

2022

Adult Problem-Solving Court Standards



COLORADO ADULT PROBLEM-SOLVING COURT STANDARDS FORWARD

The Problem-Solving Court Advisory Committee for the State of Colorado tasked the Technical Assistance and Program Support Subcommittee to unify and update standards applicable across all adult problem-solving court models currently operating in the state – adult drug courts, DUI courts, adult mental health courts, veterans treatment courts, and family treatment courts. The intent behind this assignment was to produce consistent, predictable, and measurable guidelines and practices that the best and most current research establishes as effective for the problem-solving court model and that all of Colorado’s problem-solving courts would operate with and be evaluated against.

The Technical Assistance and Program Support Subcommittee brought together expertise from problem-solving court professionals from across the state, from each problem-solving court type, and from each mandatory role within a problem-solving court team. The drafting process began in January, 2020, and concluded in May, 2022. In June, 2022, the Problem-Solving Court Advisory Committee adopted this resulting document, the Adult Problem-Solving Court Standards, and recommended its approval to the Chief Justice of the Colorado Supreme Court as the governing document for all adult problem-solving courts in Colorado. The Adult Problem-Solving Court Standards replaces governing documents that were previously in place and that were applicable to specific court types.

The standards associate all practices with three different categories – fundamental, best, and permitted.

A fundamental practice sets the “floor” – fundamental practices are mandatory minimum practices clearly identified by research as necessary to accomplish successful outcomes for program participants. A program seeking accreditation from the State of Colorado will need to establish compliance with fundamental practices or request an exemption in their accreditation application for each fundamental practice for which the program is not in compliance.

A best practice sets the “ceiling” – best practices are evidence-based to improve successful outcomes but research does not establish the practice as so critical to successful outcomes as to require the practice to be mandatory. Thus, programs are strongly encouraged to implement best practices but compliance with best practices is not mandatory for accreditation.

A permitted practice is entirely optional. Programs may choose to implement a permitted practice if they find the practice helpful in administering the program or in improving outcomes, but the practice is not so established in the research as to earn a fundamental or best designation.

Language conventions are used within the standards to clearly identify a particular practice as fundamental, best, or permitted. The first convention is the language typeface. Regular, non-italicized typeface identifies a fundamental practice. Italicized typeface identifies a best or permitted practice. The second convention is the modal verb used within the standard. The modal verb “shall” identifies a fundamental practice. The modal verb “should” identifies a best practice. The modal verb “may” identifies a permitted practice. Three standards – 3.1.1, 3.3.1, and 5.5.1 – are designated as best practices but do not use modal verbs.

The language in the Key Components and numbered standards are applicable to all adult programs. Differences or deviations from the standards for specific program types are set out underneath the numbered standards that the differing language modifies, with initials designating the specific program type to which the differing language applies – adult drug court (ADC), DUI Court (DUI), mental health court (MHC), veterans treatment court (VTC), or family treatment court (FTC).

Key Components

1. Problem-solving courts shall be comprised of a broad-based multidisciplinary group of stakeholders who shall be responsible for the day-to-day operations of the problem-solving court. Stakeholders shall work collaboratively to integrate substance use and mental health treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution, defense counsel, and other stakeholder attorneys promote public safety and protect participants' due process rights while collaborating with treatment providers and other stakeholders on the team.
3. Eligible candidates for a problem-solving court program are identified early and are promptly placed within a problem-solving court. New participants are then linked to community-based service providers as quickly as possible.
4. Problem-solving courts provide access to a continuum of individualized assessment-driven and evidence-based treatment and other trauma-related and rehabilitative services.
5. Substance use and the appropriate use of medications are monitored by random and frequent sobriety testing to evaluate and reassess treatment adherence and recovery progress.
6. A coordinated strategy governs the problem-solving court's use of incentives, sanctions, and other responses to participants' compliance with program policies and procedures as well as progress accomplishing program goals and objectives.
7. Ongoing judicial interaction with each problem-solving court participant is essential to create relationships for effective case management.
8. Problem-solving courts regularly collect, monitor, and evaluate data that demonstrates adherence to program goals, best practices, and effectiveness in maintaining fidelity to the problem-solving court model and evidenced-based recovery principles.
9. Continuing interdisciplinary education promotes effective problem-solving court planning, implementation, operation, and knowledge of fundamental and best practices
10. Programs forge diverse, data-driven partnerships among public agencies and community-based organizations to cultivate local support, enhance program effectiveness, develop resource sustainability, and support the long-term recovery of participants.

