wishing to avoid becoming dependent on medication, they may keep themselves bound to more destructive and dangerous substances. For such persons, it may be helpful to speak about MOUD as a stepping-stone along the path to recovery. The comfort and stability offered by the medication can help some people to make better use of counseling, eventually leading to long-term abstinence from all substances. For others, it may be possible to taper the medication dosage over time to a relatively low maintenance level with minimal psychoactive effects. In addition, many participants may not realize that they have a choice of medications. Naltrexone, for example, does not cause intoxication or physiological dependence. Both naltrexone and buprenorphine

can be prescribed from a private physician's office and dispensed from any pharmacy, thus obviating the need to go to a specialized methadone clinic that may not be conveniently located.

Another promising strategy is to have treatment court graduates or other persons who have succeeded on MOUD meet with new participants, acknowledge their own initial reticence to take medication, and describe their subsequent positive experiences. Each participant who succeeds on MOUD becomes a potential peer advisor for new participants and can contribute to a collective acceptance of MOUD in the treatment court milieu.

Communal psychoeducation. Stigmatizing or counterproductive messages from participants' family members or loved ones, members of the self-help recovery community, fellow treatment court participants, and staff can interfere substantially with treatment effectiveness (Dorman et al., 2019; Gallagher et al., 2019; Neal et al., 2019). Negative judgments may come in a variety of forms, such as minimizing an individual's recovery because he or she is receiving MOUD or predicting (wrongly) that MOUD will eventually lead the person back to illicit opioid use. The judge and other team members should take every opportunity to deliver MOUD-affirming messages during court hearings, group counseling sessions, and other communal forums, emphasizing pro-recovery messages and creating a general atmosphere of acceptance of MOUD. Examples of such messages might include:

"The medications we use in this treatment court do NOT substitute one drug or one addiction for another. When people take these medications as prescribed by their doctor, they do not get high, and they can function just as well as anyone else in their job, schooling, child-rearing, or other chores."

"In this program, we follow the science and do what works. Science proves these medications save lives."

"Just because some people achieved recovery without medication does not mean that everyone must. There is more than one road to recovery."

"Medication is not a crutch. Our participants receiving these medications work just as hard as anyone else, if not harder. They do all the same counseling in addition to taking medication."

"Nearly every leading medical and scientific organization says that medications for opioid use disorder work, and people taking these medications are still considered to be in recovery."

"You have all heard that addiction is a disease and not a moral failing. Well, just like any other disease, medication can be part of the cure."

Using language that is associated with empathy and optimism, such as *recovery* or *recurrence of use,* rather than negative or judgmental terms, such as *relapse* or *dirty urine,* has been shown to reduce negative attributions toward persons with OUD and increase acceptance of evidence-based practices, including MOUD (Ashford et al., 2018; Woods & Joseph, 2015). Clinicians working with the treatment court may also need to deliver couples- or family-based psychoeducation with participants' loved ones describing the safety and efficacy of MOUD, how it works, potential side effects to be aware of, and how to respond to those side effects, and working to dispel commonly held and stigmatizing beliefs about MOUD (Woods & Joseph, 2012). Further information about strategies to counteract stigma in your program can be obtained at:

"Turning Voices into Action," Heretohelp Visions Journal

"Smashing the Stigma of Addiction," Hazelden Betty Ford Foundation

"Anti-Stigma Toolkit," Central East Addiction Technology Transfer Center

"Understanding Stigma of Mental and Substance Use Disorders," Chapter 2 of *Ending Discrimination Against People with Mental and Substance Use Disorders: The Evidence for Stigma Change*

Self-help groups. A report from Narcotics Anonymous (2016) found that many NA meetings wrongfully prohibit participation by individuals receiving MOUD or are less welcoming of such individuals. Treatment court staff should take proactive measures to find self-help or peer-support recovery groups in their community that are supportive of MOUD. Medication-Assisted Recovery Anonymous (MARA) maintains an online locator service to help programs identify such groups in their area and, if necessary, provides information and resources to assist in developing new groups:

MARA International

Preparatory interventions designed to help participants cope with negative reactions they may encounter from members of the self-help recovery community are also described in several resources (Galanter, 2018; Krawczyk et al., 2018; Suzuki & Dodds, 2016; White et al., 2013).

Peer recovery specialists. Although research is just getting started on the effects of peer mentors or peer recovery support specialists, emerging evidence suggests that pairing participants with these qualified individuals is associated with better counseling attendance and medication adherence as well as salutary effects on self-esteem and motivation for change (Bassuk et al., 2016). Terminology and certification procedures vary by jurisdiction; however, all peer specialists have lived experience related to substance use treatment and often justice system involvement (and, ideally, with MOUD as well), have been consistently abstinent from illicit substance use and criminal activity for at least the previous three years, and have completed requisite training on peer counseling principles, ethics, and crisis management (SAMHSA, 2017). One randomized study in Philadelphia reported significantly better outcomes for treatment court participants who were assigned to peer mentors (Belenko et al., 2019); however, the study did not address success with MOUD specifically. Information on training curricula and certification procedures for peer recovery specialists can be obtained from:

NAADAC National Certified Peer Recovery Support Specialist Credential

Mental Health America National Certified Peer Specialist Certification

Tool kits for starting peer specialist services in your program can be obtained from:

Peers, SAMHSA

Peer Support Toolkit, City of Philadelphia DBHIDS

Funding for MOUD. Many treatment courts are uncertain about how to obtain funding to support MOUD. Many states fund MOUD for programs serving criminal justice populations or persons affected by the opioid epidemic through state block grants or direct appropriations. As a result of recent settlement agreements with pharmaceutical companies, dedicated funds have been allocated in many jurisdictions for persons afflicted by the opioid crisis. Treatment courts must learn how to access these funding streams by making inquiries of state executive grant-making agencies and legislative bodies. Some treatment courts, jails, prisons, and community corrections agencies have also been able to negotiate the purchase of medications at reduced prices directly from pharmaceutical companies, who are often motivated to gain access to the criminal justice system to reach new clients.

More than 1,200 federally qualified health centers (FQHCs) located primarily in inner-city or rural areas offer buprenorphine and other medications

at discounted fees for uninsured and low-income individuals. Treatment courts can locate FQHCs in their community at:

Find a Health Center, HRSA

The 340B Drug Pricing Program is a federal government program requiring drug manufacturers participating in Medicaid to provide outpatient medications to eligible healthcare organizations and other covered entities at significantly reduced prices. Covered entities are those that serve highly vulnerable populations, including hospitals treating a disproportionate share of poor and uninsured patients, sole community hospitals, and rural referral centers. Covered entities may be required to provide discounted medications not only to Medicaid recipients but also to uninsured patients and those covered by Medicare or private insurance. More information about locating covered entities can be obtained from:

Office of Pharmacy Affairs, HRSA

The most common reimbursement for MOUD comes from Medicaid. With a few limited exceptions, persons in jail or prison are not eligible for Medicaid or most types of insurance while incarcerated; however, coverage is available for persons on probation or parole, in treatment courts, under home confinement, and in community-based correctional residential programs (e.g., halfway houses) so long as they are free to leave the facility during work or other specified hours (Pew Charitable Trusts, 2016). All state Medicaid programs cover at least one medication used to treat OUD, and many cover all three FDA-approved medications. As of February 2018, 36 states and territories covered methadone, 51 covered buprenorphine, 49 covered naltrexone, and more than half had increased coverage for naloxone to reverse opioid overdose (Kaiser Family Foundation, 2019; National Conference of State Legislatures, 2019). Many states also have discretion under Medicaid to cover rehabilitative services, defined broadly to include peer recovery specialists, supportive housing, and supported employment services.

Benefits assistants. Barriers nevertheless persist in gaining access to Medicaid and other reimbursement coverage. Managed care entities may require prior authorization, require certain medications to be used as the front-line regimen, or place restrictions on the dose, quantity, or duration of MOUD. Navigating these complex coverage requirements can be difficult for treatment court participants. Fortunately, several strategies have proven successful in creating linkages to healthcare coverage for MOUD and enhancing access to services. States have discretion under Medicaid to cover benefits assistants to identify and enroll persons eligible for Medicaid and case managers to help beneficiaries locate, apply for, and enroll in treatment and social support programs (Guyer et al., 2019; Pew Charitable Trusts, 2016). As noted earlier, states may also cover peer support specialists with lived experience to help beneficiaries navigate the healthcare system, make it on time to scheduled appointments, and achieve long-term recovery.

Locating MOUD providers. Treatment courts may be unsure of how to locate qualified MOUD providers in their community. Several online directories provide information on physicians and treatment agencies specializing in addiction medicine or addiction psychiatry. Most of these websites can be queried by city, state, or zip code to identify medical practitioners in a nearby community:

Addiction Psychiatrists by State, AAAP

Find a Doctor, American Board of Addiction Medicine (ABAM)

Membership Directory, American Society of Addiction Medicine (ASAM)

Behavioral Health Treatment Services Locator, SAMHSA

Buprenorphine Practitioner Locator, SAMHSA

Opioid Treatment Program Directory, SAMHSA

Find a Treatment Facility, SAMHSA

State Opioid Treatment Authorities, SAMHSA

In addition, single state agencies (SSAs) for substance use treatment often maintain lists of credentialed providers, including those authorized to provide office-based treatment with buprenorphine. Colleges, universities, and medical schools are excellent resources for locating substance use treatment specialists. Finally, state or county boards of health and county medical societies can identify medical practitioners offering substance use treatment in the local area.

Buprenorphine waivers. Access to methadone is severely limited by the fact that more than 80% of licensed opioid treatment programs in the United States are at or above capacity, most are situated in urban or high-population-density areas, and strict requirements for the provision of complementary psychosocial services often lead to long wait lists for treatment (NASEM, 2019). Office-based treatment with buprenorphine is intended to reach larger numbers of persons in need. After completing an eight-hour training and receiving a DATA-2000 waiver, specialist physicians (e.g., those who are board-certified in addiction medicine or psychiatry) may treat up to 100 individuals in the first year and 275 individuals thereafter. Waivered physician's assistants and nurse practitioners can treat up to 100 individuals after completing a 24-hour training (this was increased to 275 individuals during the COVID-19 pandemic). The Opioid Response Network can assist in identifying waivered buprenorphine providers in your community:

Opioid Response Network

Unfortunately, only about 5% of eligible practitioners are waivered to prescribe buprenorphine (NASEM, 2019). Sustained outreach is needed to enlist more providers to obtain DATA-2000 waivers and serve persons in need. Resources are available to help medical practitioners complete the requisite training and obtain buprenorphine waivers. Treatment courts may need to bring these resources to the attention of prospective providers and encourage them to complete the requirements to contribute to the health of their community. Training and other resources on buprenorphine waivers are available from several organizations:

Providers Clinical Support System (PCSS)

This site offers MOUD training courses for physicians, nurse practitioners, and physician's assistants to obtain buprenorphine waivers.

ASAM e-Learning Center

This site offers training curricula and information on certification procedures for physicians to obtain buprenorphine waivers.

American Association of Nurse Practitioners (AANP)

This site offers 16- and 24-hour training courses for nurse practitioners and physician's assistants.

Note that naltrexone, including the extended-release injectable formulation, does not require special legal certification to administer. Therefore, enlisting medical practitioners to provide naltrexone should be substantially easier for most treatment courts to accomplish.

Medical Provider Responsibilities

Medical providers working with treatment court participants must provide care consistent with legal requirements and generally accepted medical practices. This includes examining the participant in person, reviewing applicable medical records, if any, meeting with the participant as necessary to monitor treatment progress, and responding expeditiously to medication side effects or other untoward events. Medical providers must also agree to work collaboratively with the treatment court team, share pertinent information as necessary to coordinate participant care, and respond in a timely manner to questions or concerns about the treatment plan. Sharing of information must, of course, be predicated on participants signing all requisite releases of information, and the scope of the disclosures should be limited to the minimum information necessary to ensure safe and effective use of MOUD. Examples of information that should ordinarily be communicated to treatment court staff are delineated in the medical practitioner agreement in Appendix B. To encourage accurate self-reporting by participants and protect their legal rights, information obtained from the medical provider while evaluating a participant for MOUD or monitoring treatment progress should be used solely to inform the treatment plan and other conditions of the treatment court (e.g., indicated complementary services), and should not be admissible to substantiate or prosecute a new or prior criminal charge or technical violation of a court order.

Medical providers are expected to respond within a reasonable time (typically no more than 48 hours) to questions or concerns from treatment court staff about a participant's apparent lack of responsiveness to the treatment plan, possible medication side effects, and suspected misuse or diversion of the medication. Medical providers must also respond as soon as practicable to any report of serious or life-threatening symptoms and provide treatment court staff with emergency instructions and contact information for emergency services to be used in the event of a medical emergency.

The medical provider or a clinically trained member of the medical provider's staff should provide routine progress reports in advance of treatment court team meetings describing the participant's progress in treatment, including whether the participant has reached a therapeutic dosage of the medication or is continuing to experience clinically significant withdrawal symptoms, opioid cravings, or other associated mental health symptoms such as depression or anhedonia. This information may be used by the team to adjust other conditions in the treatment court, such as determining whether complementary counseling services are indicated or deciding on suitable responses to positive drug tests for illicit opioids; however, it should not be used by nonmedically trained professionals to second-guess or override the medical provider's judgment.

PDMP inquiries. Medical providers should be required to conduct prescription drug monitoring program (PDMP) inquiries at the beginning of treatment and at regular intervals thereafter (at least every 90 days) and report positive findings to the treatment court team (unless the treatment court is lawfully authorized to conduct PDMP inquiries in the jurisdiction). PDMPs are electronic databases containing patient-identifying information on controlled medications prescribed or dispensed within a state or territory and other jurisdictions with reporting reciprocity. Results from a PDMP inquiry can reveal whether a participant has obtained an unapproved prescription for a controlled medication from another provider. Mandatory monitoring using a PDMP is associated with significant improvements in physician prescribing practices (Sacco et al., 2018), lower rates of opioid misuse

and opioid-related mortality (Delcher et al., 2015; Patrick et al., 2016; Grecu et al., 2019), reduced rates of crime and violence (Dave et al., 2018), and a lower incidence of dangerous medication interactions (Perrone & Nelson, 2012).

Every jurisdiction in the United States has a PDMP, and nearly all jurisdictions permit physicians, pharmacists, and/or other medical practitioners (e.g., nurse practitioners) to conduct PDMP inquiries on their patients and share the results with other interested professionals after obtaining informed consent from the participant and other legally required authorizations (Knox, 2020). Most jurisdictions also authorize PDMP reports to be communicated without patient consent to law enforcement personnel, and approximately one third authorize reports to community corrections agencies or treatment courts for purposes of client case management (Knox, 2020). Treatment courts can obtain information about PDMP reporting regulations in their jurisdiction at:

PDMP Training and Technical Assistance Center

Overdose education and prevention. Medical providers working in conjunction with clinically trained members of the treatment court team should educate all participants (not just those receiving MOUD), their family members, and significant others about simple precautions they can take to avoid or reverse a life-threatening drug overdose. At a minimum, this should include providing emergency phone numbers and other contact information to use in the event of an overdose or medical emergency.

NADCP best practice standards also require treatment courts to educate participants about the safe and effective use of overdose-reversal medications, such as naloxone hydrochloride (naloxone or Narcan). Where reasonably available and permitted by law, participants and their significant others should be equipped with intranasal naloxone kits and trained on their use. Studies confirm that educating at-risk persons, their significant others, and other first responders about naloxone and other overdose countermeasures significantly reduces overdose deaths (Strang, 2015; Wheeler et al., 2012). Most states shield "Good Samaritans" from criminal or civil liability if they administer naloxone in good faith or render comparable aid in response to a drug overdose (Strang et al., 2006).

Changing Medical Practitioners

Lawfully credentialed medical practitioners are entitled to a presumption of competence given their advanced training and experience, and they should not be second-guessed as a matter of course by nonmedically trained professionals. Interfering with the doctor-patient relationship can undermine treatment motivation or effectiveness, and withdrawing or transferring a participant from medical care is, itself, a medical decision necessitating medical expertise.

Incompetent or unscrupulous medical practices do occur, however, and treatment courts have a duty to safeguard participants from such practices. If treatment court staff have a reasonable cause for concern about the quality of care being recommended or delivered, the appropriate course of action is to request a new evaluation, or a second opinion based on a review of the participant's medical record, from another qualified medical practitioner. Participants should be required to transfer to a new medical provider only if the judge finds, based on expert medical evidence, that the care being proposed or provided falls below the generally accepted standard of care in the medical community or poses a substantial risk to the participant's welfare. In such circumstances, considerable caution is required to ensure that there is a seamless transition of care to a new medical provider.

CONCLUSION

MOUD, in combination with counseling and social services, is the generally recognized standard of care for treating opioid use disorders in treatment court. This tool kit equips treatment courts with model memoranda of understanding and other resources needed to assist them in delivering MOUD in accordance with scientific best practices and applicable legal mandates. Programs needing further guidance can obtain team-based training and technical assistance from NADCP.

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Partner Agencies of the _____ Treatment Court

MEMORANDUM OF UNDERSTANDING

Governing the Use of Medications for Opioid Use Disorder

I. Access to Medications for Opioid Use Disorder

A. The _____ Treatment Court is committed to providing safe and effective treatments for substance use disorders while safeguarding participant welfare, public safety, and the fair administration of justice.

B. Medications for opioid use disorder (MOUD), including methadone, buprenorphine (e.g., Suboxone, Subutex), and naltrexone (e.g., Revia, Vivitrol) [INSERT EXAMPLES OF OTHER BRAND NAMES USED IN THE PROGRAM, SUCH AS ZUBSOLV OR SUBLOCADE, IF DESIRED], in combination with counseling and social services, are demonstrated to improve outcomes for persons with opioid use disorders involved in the criminal justice system. Proven benefits include increasing treatment attendance and reducing illicit opioid use, overdose risk, and new drug-related arrests and technical violations.[1]

C. Participants in the treatment court are permitted to receive MOUD when prescribed lawfully by a licensed physician or other legally authorized medical provider in the state or territory, such as a nurse practitioner or physician's assistant, who has received the requisite training and credentials to prescribe the medication, has personally examined the participant, and will continue to monitor treatment progress and safety.

D. Participants are not required to change medications, reduce the medication dosage, or discontinue MOUD as a condition of entering or graduating successfully from the treatment court. Participants receiving MOUD are eligible for the same services in the program as other participants and earn the same legal and other benefits of graduation.

E. Nothing in this Agreement requires the treatment court to provide MOUD or a particular medication if qualified providers or sufficient funding are not reasonably available to the program. The treatment court team will make all reasonable efforts to identify competent and qualified MOUD practitioners in the local community and obtain funding to support administration of MOUD and related services (see Section IX).

II. Choice and Dosage of Medication

A. Some medications have risks for more serious side effects than other medications but may have a greater chance of being effective for a particular individual. Weighing the potential benefits and risks of different medications and deciding which medication to prescribe for a given person are medical decisions to be made by a trained and lawfully credentialed medical provider in consultation with the participant. Nonmedically-trained members of the treatment court team do not make these medical decisions.

[1] *See.,* e.g., Substance Abuse and Mental Health Services Administration. (2019). *Use of medication-assisted treatment for opioid use disorder in criminal justice settings* (HHS Pub. No. PEP19-MATUSECJS). https://www.samhsa.gov/resource/ebp/use-medication-assisted-treatment-opioid-use-disorder-criminal-justice-settings

B. Selecting the proper medication dosage and deciding whether to reduce the dosage or discontinue the medication are medical decisions to be made by a trained and lawfully credentialed medical provider in consultation with the participant. Nonmedically-trained members of the treatment court team do not make these medical decisions.