Key Component #1

Problem-solving courts shall be comprised of a broad-based multidisciplinary group of stakeholders who shall be responsible for the day-to-day operations of the problem-solving court. Stakeholders shall work collaboratively to integrate substance use and mental health treatment services with justice system case processing.

- 1.1 The problem-solving court team shall include the following roles/agencies as mandatory team members: judicial officer, problem-solving court coordinator, probation officer and/or case manager, treatment provider(s), stakeholder attorneys (to include, at a minimum, a prosecuting attorney and defense attorney), and law enforcement.
 - ❖ Veterans Treatment Court: The VTC team shall also include a Veterans Justice Outreach (VJO), Lead Peer Mentor Coordinator, and Veteran Peer Mentors.
 - ❖ Family Treatment Court: The FTC team shall include a guardian ad litem (GAL) and parent/child/county attorneys as stakeholder attorneys. The FTC shall also include a child welfare caseworker; and *may include domestic violence advocates and Court Appointed Special Advocates (CASA).*
 - ❖ DUI Court: *The DUI court team may also include a jail management representative and should recruit a law enforcement representative specializing in DUI enforcement.*
 - ❖ Mental Health Court: *The MHC team may also include a mental health navigator and a basic needs resource representative.*
 - ❖ All: *All problem-solving courts should include peer recovery support specialists.*
- 1.2 Problem-solving courts shall develop a policy and procedures manual that the entire team collaboratively develops, reviews, and agrees upon all aspects of operations including but not limited to mission, goals, eligibility criteria, operating procedures, performance measures, orientation, sobriety testing, and program structure guidelines.
 - 1.2.1 Written confidentiality protocols shall be in place to prevent the disclosure or redisclosure of confidential information.
 - 1.2.2 The policy and procedures manual shall be reviewed yearly for content updates.
- 1.3 The problem-solving court team shall develop a Memorandum of Understanding (MOU) between all participating agencies, that includes a description of roles and responsibilities for all team members and confidentiality mandates for all team members.

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- 1.3.1 The individual(s) assigned by a mandatory team member agency to serve as its representative to the team shall execute the responsibilities defined in the Memorandum of Understanding for the role associated with that team member agency.
- 1.4 All mandatory team members shall consistently attend and participate at scheduled staffing meetings. *All remaining team members should consistently attend scheduled staffing meetings.*
- 1.4.1 *Peer Recovery Specialists should not attend or participate in staffing meeting, but may attend court reviews.*
- ❖ Veterans Treatment Court: Veteran Peer Mentors shall not attend or participate in staffing meetings. *The Lead Veteran Mentor Coordinator may attend staffing meetings and court reviews.*
- 1.5 All mandatory team members shall consistently attend and participate at scheduled court reviews. *All remaining team members should consistently attend scheduled court reviews.*
- 1.6 Treatment providers shall effectively communicate in a timely manner, using a secure method, with the problem-solving court team between court reviews to report on concerns with participants' progress or treatment.

Key Component #2

Using a non-adversarial approach, prosecution, defense counsel, and other stakeholder attorneys promote public safety and protect participants' due process rights while collaborating with treatment providers and other stakeholders on the team.

- 2.1 Stakeholder attorneys shall be members of the problem-solving court team and shall participate in the design, implementation, and enforcement of the program's screening, eligibility, and case-processing policies and procedures.
- 2.2 Stakeholder attorneys shall work to create a sense of stability, cooperation, and collaboration in pursuit of the program's goals. Stakeholder attorneys shall pursue justice and protect public safety in a manner consistent with expectations of recovery timeframes and progress while preserving the constitutional rights of problem-solving court participants.
- 2.3 Stakeholder attorneys shall consistently attend all staffing meetings and court reviews.
- 2.4 The prosecutor shall review candidate's cases and determine whether/if a candidate is legally eligible and meets program eligibility and target population criteria; file all required legal documents; agree that a positive sobriety test or open court admission of drug use will not result in the filing of additional drug charges based on that test or admission; and work collaboratively with the team to decide on team responses to participant behavior including the use of incentives, sanctions, therapeutic adjustments, and whether unsuccessful termination from the program is appropriate for the team to discuss.
- ❖ Family Treatment Court: County attorneys shall review cases and determine whether a candidate is legally eligible for the problem-solving court program; file all required legal documents; and work collaboratively with the team to decide on team responses to participant behavior including the use of incentives, sanctions, therapeutic adjustments, and whether unsuccessful termination from the program is appropriate for the team to discuss. *FTC's should reach consensus with the prosecuting attorneys for their jurisdictions that positive sobriety tests or open-court admission of drug use will not result in the filing of additional drug charges based on that test or admission.*
- 2.5 Defense and parent's counsel serving as the member of the multi-disciplinary team shall work collaboratively with the team to decide on the team's responses to participants'

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behavior, including incentives, sanctions, therapeutic adjustments, and whether unsuccessful termination from the program is appropriate for the team to discuss.