III. Choice of Medical Providers

A. The treatment court team will make all reasonable efforts to identify and maintain a list of preapproved physicians and other lawfully qualified medical providers who have worked effectively with the treatment court or are recognized as delivering safe and competent treatment. Participants may select providers from this list for evaluation and treatment with MOUD. Preapproved providers must acknowledge and adhere to the responsibilities described below in Section VII for working with the treatment court.

B. Participants may choose other lawfully qualified physicians or medical providers not on the preapproved list but must provide their contact information to the treatment court team and sign all required releases of information allowing the team to communicate freely with the provider about the participant's treatment plan and progress in treatment. The provider must acknowledge and adhere to the responsibilities described below in Section VII for working with the treatment court.

C. Participants who have already received a lawful prescription for MOUD prior to entering the treatment court must inform the treatment court team about the prescription as soon as practicable but no later than the date of entry into the program. The participant must provide contact information for the prescribing medical provider and sign all required releases of information allowing the treatment court team to communicate freely with the provider about the participant's treatment plan and progress in treatment. The provider must acknowledge and adhere to the responsibilities described below in Section VII.

D. Lawfully qualified medical providers are presumed to be competent to treat patients safely and effectively. If, however, the treatment court team has substantial cause to be concerned about the safety or competence of medical care being proposed or provided, the team may request a new evaluation, or second opinion based on a review of the participant's medical record, from another qualified medical provider. In such instances, the team will explain the reason(s) for requesting a second opinion to the participant. Participants will only be required to select a new medical provider or transfer to a new provider for their care if the judge finds, based on expert medical evidence, that the proposed course of treatment falls below the generally recognized medical standard of care in the medical community or poses an undue risk to the participant's welfare.

IV. Screening and Evaluation for Opioid Use Disorder and Indications for MOUD

A. All participants entering the treatment court will be screened during intake for possible indications for MOUD using a validated screening tool, clinical interview, and review of prior medical records, if any, by a clinically trained and credentialed treatment professional. The screening will assess whether the participant has a moderate to severe opioid use disorder and is at risk for serious repercussions from this disorder, such as overdose, treatment attrition, or nonresponse to treatment without MOUD. Participants screening positive will be referred to a qualified physician or other medical provider for a comprehensive medical

evaluation of their suitability for MOUD and to develop a treatment plan. Participants may be re-screened at any time during their enrollment in the treatment court if their clinical presentation changes or staff become aware of new information suggesting a potential need for MOUD.

B. Results from the screening, comprehensive medical evaluation, and recommended treatment plan will be submitted to the treatment court team for approval. Approval will ordinarily be granted unless the judge finds, based on expert medical evidence from another qualified medical provider, that the evaluation or proposed treatment plan falls below the generally recognized medical standard of care in the medical community or poses an undue risk to the participant's welfare. In such cases, the participant will be referred to another qualified medical provider for a new evaluation or second medical opinion.

C. Information obtained while screening or evaluating participants for opioid use disorder and assessing their suitability for MOUD will be used solely to inform or adjust the treatment plan and other conditions of the treatment court, such as drug testing or other monitoring procedures or indicated complementary counseling services, and will not be admissible as evidence to substantiate or prosecute any new or prior criminal charge or technical violation of a court order.

V. Informed Consent and Sharing of Information

A. Participants receiving MOUD or who are referred for evaluation for MOUD must sign all required releases of information necessary for the medical provider to communicate freely with the treatment court team about the recommended treatment plan and progress in treatment. The scope of disclosures will be limited to the minimum information necessary to ensure safe and effective use of MOUD, including but not limited to the following information:

1. Assessment results pertaining to the participant's diagnosis, treatment needs, and indications for MOUD or a particular medication
2. Attendance at scheduled medical appointments
3. Adherence to the medication regimen, barriers to adherence, if any, and willful misuse of the medication
4. Side effects, if any, from the medication and indicated responses to those side effects
5. Symptom improvement including changes in opioid cravings, withdrawal symptoms, and associated mental health symptoms such as depression, boredom, irritability, or anhedonia (loss of pleasure)
6. Results from prescription drug monitoring program (PDMP) reports indicating whether the participant obtained any unauthorized prescription from another provider for a controlled addictive or intoxicating medication
7. Any efforts by the participant to tamper with or invalidate drug or alcohol tests if such tests are performed by the treating medical provider
8. Evidence of treatment-related attitudinal improvements such as increased insight or motivation for change

9. Any menacing, threatening, or disruptive behavior directed at the medical provider, other medical staff members, fellow patients, or other persons.

VI. Misuse or Diversion of Medications

A. The treatment court team will monitor participants to ensure that they are taking their medications as prescribed and not diverting them for unintended use. Safety and monitoring procedures that may be employed for such purposes include but are not limited to the following. These precautions will be imposed only when warranted to avoid foreseeable misuse of medications and will be discontinued when no longer necessary to avoid placing undue burdens on participants' access to needed medications.

1. Requiring medication ingestion to be observed by medical staff, a treatment court staff member such as a clinical case manager or probation officer, or another approved individual such as a trustworthy family member of the participant
2. Observing medication ingestion using facial recognition, smartphone, or similar technology
3. Monitoring urine or other test specimens for the expected presence of medications or their metabolites
4. Conducting random pill counts
5. Using medication event monitoring devices (MEMDs) that record when and how many pills were removed from the medication vial
6. Using abuse-deterrence formulations of the medications if available and medically indicated, such as soluble sublingual films, liquid medication doses, or long-acting injections
7. Reviewing PDMP reports to ensure that participants are not obtaining unapproved prescriptions from other providers for controlled medications

B. Information obtained while monitoring participant compliance with MOUD, including drug test results and PDMP reports, will be used solely to inform or adjust the treatment plan and other conditions of the treatment court, and will not be used to substantiate or prosecute any new or prior criminal charge or technical violation of a court order. Nothing in this Agreement prevents law enforcement from prosecuting a participant for willful misuse or diversion of a prescribed medication while in the treatment court if discovered independently of treatment court procedures.

C. Punitive sanctions may be imposed pursuant to treatment court best practices[2] for willful or proximal infractions relating to the misuse of prescription medications, such as ingesting more than the prescribed dosage to achieve an intoxicating effect, combining the medication with another illicit or unauthorized substance to achieve an intoxicating effect, or obtaining an unauthorized prescription for a controlled medication. Such sanctions will *not* include discontinuation of the medication unless discontinuation is ordered by the treating medical provider or another qualified medical provider who has personally examined the participant and reviewed the medical record in the case.

[2] *See* National Association of Drug Court Professionals. (2013). *Adult Drug Court Best Practice Standards* (Vol. I-Text Revision). https://www.nadcp.org/standards/adult-drug-court-best-practice-standards/

D. Punitive sanctions will ordinarily not be imposed for continued use of illicit opioids until participants have reached a therapeutic dosage of the medication as determined by the prescribing medical provider and are no longer experiencing withdrawal symptoms, opioid cravings, or associated mental health symptoms such as depression or anhedonia. Prior to this level of clinical stabilization, the indicated response to continued illicit opioid use will ordinarily include adjustments to the medication regimen if medically indicated, addition of complementary counseling or monitoring services, person or place restrictions, curfews, or low-magnitude instructive assignments such as journaling exercises or daily activity scheduling.

E. Sharing or selling medication to another person poses a serious risk to public safety and other participants, is potentially a new criminal offense, and may result in arrest and/or discharge from the treatment court. Participants may be discharged from the treatment court if the judge finds that sharing prescription medication posed a substantial risk of harm to another person and is reasonably likely to be repeated. Nothing in this Agreement prevents law enforcement from prosecuting a participant for willful diversion of a prescribed medication to another individual while in the treatment court.

F. Participants may, at times, receive jail sanctions (typically one to five days) in the treatment court for serious or repetitive proximal infractions, such as diverting medication for illicit use, violating curfew, violating person or place restrictions, or committing a new criminal offense. Every effort will be made to ensure that participants have uninterrupted access to prescribed medications while in custody. Medical providers may, for example, be asked to provide an extended prescription or medication dose to jail medical personnel and instructions for its use. Treatment court staff will make all reasonable efforts to avoid having jail sanctions interfere with medication regimens.

VII. Responsibilities of Medical Providers

A. Physicians or other lawfully qualified medical providers prescribing MOUD for treatment court participants will sign and adhere to a memorandum of understanding agreeing to work collaboratively with the treatment court team, share pertinent information as necessary to coordinate participant care, and respond in a timely manner to questions and concerns about the treatment plan.

B. The physician or medical provider will deliver a written treatment plan to the treatment court team documenting the participant's opioid use disorder diagnosis, indications for MOUD or a particular medication, and rationale for the recommended treatment course. This information will help the treatment court team coordinate the participant's care and know what symptoms, side effects, or other issues to be aware of and how to respond but will not be used to second-guess or discount the medical provider's judgment. If the team has substantial cause for concern about the proposed treatment plan, it may obtain a new evaluation or second medical opinion from another qualified medical provider.

C. The physician or medical provider or a clinically trained representative from the medical provider's staff will deliver routine progress reports to the treatment court team describing the participant's progress in treatment, including the information delineated above in Section V. Ideally, this information will be provided in person or by phone or videoconferencing during staff meetings but may, if necessary, be provided in written progress reports submitted in advance of staff meetings.

D. Medical providers will agree to respond within 48 hours to questions or concerns by treatment court staff about participants' apparent lack of responsiveness to the treatment plan, possible medication side effects, and suspected misuse or diversion of medication. Medical providers will respond as soon as practicable to any report of serious or life-threatening symptoms and will provide emergency instructions and contact information for emergency services to be used by the participant or treatment court staff in the event of a medical crisis.