2.5.1 Defense and parent’s counsel serving as the member of the multi-disciplinary team shall be available to inform participants about the nature and purpose of the problem-solving court, the rules governing participation, and the merits of the program; to inform the participant that he or she shall be expected to take an active role in the status hearings, including speaking directly to the Judicial Officer as opposed to speaking through an attorney; to encourage truthfulness with the Judicial Officer and the treatment staff; and to explain that the prosecution has agreed that a positive sobriety test or admission to drug use in open court shall not lead to additional charges.

Key Component #3

Eligible candidates for a problem-solving court program are identified early and are promptly placed within a problem-solving court. New participants are then linked to community-based service providers as quickly as possible.

- 3.1 Participant eligibility criteria shall be developed and agreed upon by all members of the problem-solving court team and shall be included in the policies and procedures manual.
 - 3.1.1 *Research encourages problem-solving courts to base candidate referrals and admission decisions solely on application of target population and eligibility criteria.*
- 3.2 The target population for all adult problem-solving courts shall be individuals who are assessed as high-risk and high-needs.
 - 3.2.1 The problem-solving court model is not evidence-based for low-risk populations. Thus, accreditation will not be available to problem-solving court programs serving solely low-risk participants or to program tracks serving solely low-risk participants. Jurisdictions choosing to serve low risk populations using a problem-solving court model shall ensure that the participants in the low-risk program or track are not combined with the participants in a high-risk program or track.
- 3.3 Stakeholder attorneys shall perform their tasks as part of the eligibility process as swiftly as possible, including working with other stakeholders within the legal system to minimize the time to entry into the problem-solving court.
 - 3.3.1 *Research establishes that problem-solving courts accomplishing candidate entry in 50 days or less from arrest have improved participant outcomes.*
- 3.4 Problem solving courts shall assess the eligibility of program candidates with the use of validated risk and need assessments that are appropriate for the population served and that the administration of which are required under state probation standards (e.g. LSI, LS-CMI, PSC, CJRA, etc.). Assessment shall be administered by appropriately trained and qualified professional staff. Services for participants shall be appropriate for their assessed risks and needs.
 - ❖ DUI Court: *DUI Courts may also include additional validated risk assessment tools that are developed specifically for the impaired driving population (e.g., DUI-RANT/CARS/IDA/ASUDS).*

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- ❖ Veterans Treatment Court: *Veteran’s Treatment Courts may also identify eligible candidates by including any additional validated risk assessment tool appropriate for the specific charge(s) the candidate is facing. (e.g. RANT).*
- 3.5** Eligibility and exclusion criteria shall be defined objectively, specified in writing, and communicated to all potential sources for candidate referrals. The team shall not determine eligibility using subjective criteria, such as personal knowledge of candidates or subjective impressions of the candidate’s likelihood of success or motivation for change.
- 3.5.1 Candidate identity regarding gender and place on the LGBTQIA+ spectrum, culture, nationality, race, religion, ethnicity, language, or disability shall not be a basis for exclusion and shall not appear in exclusion criteria.
 - 3.5.2 If appropriate treatment is available, otherwise-eligible candidates with co-occurring disorders or candidates who have been prescribed psychotropic or addictive medication shall not be excluded from program participation.
 - 3.5.3 *Problem-solving courts should not automatically disqualify individuals charged with drug distribution or violent histories unless restricted by grant funding.*
- 3.6** Problem-solving courts with a capacity at or exceeding 125 participants shall include an additional section in their policies and procedures manual identifying how the program will meet and maintain compliance with the Colorado Adult Problem-Solving Courts Standards despite this capacity. The additional section shall address, at a minimum, specific strategies to adapt supervision, treatment, and program operations to be effective at this capacity, to include strategies regarding judicial interaction with participants, team member attendance at pre-court staffing meetings and court reviews, multidisciplinary team representation, sobriety testing, treatment agency communication with the program team, and team training.

Key Component #4

Problem-solving courts provide access to a continuum of individualized assessment-driven and evidence-based treatment and other trauma-related and rehabilitative services.