E. Where permitted by law, the physician or medical provider will conduct PDMP inquiries at least every 90 days and report the results to the treatment court team [assuming treatment court staff are not authorized to conduct PDMP reports in the jurisdiction].

VIII. Complementary Services to Facilitate MOUD

A. The prescribing physician or medical provider or a clinically trained member of the treatment court team will educate all participants in the treatment court (regardless of whether they are receiving MOUD) about precautions they can take to avoid or reverse a life-threatening drug overdose. This will include providing emergency phone numbers and crisis management instructions to follow in the event of an overdose or medical emergency.

B. The prescribing physician or medical provider or a clinically trained member of the treatment court team will educate all participants in the treatment court (regardless of whether they are receiving MOUD) on the safe and effective administration of overdose-reversal medications such as naloxone hydrochloride (naloxone or Narcan). Where reasonably available and permitted by law, participants and their significant others will be provided intranasal naloxone kits and trained on their use.

C. The prescribing physician or medical provider or a clinically trained member of the treatment court team will educate family members and significant others of participants receiving MOUD about the efficacy and safety of MOUD, how it works, potential side effects to be aware of, and how to respond to those side effects and will work to dispel commonly held and stigmatizing beliefs about MOUD.

D. The treatment court team will make all reasonable efforts to identify trained and credentialed peer mentors or peer recovery support specialists with lived experience related to substance use disorders, MOUD and justice system involvement who have abstained from illicit substance use and criminal activity for at least the previous three consecutive years. Where available, participants receiving MOUD will be paired with a peer mentor or recovery support specialist to help them navigate the health care system, adhere safely and responsibly to their MOUD regimen, attend scheduled appointments, and achieve successful long-term recovery.

E. The treatment court team will make all reasonable efforts to identify peer-support or self-help recovery groups in the local community that are accepting of MOUD and will prepare participants to cope effectively with stigmatizing attitudes about MOUD that may emanate from members of the self-help community or other persons.

IX. Identifying Providers and Funding for MAT

A. The treatment court team will make all reasonable efforts to identify competent and lawfully qualified MOUD providers in the local community, including querying online directories of medical providers and treatment agencies specializing in addiction medicine or addiction psychiatry, and reaching out to the single state agency for substance use treatment, state or county boards of health and medical societies, and local colleges, universities, and medical schools.

B. Case managers or benefits assistants working with the treatment court will identify and help enroll participants eligible for Medicaid or other third-party reimbursement for MOUD.

C. The treatment court team will make all reasonable efforts to obtain grant or other external funding for MOUD if available, such as applying for funds from state block grants or appropriations, contacting federally qualified health centers (FQHCs) offering discounted medications for uninsured and low-income individuals, attempting to negotiate reduced-price medications from pharmaceutical companies, and reaching out to covered entities offering reduced medication rates for specified vulnerable populations under the federal 340B Drug Pricing Program.

IN WITNESS HEREOF, duly authorized representatives of the partnering agencies of the _____ Treatment Court have set their signatures and endorsement of the terms of this Agreement:

_____ _____
Presiding Judge and/or Treatment Court Judge Date

_____ _____
Treatment Court Coordinator Date

_____ _____
Prosecution Representative Date

_____ _____
Defense Counsel Representative(s) Date

_____ _____
Probation Department Representative Date

_____ _____
Dept. of Human Services or Treatment Agency(ies) Representative(s) Date

_____ _____
Law Enforcement or Sheriff's Dept. Representative Date

_____
OTHER PARTIES AS INDICATED

7

Download the Word version of the medical practitioner agreement.

MEMORANDUM OF UNDERSTANDING

Medical Practitioners Prescribing Medications for Opioid Use Disorder for Participants in the _____ Treatment Court

I. Access to Medications for Opioid Use Disorder

A. The _____ Treatment Court is committed to providing safe and effective treatments for substance use disorders while safeguarding participant welfare, public safety, and the fair administration of justice.

B. Medications for opioid use disorder (MOUD), including methadone, buprenorphine (e.g., Suboxone, Subutex), and naltrexone (e.g., Revia, Vivitrol), in combination with counseling and social services, are demonstrated to improve outcomes for persons with opioid use disorders involved in the criminal justice system. Proven benefits include increasing treatment attendance and reducing illicit opioid use, overdose risk, and new drug-related arrests and technical violations.[1]

C. Participants in the treatment court are permitted to receive MOUD when prescribed lawfully by a licensed physician or other legally authorized medical provider in the state or territory, such as a nurse practitioner or physician's assistant, who has received the requisite training and credentials to prescribe the medication, has personally examined the participant, and will continue to monitor treatment progress and safety.

D. Participants are not required to change medications, reduce the medication dosage, or discontinue MOUD as a condition of entering or graduating successfully from the treatment court. Participants receiving MOUD are entitled to the same services in the program as other participants and earn the same legal and other benefits from graduation.

E. Weighing the potential benefits and risks of different medications and deciding which medication to prescribe for a given individual are medical decisions to be made by a trained and lawfully credentialed medical provider in consultation with the participant. Nonmedically-trained members of the treatment court team do not make these medical decisions.

F. Selecting the proper medication dosage and deciding whether to reduce or increase the dosage or discontinue the medication are medical decisions to be made by a trained and lawfully credentialed medical provider in consultation with the participant. Nonmedically-trained members of the treatment court team do not make these decisions.

[1] *See., e.g.,* Substance Abuse and Mental Health Services Administration. (2019). *Use of medication-assisted treatment for opioid use disorder in criminal justice settings* (HHS Pub. No. PEP19-MATUSECJS). https://www.samhsa.gov/resource/ebp/use-medication-assisted-treatment-opioid-use-disorder-criminal-justice-settings

II. Domains of Responsibility

A. The parties to this Agreement recognize that treatment court participants often have complex treatment and social service needs as well as substantial criminal justice involvement. Medical providers and core members of the treatment court team must, therefore, work collaboratively within their respective domains of expertise to ensure participants receive safe and effective treatment while desisting from dangerous or criminal activity and following the rules of the program.

B. Prescribing medical practitioners are responsible for assessing participants' suitability and indications for MOUD, selecting the appropriate medication and dosage in consultation with the participant, monitoring treatment progress, identifying and addressing medication side effects, if any, and keeping the treatment court team continually apprised of treatment progress.

C. The treatment court team retains responsibility for monitoring participants to ensure that they take their medications as prescribed and do not divert them for unintended or illegal use. Safety and monitoring procedures that may be employed by the treatment court team include but are not limited to the following. Such procedures will be imposed only when warranted to avoid foreseeable misuse of medications and will be discontinued when no longer necessary to avoid placing undue burdens on participants' access to needed medications.

   1. Requiring medication ingestion to be observed by medical staff, a treatment court staff member such as a clinical case manager or probation officer, or another approved individual such as a trustworthy family member or loved one of the participant

   2. Monitoring urine or other test specimens for the expected presence of medications or their metabolites

   3. Conducting random pill counts

   4. Using medication event monitoring devices (MEMDs) that record when and how many pills were removed from the medication vial

   5. Requiring use of abuse-deterrence formulations of the medications, if available and medically indicated, such as soluble sublingual films, liquid medication doses, or long-acting injections or implants

   6. Reviewing or asking medical providers to review prescription drug monitoring program (PDMP) reports to ensure that participants are not obtaining unapproved prescriptions from other providers for controlled medications

D. The treatment court team may impose sanctions on participants for willful infractions relating to the misuse of prescription medications, such as ingesting more than the prescribed dosage to achieve an intoxicating effect, combining the medication with another illicit or unauthorized substance to achieve an intoxicating effect, obtaining an unauthorized prescription for another controlled medication, or sharing or selling medication to another person. Such sanctions will *not* include discontinuing the medication unless discontinuation is ordered by the treating medical provider or another qualified medical provider who has personally examined the participant and reviewed the medical record in the case.

E. Participants in the treatment court may, at times, receive jail sanctions (typically one to five days) for serious infractions of program rules, such as violating curfew, violating person or place restrictions, diverting medications for illicit use, or committing a new criminal offense. Every effort will be made to ensure that participants have uninterrupted access to prescribed medications while in custody. Medical providers may, for example, be asked to provide an extended prescription or medication dose to jail medical personnel and instructions for its use. Treatment court staff, including the judge, will make all reasonable efforts to avoid having jail sanctions interfere with medication regimens.

F. Punitive sanctions will ordinarily not be imposed for continued use of illicit opioids until participants have, at a minimum, reached a therapeutic dosage of the medication as determined by the prescribing medical provider and are no longer experiencing clinically significant withdrawal symptoms, opioid cravings, or other associated symptoms such as depression or anhedonia. Prior to this level of clinical stabilization, indicated responses to illicit opioid use will ordinarily include adjustments to the medication regimen if medically indicated, the addition of complementary counseling or monitoring services if indicated, or low-magnitude instructive assignments such as journaling exercises or daily activity scheduling.

G. Sharing or selling prescription medication to another person poses a serious risk to public safety and other participants in the program, is potentially a new criminal offense, and may result in arrest and/or discharge from the treatment court. Participants may be discharged from the treatment court if the judge finds that sharing prescription medication posed a substantial risk of harm to another person and is reasonably likely to be repeated. In such instances, all reasonable efforts will be made to ensure that participants have uninterrupted access to their medication if medically indicated and receive seamless care from the treating medical provider or comparable care from another qualified medical provider.

III. Responsibilities of the Medical Provider

A. Physicians or other lawfully qualified medical providers prescribing MOUD for treatment court participants agree to work collaboratively with the treatment court team, share pertinent information as necessary to coordinate participant care, and respond in a timely manner to questions concerning the treatment plan. Sharing of information will be predicated on participants voluntarily and competently signing all required releases of information pursuant to 42 CFR Part 2, HIPAA, and applicable state laws that are necessary to allow the medical provider to communicate with the treatment court team about the recommended treatment plan and progress in treatment. The scope of disclosures will be limited to the minimum information necessary to ensure safe and effective use of MOUD, including but not limited to the following information:

1. Assessment results pertaining to the participant's diagnosis, treatment needs, and indications for MOUD or a particular medication
2. Attendance at scheduled medical appointments
3. Adherence to the medication regimen, barriers to medication adherence if any, and willful misuse of the medication
4. Side effects, if any, from the medication and indicated responses to those side effects

5. Symptom improvement, including changes in opioid cravings, withdrawal symptoms, and associated mental health symptoms such as depression, boredom, irritability, or anhedonia
6. Results from PDMP reports indicating whether the participant obtained any unauthorized prescription from another provider for a controlled medication
7. Any efforts by the participant to tamper with or invalidate drug or alcohol tests if such tests are performed by the treating medical provider
8. Evidence of treatment-related attitudinal improvements such as increased insight or motivation for change
9. Any menacing, threatening, or disruptive behavior directed at the medical provider, other medical staff members, fellow patients, or other persons.

B. Information obtained from the medical provider while evaluating a participant for MOUD and monitoring treatment progress will be used solely to inform or adjust the treatment plan and other conditions of the treatment court and will not be used against the participant to substantiate or prosecute any new or prior criminal charge or technical violation of a court order.

C. The physician or medical provider will meet in person with the participant and conduct a medical examination consistent with generally accepted medical standards of care sufficient to reach an informed diagnosis and assess the participant's suitability and indications for MOUD, including reviewing prior medical records if any, and develop a treatment plan.

D. The medical provider will deliver a written report to the treatment court team documenting the participant's opioid use disorder diagnosis, indications for MOUD or a particular medication, and rationale for the recommended treatment plan. This information will help the treatment court team coordinate the participant's care and know what symptoms, side effects, or other issues to be aware of and how to respond to them but will not be used to second-guess or discount the medical provider's judgment. If the team has substantial cause for concern about the treatment plan, it may obtain a new evaluation or second medical opinion from another qualified medical provider; however, this is not anticipated to occur frequently in the usual course of treatment. Participants will only be required to transfer to a new provider for their care if the judge finds, based on expert medical evidence from a qualified medical practitioner, that the proposed course of treatment falls below the generally recognized medical standard of care in the medical community or poses an undue risk to the participant's welfare.

E. The medical provider or a clinically trained member of the medical provider's staff will deliver routine progress reports to the treatment court team describing the participant's progress in treatment, including whether the participant has reached a therapeutic dosage of the medication or is continuing to experience clinically significant withdrawal symptoms, opioid cravings, or other associated symptoms such as depression or anhedonia. This information may be used to adjust conditions in the treatment court, such as determining whether complementary counseling services may be indicated or determining suitable responses to illicit opioid-positive drug tests. Progress reports may be provided in person or by phone or videoconferencing during treatment court team meetings or in written progress reports submitted in advance of team meetings.

F. The medical provider agrees to respond within 48 hours to questions or concerns from treatment court staff about a participant's apparent lack of responsiveness to the treatment plan, possible medication side effects, and suspected misuse or diversion of the medication. Medical providers will respond as soon as practicable to any report of serious or life-threatening symptoms and will provide treatment court staff with emergency instructions and contact information for emergency services to be used in the event of a medical emergency.

G. Where permitted by law, the medical provider will conduct PDMP inquiries at least every 90 days and report the results to the treatment court team [assuming the treatment court is not lawfully authorized to conduct PDMP reports in the jurisdiction].

IV. Complementary Services to Facilitate MAT

A. The parties to this Agreement recognize that inadequate funding for MOUD as well as stigmatizing or counterproductive sentiments from participants' family members or loved ones, members of the recovery community, or other sources can interfere with treatment effectiveness. Therefore, the parties will make all reasonable efforts to address or counteract such barriers and facilitate adherence to and success on MOUD.

B. Case managers or benefits assistants working with the medical provider or treatment court will identify and help enroll participants eligible for Medicaid or other third-party reimbursement for MOUD.

C. The medical provider and members of the treatment court team will make all reasonable efforts to obtain grant or other external funding for MOUD if available, such as applying for funds from state block grants or appropriations, contacting federally qualified health centers (FQHCs) offering discounted medications for uninsured and low-income individuals, attempting to negotiate reduced-price medications from pharmaceutical companies, and reaching out to covered entities offering reduced medication rates for specified vulnerable populations under the federal 340B Drug Pricing Program.

D. The medical provider or a clinically trained member of the treatment court team will educate family members or significant others of participants about the efficacy and safety of MOUD, how it works, potential side effects to be aware of, and how to respond to those side effects and will work to dispel commonly held and stigmatizing beliefs about MOUD.

E. The medical provider and members of the treatment court team will make all reasonable efforts to identify trained and credentialed peer mentors or peer recovery support specialists who have lived experience related to substance use disorders, MOUD, and justice system involvement and have abstained from illicit substance use and criminal activity for at least the previous three consecutive years. Where available, participants will be paired with such peer specialists to help them navigate the health care system, adhere safely and responsibly to their MOUD regimen, attend scheduled appointments, and otherwise succeed in the treatment court and in long-term recovery.

F. The medical provider and members of the treatment court team will make all reasonable efforts to identify peer-support or self-help recovery groups in the local community that are accepting of MOUD and will prepare participants to cope effectively with stigmatizing attitudes about MOUD they may encounter from members of the self-help community or other persons.

G. The medical provider or a clinically trained member of the treatment court team will educate participants about precautions they can take to avoid or reverse a life-threatening drug overdose. This will include providing emergency phone numbers and crisis management instructions to follow in the event of an overdose or similar medical emergency.

H. The medical provider or a clinically trained member of the treatment court team will educate participants on the safe and effective administration of overdose-reversal medications such as naloxone hydrochloride (naloxone or Narcan). Where reasonably available and permitted by law, participants and their significant others will be provided intranasal naloxone kits and trained in their use.

V. Terminating This Agreement

A. This Agreement may be terminated with or without cause by either party with 30 days' written notice. In such case, all reasonable efforts will be made to ensure that participants have uninterrupted access to their medication if medically indicated and receive seamless care from the prescribing medical provider or comparable care from another qualified physician or medical provider.

IN WITNESS HEREOF, duly authorized representatives of the parties have set their signatures and endorsement of the terms of this Agreement:

Prescribing Physician or Medical Provider	Date
Treatment Court Judge	Date
Treatment Court Coordinator	Date
OTHER PARTIES AS INDICATED	

Please allow participants to read each section of this agreement if they can read, and ask them to repeat or paraphrase what it says. To be certain they understand the terms, please read the agreement out loud to them as well. Download the Word version of the participant agreement.

PARTICIPANT AGREEMENT

Medications for Opioid Use Disorder in the _____ Treatment Court

We are asking you to read this form (or have it read to you) and sign it before starting or to keep taking medication for opioid use disorder (MOUD) in the _____ Treatment Court.

We will check with you to be sure you understand each part of the form and will ask you to write your initials below each part to show you understand it.

Before you sign this form, you may want to speak more about it with _____ (the defense lawyer on the treatment court team), your private defense lawyer if you have one, your counselor or therapist, or any other person you trust.

If you have trouble reading this form or are confused by any of the words or sentences, please let staff know and they will read it to you and explain the meaning.

Please read the MOUD brochure (or have it read to you) that is provided free by the treatment court to be sure you understand what MOUD is and how it works. If you have any questions, please ask staff.

1. Permission to Receive MOUD

The _____ Treatment Court provides safe and effective treatment while also protecting your welfare, the welfare of other people in the program, and public safety.

Medications for opioid use disorder (MOUD) including *methadone, buprenorphine* (for example, Suboxone or Subutex), and *naltrexone* (for example, Revia or Vivitrol) [INSERT OTHER BRAND NAMES USED IN THE PROGRAM IF DESIRED], along with counseling and social services, make treatment work better for many people who have serious problems from using opioids or opiates, such as heroin, fentanyl, Percocet, morphine, or Vicodin.

You are allowed to take MOUD if it is prescribed by a doctor or other medical professional who is legally permitted to prescribe it, and who has personally met with you, examined you, and will keep meeting with you to be sure you are getting better and staying medically healthy.

After the doctor examines you and talks with you about the right medication to take, he or she will tell the treatment court team what you decided. Most of the time, the treatment court team will follow the doctor's advice. Sometimes, the team may ask you to meet with a second doctor to be sure about the plan. Although this usually doesn't happen, the team may ask you to work with the second doctor instead of the first one and will tell you why, so you understand. You can always explain why you want to work with a particular doctor, but the final decision will be up to the treatment court team.

Whether or not you take MOUD, you will receive all of the same treatments and other services as other people in the treatment court and you will get all of the same benefits from graduating.

1

You do not need to change medications or stop taking medication to come into the program or to graduate from the program.

_____ I understand this information

2. Choosing the Medication and Dosage

Different medications work better for different people, and some medications have side effects that can make some people ill. You and your doctor will decide together what is the best medication for you and how much of it you should take.

Most of the time, the treatment court team will follow what you and your doctor decided. Sometimes, the team may ask you to meet with a second doctor to be sure about the plan. Although this usually does not happen, the team may ask you to work with the second doctor instead of the first one and will tell you why, so you understand. You can always explain why you want to work with a particular doctor, but the final decision will be up to the treatment court team.

_____ I understand this information

3. Choosing Your Doctor

At the back of this form is a list of doctors and other medical professionals who can prescribe MOUD and have worked well with the treatment court. You can pick anyone on this list for your treatment.

If you would rather work with someone who is not on this list, you can, but that person must be well-trained and legally allowed to provide MOUD. You must also give the treatment court team that person's phone number and address, and sign forms allowing us to talk with them about your treatment.