- 4.1 Problem-solving courts shall partner with and maintain consistent representation by at least one primary treatment provider. *Problem-solving courts should partner with no more than two primary treatment providers.*
- 4.2 Problem-solving courts shall complete a full treatment assessment, including a mental health screen by an appropriately trained and qualified provider, prior to a participant beginning treatment. *Problem-solving courts may complete a full treatment assessment prior to a candidate's entry into the program.*
- 4.3 Problem-solving courts shall offer a comprehensive range of treatment appropriate for the population served. Problem-solving courts shall provide access to the following services:
- Intensive outpatient treatment
 - Group counseling
 - Individual counseling
 - Co-occurring assessment and treatment, if indicated
 - Transition planning for participants moving from more intensive treatment modalities to less-intensive treatment modalities
 - Withdrawal management care
 - Trauma-informed care
 - Residential treatment
 - Services provided in or translated into a participant's native language if the participant does not speak English
 - Services that conform to the requirements of the Americans with Disabilities Act
- 4.3.1 Problem-solving court participants shall meet with a treatment provider or clinical case manager for at least one individual counseling session per week during the first phase of the program. *The frequency of individual sessions may be reduced subsequently if doing so would be unlikely to precipitate a behavioral setback or relapse.*
- 4.3.2 The program shall direct the frequency of each service a participant must receive based on assessed need and identified level of care.

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- 4.3.3 Problem-solving courts shall utilize medication-assisted treatments (MAT), with the consent of the participant, when found to be clinically appropriate. The use of MAT shall not be denied by the problem-solving court or a contracted provider of the problem-solving court, nor shall the tapering off of MAT be a required element for program entry, progression, or graduation. Please see Appendix B for a further description regarding practices around medication-assisted treatments.
- 4.3.4 The size of treatment groups shall not exceed twelve participants.
- 4.3.5 *Treatment groups should be conducted by at least two licensed clinician facilitators.*
- 4.4 *Problem-solving courts should offer a range of additional treatment types, appropriate for the court type and participants' individually assessed need. These services should include, but are not limited to: family counseling; domestic violence counseling; sober living facilities; anger management counseling; services appropriate to the participant's gender identity; services appropriate to the participant's place on the LGBTQIA+ spectrum, services appropriate to the participant's cultural, racial, and/or ethnic identity; services addressing needs specific to disabled participants, transition planning for the participant's recovery following court supervision; suicide prevention services; community crisis intervention services; overdose prevention; traumatic brain injury (TBI) treatment; military sexual trauma (MST) services.*
- 4.5 *Problem-solving courts should make additional social services available that are supportive of participants' recovery and stability in the community. These services may include but are not limited to: employment counseling and assistance (beginning in a later phase of the program); assistance in applying for public assistance benefits, including health insurance; parenting education; child care; education and job training; medical and dental care; transportation planning; victim empathy/restorative justice; housing; peer recovery support services, peer mentoring and alumni groups.*
- ❖ *Family Treatment Courts: FTC's may include but are not limited to the following ancillary services: CASA; medical/dental/mental health services for children; attachment-based services; developmental screens and assessments for children*
- 4.6 Treatment and case management plans shall be individualized for each participant based on the results of initial assessments. Assessments shall include whether individual and/or

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group interventions are appropriate and shall consider gender identity, trauma history, place on the LGBTQIA+ spectrum and the need for service appropriate to culture, race, or ethnicity. Participants shall be reassessed at a frequency determined by the treatment provider and treatment plans shall be modified or adjusted based on reassessment results.

4.6.1 A participant’s advancement in the treatment plan shall not be tied to the participant’s phase promotion in the program’s phase structure.

4.7 Jail shall not be used to administer treatment services if appropriate community-based treatment services are available.

4.7.1 Jail shall not be used to accomplish withdrawal management if community-based detoxification services are available.

4.7.2 Jail shall not be considered a sober living environment and shall not be used for the sober living needs of participants

4.8 Problem-solving courts shall provide participants sufficient duration and dosage of treatment based on their risks and needs as determined by validated standardized assessments. *High-need participants ordinarily receive 6-10 hours per week during the initial phase and 200 hours of counseling over 9-12 months, though flexibility to accommodate individual responses to treatment is allowable.*

❖ DUI Courts: DUI Courts shall provide the minimum number of hours over the minimum duration of months as required by the regulations for DUI Level II 4+ treatment.