As was said before, most of the time the treatment court team will let you work with the doctor you choose. Sometimes, however, the team may ask you to meet with a second doctor to be sure about the plan. Although this usually doesn't happen, the team may ask you to work with the second doctor instead of the first one and will tell you why, so you understand. Again, you can always explain why you want to work with first doctor, but the final decision will be up to the treatment court team.

_____ I understand this information

4. Deciding Whether MOUD Is Right for You

Your doctor or other medical provider will meet with you to decide whether MOUD is right for you and what medication is likely to work best. The doctor will examine you and ask about such things as your past use of opioids, how opioid use may have affected your life, and whether you have medical or other problems that might cause you serious problems if you take certain medications. The doctor may also talk to other doctors you have seen in the past or look at your past medical records from other doctors to learn about treatment you had in the past.

Nothing you say about opioid use or other substance use during these meetings will be used against you. You will not be prosecuted or sanctioned in the program for your past use of opioids or other drugs. The only reason for these meetings is to decide whether MOUD is likely to work and be safe for you. You can, however, be prosecuted for selling or trading your medication to someone else if the police find out about it on their own, and not because of something you said while in treatment court.

_____ I understand this information

5. Letting Us Talk to Your Doctor

You must sign forms letting the treatment court team talk with your doctor about your treatment. The doctor will only tell the treatment court team what is necessary to be sure you need MOUD, why you need it, and that you are taking the medication safely and getting better.

The doctor will tell the treatment court team such things as:

- Whether you have an opioid use disorder and why you need MOUD
- Whether you are coming for medical appointments
- Whether you are taking the medication the right way and not taking it in a way that can be medically dangerous for you
- Any side effects that you may be having and how to deal with them safely
- Whether you are getting better, such as having fewer cravings for opioids, withdrawal symptoms, or other problems like depression, boredom, or irritability
- Whether you have tried to avoid or cheat a drug or alcohol test
- Whether you have been hostile or disruptive to the doctor or anyone else

The doctor will also request what is called a *PDMP report* (this stands for prescription drug monitoring program). This lets the doctor know if you got any prescription from another doctor without telling the treatment court team. The doctor will tell the treatment court team if you got such a prescription without the team knowing.

_____ I understand this information

6. Using Medicine the Right Way

The treatment court team will keep a close eye on you to be sure you are using the medication the right way and are following your doctor's advice. If you use the medication unsafely or attempt to share it with anyone else, you may receive sanctions in the program, just as you would for violating other rules of the program.

Some of the things the team may do to be sure you're being safe include the following. These precautions will be taken only if necessary to avoid problems in how you are likely to use the medication and will be stopped when they are no longer necessary.

- Having you take the medication in front of a medical staff person, a treatment court team member such as a clinical case manager or probation officer, or another trustworthy person like a family member or loved one
- Having you record a video of yourself while taking the medication or FaceTime with treatment court staff while taking it, using your cell phone or another device, so staff can be sure you take it the right way and at the right time
- Doing drug testing to be sure the medication is in your system in the right amount
- Telling you at times to bring your pill bottle to the program to be sure you still have the right number of pills left
- Putting a special cap on your pill bottle that shows how often and when you took pills out
- Having you take the medication as a liquid, in a tape that dissolves in your mouth, or by an injection to be sure you take it in the right amount

_____ I understand this information

7. Using Medicine the Wrong Way

If you intentionally take medication the wrong way or share or sell it to anyone else, you may be sanctioned just as you would for violating other rules of the program. For example, you may be sanctioned if you take more than the prescribed dosage to get "high," mix the medication with another drug to get high, or get a prescription from another doctor without telling the treatment court team.

Such sanctions will not include making you stop taking the medication unless this is recommended by your doctor or medical provider.

Sharing or selling medication to another person is very dangerous and is illegal, and you can be arrested or discharged from the treatment court for doing this. SO DON'T DO IT!

_____ I understand this information

8. Other Services in the Treatment Court

Whether or not you take MOUD, you will still receive all of the other treatments and services in the treatment court, and you must still go to them.

Some services may also be given to you to help you do well on MOUD, such as:

- ***Family education.*** Sometimes family members or loved ones do not like or understand MOUD and may not want you to take it. Your counselor or therapist may meet with your loved ones to teach them about MOUD, help them understand how it works, tell them about potential side effects to be aware of and how to help you with those side effects, and get them to be more helpful and encouraging to you.

- ***Peer mentors.*** The treatment court may pair you up with a peer mentor or peer recovery support specialist. Peer mentors are people with lived experience who understand MOUD and may once have been involved with the criminal justice system themselves. They have been trained in how to be helpful and can help you deal with doctors, find ways to pay for MOUD, take your medication the right way, make it to your appointments, and do well in the program and after you leave.
- ***Recovery groups.*** People in the treatment court are required to go to self-help groups such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Rational Recovery, church groups, or other groups. These groups provide you with support and encouragement, and share advice on how to deal with substance use problems. Some groups may not like MOUD or may discourage people from taking it. The treatment court will do its best to send you to a group that knows about MOUD and accepts it. If such groups are not available in your neighborhood, treatment court staff and your peer mentor will advise you about how to deal with this.

_____ I understand this information

9. Changing Your Mind About MOUD

Deciding whether or not to take MOUD or to stop taking it is up to you. You are not required to take MOUD to be in treatment court.

If you change your mind and decide to stop taking MOUD or want to change the medication or dosage, let your doctor or medical provider or your counselor or another treatment court staff person know about your decision. They may talk to you to try and change your mind, but the decision will be up to you.

Do *not* just stop taking the medication on your own. Simply stopping your medication can have serious side effects and can be dangerous. Your doctor or medical provider will develop a plan with you to help you stop taking the medication safely. This may involve slowly reducing the dosage over time to be sure you are safe and comfortable.

_____ I understand this information

I HAVE READ THIS FORM AND/OR HAD IT EXPLAINED TO ME. I HAD A CHANCE TO ASK QUESTIONS AND THEY WERE ANSWERED CLEARLY. I AGREE TO THE TERMS:

_____ _____
Participant Date

_____ _____
Participant's Representative (if applicable) Date

_____ _____
Treatment Court Representative(s) Date

_____
OTHER PARTIES AS INDICATED

Attach List of Preapproved Medical Providers and Their Contact Information

This brochure should be widely and freely available at the courthouse, treatment programs, and other agencies affiliated with the treatment court and distributed to family members or significant others of participants receiving or interested in receiving MOUD. An audiotape or videotape recitation of the material should also be available for persons with reading difficulties. Download the Word version of the participant brochure.

Back Cover
COULD BE A LIST OF PROVIDERS

What Are Opioids?

Opioids (also called opiates) are drugs or medications that affect parts of the brain that impact such things as our mood, feelings of pleasure, wakefulness, or sensitivity to pain. Some opioids, such as Vicodin, codeine, morphine, and Percocet, are made by pharmaceutical companies and can be prescribed legally to treat pain, coughs, or other symptoms. These prescription medications may, however, be sold or traded illegally. Other opioids, such as heroin and opium, come from the poppy plant and are not used as a lawful medicine. Still others may be made in illegal laboratories in unhealthy conditions and are dangerous to use, such as illegally made fentanyl.

What Is an Opioid Use Disorder?

Taking opioids or opiates often—whether they are prescribed legally or bought on the street—can cause changes in the brain, making it difficult for some people to stop using the drug. These changes can lead to withdrawal symptoms, in which some people feel physically ill or in pain when they stop taking opioids. They can also lead to cravings, in which some people cannot stop thinking about the drug or feel strong urges to use it. Some people may also feel depressed, bored, or irritable when they stop taking the drug, or they may no longer get pleasure or happiness from things that should make them joyful, such as tasting good food or enjoying the company of loved ones.

When these symptoms become severe, it can be very difficult for some people to stop taking opioids and may get in the way of other healthy parts of their life, like keeping a job, taking care of children, or driving a car safely. We call this opioid dependence, opioid addiction, or a severe opioid use disorder.

_____ Treatment Court
Participant Brochure

Medications for Opioid Use Disorder

Please read this brochure if you or a loved one wants to learn about medications for opioid use disorder (MOUD), are currently receiving MOUD, or have been assessed by staff in the treatment court as possibly needing MOUD.

Please feel free to discuss this information with your therapist or counselor, the treatment court judge, the defense lawyer on the treatment court team, your private defense lawyer if you have one, or any other person(s) you trust.

If you want more information about MOUD or are interested in starting treatment, please talk with any member of the treatment court team, or bring it up during your next court hearing, treatment session, or other appointment in the treatment court.

What Is MOUD?

Medications for opioid use disorder (MOUD) are used, along with counseling and therapy, to treat some of the symptoms of opioid use disorder, such as withdrawal symptoms and cravings. Some medications may also lower the ability of opioids to cause intoxication or make a person feel "high."

Taking these medications makes it easier for people to pay attention in counseling, follow the rules of the treatment court, and perform their daily chores and activities. Over time, the medications may also help to heal some of the changes in the brain, leading to better health and functioning.

Three types of medications have been shown to work for treating opioid use disorders and are approved by the U.S. Food and Drug Administration (FDA), the federal agency that decides whether medications are safe and work well:

1. **Methadone.** Methadone is usually taken as a pill or liquid mixed in juice. When taken in the right dose and amount, it greatly reduces withdrawal symptoms and cravings without causing intoxication. It can help people with opioid disorders feel more comfortable so they can concentrate better in counseling and perform daily chores. If a person takes other opioids like heroin, it can also block or lessen the effects of those opioids on the brain, thus preventing the person from getting "high."

   People need to go to a special clinic or program on most days to take methadone for opioid use disorder. After a while, they may be able to have "take-home" doses, so they do not need to go to the clinic every day.

   Methadone can have side effects that may be serious. Your doctor or medical provider will discuss these side effects with you, tell you how to deal with them, and decide together with you whether methadone may be the right medication for you.
2. **Buprenorphine.** Buprenorphine is usually taken as a pill or as a thin tape or film that melts slowly under your tongue or inside your cheek. It is best known by brand names such as Suboxone or Subutex. It can also be taken in a once-a-month injection, called Sublocade. Not all programs use the injectable medication, but many use the kind you take by mouth.

   Like methadone, buprenorphine lessens withdrawal symptoms, cravings, and the effects of other opioids on the brain. This makes people with opioid disorders feel more comfortable and able to concentrate on their daily activities. It is less likely than methadone to cause side effects and does not need to be prescribed or taken at a special clinic or program. Many doctors and other medical providers, such as nurse practitioners or physician's assistants, can prescribe it from their office, and you can get it from nearly any drugstore or pharmacy with a prescription.

   Your doctor or medical provider will talk with you about whether buprenorphine is likely to work for you and whether it may be the right medication for you.
3. **Naltrexone.** Naltrexone is taken once a day or three times a week as a pill or as a once-a-month injection called Vivitrol. Although it can have some side effects, they tend to be mild and are rarely dangerous. Naltrexone can be prescribed by any physician or trained medical provider and does not require a special clinic or program. It can reduce cravings for opioids and blocks the effects of opioids on the brain, which can stop a person from getting "high." However, it does not reduce withdrawal symptoms. You must first stop taking all opioids for at least 7 to 10 days before you can start taking naltrexone or you will experience severe withdrawal discomfort. You should not take naltrexone if you are taking lawfully prescribed opioid medication for pain or other medical problems.

   Your doctor or medical provider will talk with you about whether naltrexone or Vivitrol may be the right medication for you.

Preventing or Reversing Overdose

You should also know about another medicine called naloxone or Narcan. Narcan is not used to treat opioid use disorders but is used in case of an emergency to stop an overdose on opioids. It can be given as a shot by trained professionals or squirted into the nose by people without medical training who have been shown how to use it.

Most cities or states have laws allowing people to keep naloxone with them and use it in case of an emergency. Check with the treatment court or your treatment provider about receiving training in using naloxone and getting a naloxone kit.

[OPTIONAL IF APPLICABLE: The _____ Treatment Court offers training in how to use Narcan to save another person's life and provides free kits that you and your loved ones can keep with you and use in the event of a life-threatening overdose emergency.]

Can I Take MOUD While Enrolled in Treatment Court?

The _____ Treatment Court is committed to providing safe and effective treatments for opioid use disorders while also protecting your welfare, the welfare of other participants, and public safety. Therefore, you are allowed to take MOUD when it is approved by the treatment court team and prescribed legally by a physician or other medical provider who has personally examined you and will continue to meet with you to see how you are doing. Whether or not you take MOUD, you will receive all of the same treatment and other services as other people in the program and will get the same benefits from graduating.

Choosing whether or not to use MOUD, which medication to use, and the safest and best dosage are decisions to be made by you and your doctor or medical care provider. The treatment court team is here to help you in this decision and to provide other services you may need, such as counseling and education. The treatment court team will also keep an eye on you to be sure you are using the medication in the right way and are following your physician's advice. If you use the medication unsafely or attempt to share it with anyone else, you may receive sanctions in the program, just as you would for violating other rules of the program.

How Do I Get Started?

If you want more information about MOUD or are thinking about starting treatment, you may speak with any member of the treatment court team or bring it up during your next court hearing, treatment session, or other appointment in the treatment court.

You will then meet with a therapist or counselor for a screening to see if MOUD might be good for you. The therapist or counselor will talk to you about your past use of opioids, how opioid use may have affected your life, and whether you have medical or other problems that might cause you serious problems if you take certain medications.

If the results from the screening suggest that MOUD might work for you, you will then meet with a physician or other medical provider for a more careful physical exam. You and the physician or medical provider will decide together what treatment to take.

Nothing you say about opioid use or other substance use during these meetings will be used against you. You will not be prosecuted or sanctioned for your past use of opioids or other drugs. The only reason for these talks is to decide whether MOUD is likely to work and be safe for you.

The treatment court team will be told about the medication decision and will check in with you during counseling sessions, court hearings, and other appointments to see how you are doing and to help you with any problems you may be having. The treatment court team will also stay in touch with your doctor to see how you are doing and to make sure you are following your treatment plan.

Must I Stop MOUD to Graduate from Treatment Court?

Choosing whether or not to lower the dosage or stop taking MOUD is a medical decision that you and your doctor will make. You will not need to stop taking MOUD to graduate from treatment court if you and your doctor think it should continue after you leave. You will receive the same legal and other benefits for graduating from the treatment court as any other person in the program.

Please feel free to talk to any member of the treatment court team to learn more about MOUD and see if it may help you on your road to recovery and a healthy, productive life.

APPENDIX E: **Recruitment Letter for Medical Providers**

This recruitment letter TEMPLATE can be modified as appropriate to introduce the treatment court to physicians and other medical providers who are lawfully qualified to prescribe medications for opioid use disorder (MOUD) in the state or territory, such as nurse practitioners or physician's assistants. The purpose of this letter is to inform prospective MOUD providers about the treatment court, dispel any misconceptions they may have about how the program operates, and invite them to meet with staff to learn more about the program and consider providing needed MOUD services for participants.

Prospective medical providers and their contact information can be obtained by querying online directories of medical providers and treatment agencies specializing in addiction medicine or addiction psychiatry, including but not limited to the following. Most of these websites can be queried by city, state, or zip code to identify qualified medical practitioners in the local community:

American Academy of Addiction Psychiatry (AAAP)

American Board of Addiction Medicine (ABAM)

American Society of Addiction Medicine (ASAM)

SAMHSA Behavioral Health Treatment Services Locator

SAMHSA Buprenorphine Practitioner Locator

SAMHSA Opioid Treatment Program Directory

Qualified medical providers can also be identified by reaching out to the single state agency (SSA) for substance use treatment, state or county boards of health and medical societies, and local colleges, universities, and medical schools.

Download the Word version of the recruitment letter for medical providers.

COURT LETTERHEAD

Dear _____:

I am the presiding judge of the _____ Treatment Court in _____ County. Ours is one of more than 3,000 such programs in the United States dedicated to providing needed treatment and other services for persons with substance use disorders who are involved in the criminal justice, juvenile justice, or family dependency court systems. Our mission is to provide treatment in the community rather than sentencing participants to jail or prison or terminating their parental rights, and to give them the support and resources they need to live healthy, productive, and law-abiding lives.

I work with a multidisciplinary team of professionals that includes substance use and mental health treatment providers, probation officers, defense lawyers, prosecutors, and members of law enforcement. Team members contribute their observations and expertise to ensure that participants attend treatment, meet their other responsibilities in the program, receive all legal and constitutional protections to which they are entitled, and desist from dangerous or unlawful conduct. Successful graduates from our program avoid a criminal sentence or incarceration, retain or regain custody of their children, and may avoid many of the negative collateral consequences stemming from a criminal record, such as a loss of voting rights, difficulty finding a job, and barriers to obtaining subsidized housing.

Participants are tested frequently for drug and alcohol use, and come to court regularly for the team to review their progress in treatment and deliver rewards for their accomplishments, such as verbal praise, reduced supervision requirements, or token gifts; sanctions for infractions, such as verbal reprimands, community service, or brief jail detention of roughly one to five days for serious violations; and adjustments to their treatment plan if clinically indicated, such as transfer to a more intensive modality of care (e.g., residential treatment).

Approximately 15% to 30% of adult treatment court participants nationally [IF DATA ARE AVAILABLE – and ___% of participants in our program] suffer from a moderate to severe opioid use disorder and are at risk for serious repercussions from that illness, including overdose, treatment attrition or failure, and new drug-related arrests and incarcerations. We recognize that we cannot serve these individuals effectively and safely without offering medications for opioid use disorder (MOUD) as part of our core menu of needed services.

I am writing to invite you to meet with our team and consider helping us in our critical mission to save the lives of many of our fellow citizens. Let me assure you that our staff are well aware of the proven benefits of MOUD and support its use when delivered safely and appropriately by trained and credentialed medical practitioners. **We do not substitute our judgment for that of trained medical professionals and do not require our participants to change medications, reduce the medication dosage, or discontinue MOUD as a condition of entering or graduating successfully from our program. Participants receiving MOUD receive the same services as any other participant and the same benefits from graduation.** If the team has serious concerns about the treatment being delivered, we may, at most, solicit a second medical opinion from another trained and credentialed medical expert, but this happens rarely and is not anticipated in the usual course of treatment.

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We do have certain expectations of medical providers working with our participants. We ask that treating providers keep us apprised of the participant's diagnosis and clinical status, indications for MOUD or a particular medication, and progress in treatment (after participants execute all requisite releases of information and privacy notices pursuant to 42 CFR Part 2, HIPAA, and applicable state laws). This information is used to inform or adjust other conditions of the treatment court, such as drug testing or other monitoring procedures we may employ to ensure that medications are being taken safely and as prescribed. This information is also used to determine if other complementary counseling services may be indicated, such as educating participants' family members or loved ones about MOUD or dispelling stigmatizing attitudes they may have about its use, pairing participants with peer mentors or peer recovery support specialists to facilitate their success on MOUD, or referring participants to peer-support groups that are accepting of MOUD. We also ask prescribing practitioners to be reasonably available to handle medical emergencies and instruct our staff on how to respond to medical crises. Finally, we ask that medical providers conduct prescription drug monitoring program (PDMP) inquiries [if such inquiries cannot lawfully be conducted by treatment court staff] to be certain participants are not obtaining other unauthorized controlled medications from other prescribers.

I do hope I can count on you to speak further with our team about possibly working with us. We have regular team meetings on _____ of each month and would be most delighted to have you join us either in person or by phone or videoconferencing. If you have any further questions or would like to schedule a time to speak, please contact my clerk, _____, at _____ to arrange a mutually convenient time for a meeting or phone call.

Most Appreciatively,

_____

Presiding Judge, _____ Treatment Court

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This letter TEMPLATE can be modified as appropriate to raise concerns with jail officials who may prohibit MOUD or a particular medication in their institution or require inmates to change medications routinely or taper the medication dosage. The intent is to begin a collaborative discussion with jail officials rather than create a contentious atmosphere.

This TEMPLATE can also be modified readily for use by participants, defense counsel, or treatment providers to raise concerns with treatment court authorities who may place undue restrictions on the use of MOUD in the program.

Download the Word version of the letter to jail officials.

COURT LETTERHEAD

Dear [Sheriff / Warden / Commissioner / Director] _____:

I am writing in hope of beginning a collaborative conversation with you and your staff about ways to continue life-saving medications for opioid use disorder (MOUD) for persons detained in your facility.

I am the presiding judge of the _____ Treatment Court in _____ County. Our mission is to provide proven, evidence-based treatments in the community in lieu of conviction or incarceration for persons with severe substance use disorders charged with drug-related offenses. I work with a multidisciplinary team of professionals including substance use and mental health treatment providers, probation officers, defense lawyers, prosecutors, and members of law enforcement. Team members share their observations and expertise to ensure that participants attend treatment faithfully, meet their other obligations in the program, and desist from dangerous and unlawful misconduct.

Our participants are tested frequently for drug and alcohol use and come to court regularly for the team to review their progress in treatment and deliver rewards for their accomplishments and sanctions for infractions. Sanctions may include verbal reprimands, increased supervision, curfews, person and place restrictions, community service, or brief jail detention in your facility for more serious technical violations.

Approximately 15% to 30% of adult treatment court participants nationally [OR, IF DATA ARE AVAILABLE –___% of our participants] suffer from an opioid use disorder and are at risk for severe repercussions from this illness, including overdose and death, treatment attrition or failure, and new drug-related arrests and incarcerations. Research is clear that medications including naltrexone (e.g., Revia, Vivitrol), buprenorphine (e.g., Suboxone, Subutex), and methadone, along with counseling and social services, improve outcomes substantially for persons with opioid use disorders in the justice system. Proven benefits include increasing treatment attendance and reducing illicit opioid use, overdose risk, and new drug-related arrests and technical violations.[1] Based on this body of evidence, MOUD is endorsed as the generally accepted standard of care for treating opioid use disorders by virtually all leading medical, scientific, and professional treatment organizations, including but not limited to the following:

- National Institute on Drug Abuse (NIDA)[2]
- National Academies of Sciences, Engineering, and Medicine (NASEM)[3]
- U.S. Surgeon General[4]

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- Substance Abuse and Mental Health Services Administration (SAMHSA)[5]
- Centers for Disease Control and Prevention (CDCR)[6]
- White House Office of National Drug Control Policy (ONDCP)[7]
- American Medical Association (AMA)[8]
- American Psychiatric Association (APA)[9]
- World Health Organization (WHO)[10]

Evidence is equally clear that requiring inmates to discontinue or change a medication regimen is associated with poor outcomes and a lower likelihood of resuming MOUD after release from custody.[11] Worse, because physiological tolerance to opioids declines during forced abstinence or while taking blockade medications like naltrexone, inmates required to withdraw involuntarily from methadone or buprenorphine face a substantially increased risk of overdose and death if they return to illicit opioid use.[12] This explains, in part, the heartbreaking statistics indicating that **persons with opioid use disorders released from jail or prison are between 10 and 40 times more likely than those in the general population to die of an opioid overdose within the first few weeks after returning to the community.**[13]

As public officials, we also cannot ignore recent case precedent taking note of these alarming statistics and concluding that denying MOUD as a matter of course to jail or prison inmates, whether on post-conviction or pretrial status, is likely to violate the Americans with Disabilities Act (ADA) or Rehabilitation Act and possibly the Eighth Amendment. At least two federal courts have granted preliminary injunctions against jails for routinely denying access to methadone or Suboxone,[14] and federal settlement agreements have been reached in several cases granting access to MOUD for specific plaintiffs[15] or whole classes of plaintiffs.[16] Like you, our court would like to avoid such unpleasant litigation and implement safe and effective practices proven to enhance the health and functioning of our participants and public welfare.

I can assure you that my staff and I will do everything in our power to work collaboratively with your institution to ensure safe and appropriate use of MOUD. Physicians or other lawfully qualified medical providers working with our program are available to provide extended prescriptions or medication doses to your medical staff with instructions for their use. In addition, there are many effective ways to avoid misuse or diversion of medications, such as observed ingestion, random pill counts, and use of abuse-deterrent formulations to name just a few. These and other strategies are described in excellent documents I would like to call to your attention on the use of MOUD in corrections facilities, one published jointly by the National Sheriffs' Association and the National Commission on Correctional Health Care,[17] and the other published by SAMHSA and the Bureau of Justice Assistance (BJA).[18]

My staff and I would welcome the opportunity to meet with you or designated officials from your facility to discuss this important matter further and begin problem-solving mutually agreeable and feasible ways to address understandable concerns you might have. If you require any additional information or are open to arranging a time to speak, please contact my clerk, _____, at _____ to schedule a mutually convenient meeting or phone call.

Most Appreciatively and Respectfully,

_____

Presiding Judge, _____ Treatment Court

[1] *See., e.g.,* Substance Abuse and Mental Health Services Administration (SAMHSA). *Use of Medication-Assisted Treatment for Opioid Use Disorder in Criminal Justice Settings* (2019). (HHS Pub. No. PEP19-MATUSECJS). https://www.samhsa.gov/resource/ebp/use-medication-assisted-treatment-opioid-use-disorder-criminal-justice-settings

[2] National Institute on Drug Abuse. *Principles of Drug Addiction Treatment: A Research-Based Guide* (Third Edition) (2020), https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/preface; and Principles of Drug Abuse Treatment for Criminal Justice Populations (2014), https://www.drugabuse.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations-research-based-guide/principles

[3] National Academies of Sciences, Engineering, and Medicine. *Medications for Opioid Disorder Save Lives* (2020), https://www.nap.edu/catalog/25310/medications-for-opioid-use-disorder-save-lives

[4] SAMHSA, U.S. Office of the Surgeon General. *Facing Addiction in America: The Surgeon General's Spotlight on Opioids* (2018), https://www.ncbi.nlm.nih.gov/books/NBK538436/

[5] SAMHSA. MAT Medications, Counseling, and Related Conditions web page, https://www.samhsa.gov/medication-assisted-treatment/medications-counseling-related-conditions; and TIP 63: *Medications for Opioid Use Disorder* (2020), https://www.samhsa.gov/resource/ebp/tip-63-medications-opioid-use-disorder

[6] Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. *Medication-Assisted Treatment for Opioid Use Disorder* (2019), https://doi.org/10.26616/NIOSHPUB2019133

[7] Executive Office of the President, Office of National Drug Control Policy. *Medication-Assisted Treatment for Opioid Addiction* (2012), https://obamawhitehouse.archives.gov/sites/default/files/ondcp/recovery/medication_assisted_treatment_9-21-20121.pdf

[8] American Medical Association. Medication-Assisted Treatment web page, https://www.ama-assn.org/topics/medication-assisted-treatment

[9] American Psychiatric Association. Medication-Assisted Treatment for Opioid Use Disorder web page, https://www.psychiatry.org/psychiatrists/education/signature-initiatives/model-curriculum-project-for-substance-use-disorders/medication-assisted-treatment-for-opioid-use-disorder

[10] World Health Organization. *Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence* (2009), https://www.who.int/publications/i/item/9789241547543

[11] *See, e.g.,* Rich, J. D., et al., Methadone Continuation Versus Forced Withdrawal on Incarceration in a Combined US Prison and Jail: A Randomised, Open-Label Trial (2015), Lancet 386(9991):350–359. https://doi.org/10.1016/S0140-6736(14)62338-2

[12] *See* Green, T. C., et al., Postincarceration Fatal Overdoses After Implementing Medications for Addiction Treatment in a Statewide Correctional System (2018), *JAMA Psychiatry* 75(4):405–407. https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2671411

[13] *See, e.g.,* Merrall E. L., et al., Meta-Analysis of Drug-Related Deaths Soon After Release from Prison (2010), *Addiction* 105(9):1545–1554, https://doi.org/10.1111/j.1360-0443.2010.02990.x; Binswanger, I. A. et al., Release from Prison—A High Risk of Death for Former Inmates (2007), *New England Journal of Medicine* 356:157–165, https://www.nejm.org/doi/full/10.1056/nejmsa064115; Rosen, D. L., et al., All-Cause and Cause-Specific Mortality Among Men Released from State Prison, 1980–2005 (2008), *American Journal of Public Health* 98(12):2278–2284, https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2007.121855.

[14] *Pesce v. Coppinger,* 355 F. Supp. 3d 35 (D. Mass. 2018); *Smith v. Aroostook County,* 376 F. Supp. 3d 146 (D. Maine), *aff'd,* 922 F.3d 41 (1st Cir. 2019).

[15] *DiPierro v. Hurwitz,* No. 1:19-cv-10495-WGY (D. Mass. 2019); *Smith v. Fitzpatrick* (D. Maine 2018); *Crews v. Sawyer* (D. Kan. 2019); *Sclafani v. Mici* (D. Mass. 2019); *Godsey v. Sawyer* (W.D. Wash. 2019).

[16] *Kortlever v. Whatcom County* (D. Wash. 2018).

[17] National Sheriffs' Association and National Commission on Correctional Health Care. *Jail-Based Medication-Assisted Treatment: Promising Practices, Guidelines, and Resources for the Field* (2018). https://www.ncchc.org/filebin/Resources/Jail-Based-MAT-PPG-web.pdf

[18] SAMHSA and BJA. *Medication-Assisted Treatment Inside Correctional Facilities: Addressing Medication Diversion* (2019). https://store.samhsa.gov/product/mat-inside-correctional-facilities-addressing-medication-diversion/PEP19-MAT-CORRECTIONS