4.8.1 Problem-solving courts shall utilize evidence-based treatments.¹

4.8.2 Treatment for substance use disorder shall include, but is not limited to, manualized cognitive behavioral therapy interventions.

4.8.3 Psychotropic medications shall be utilized if determined to be clinically appropriate.

4.8.4 The team shall facilitate ongoing communication with the provider(s) prescribing psychotropic medications for a participant. Participants shall execute releases of information (ROI) allowing team communication with providers(s) prescribing psychotropic medications.

¹ For information regarding evidence-based treatments, please see [NREPP Website](#) or [SAMHSA website](#)

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- 4.9** Relapse prevention and/or continuing care shall be emphasized in all phases of the program.
- 4.9.1 Participants shall prepare ongoing relapse prevention and/or continuing care plans prior to program graduation.
- ❖ Mental Health Courts: Mental health courts shall require a relapse prevention plan only for participants diagnosed with substance use disorder.
- 4.9.2 Problem-solving courts shall offer referrals to exiting participants for continuing care and/or sober support.
- 4.10** Treatment Providers serving on the problem-solving court team shall be trained, qualified and licensed to provide appropriate treatment services. Problem-solving court treatment providers shall be supervised regularly to ensure continuous fidelity to Office of Behavioral Health (OBH) minimum standards.
- 4.10.1 *All treatment providers providing services to a problem-solving court's participants should have substantial experience working with criminal justice populations.*
- 4.11** The problem-solving court team and treatment provider shall communicate regularly with each other regarding services provided to participants and adherence to agreed-upon treatment approaches.
- 4.11.1 Treatment providers shall share relevant information about participants with the team in a timely manner prior to review hearings.
- 4.11.2 Communication protocols shall be included in the program policies and procedures manual addressing HIPAA restrictions, releases of information (ROI), ex-parte communication, and types of information to be shared with the team. *As much as possible, information should be shared via email with confidentiality protocols in place to prevent the disclosure or re-disclosure of confidential information.*
- ❖ Family Treatment Court: *The release of information should additionally contain a provision that allows the FTC to enter parent and program information into the problem-solving court database for evaluation purposes.*
- 4.12** Participants shall not be terminated, discharged or excluded from treatment or the

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program based solely on continued use until all available treatment options are exhausted,
provided the participant is otherwise compliant with the program.

Key Component #5

Substance use and the appropriate use of medications are monitored by random and frequent sobriety testing to evaluate and reassess treatment adherence and recovery progress.

- 5.1** Problem-solving courts shall implement a standardized system in which participants participate in mandatory sobriety testing.
- 5.1.1 Testing shall be administered randomly.
 - 5.1.2 Testing shall occur at a frequency of no less than twice per week.
 - 5.1.3 Testing shall occur on weekdays, weekends, and holidays.
 - 5.1.4 As treatment dosage and supervision is reduced, sobriety testing for participants diagnosed with substance use disorder shall not be reduced, *except that problem-solving courts may, on a case-by-case basis, choose to reduce testing frequency for participants who are in the final phase of the program and who are not more than 60 days prior to their graduations. When determining whether a participant is ready for reduced testing frequency, programs should consider reductions in assessed risk, involvement in continuing care and outside recovery support, and other circumstances relevant to risk and need.*
- ❖ *Mental Health Courts: Sobriety testing may reduce for the latter phases of a Mental Health Court, unless a participant is diagnosed with a co-occurring substance use disorder.*
- 5.2** Problem-solving courts shall test for all drugs of common misuse, including alcohol, and shall occasionally vary testing to detect additional substances as indicated based on specific participant behaviors or on the prevalence of the substance in the community or population served.
- 5.3** Problem-solving courts shall utilize urinalysis as the primary method of sobriety testing.
- 5.3.1 *Problem-solving courts may use a variety of alternative testing methods to supplement urinalysis, including breath and saliva testing and patch and electronic monitoring, as the needs of programs or participants may dictate.*
- ❖ *DUI Courts: Testing for alcohol use may also include portable breath testing devices, transdermal testing, and ignition interlock breath testing in addition to urinalysis.*

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- 5.4** Sample collection shall be observed to prevent tampering and the use of fraudulent samples. Sample collection for urinalysis testing shall be provided in the presence of, and visually observed by, trained staff personnel.
- 5.4.1 The gender of the trained staff personnel observing the sample collection for urinalysis testing shall be the same as the gender of the participant.
- 5.4.2 *The staff person conducting sample collection for urinalysis testing should be trained in privacy and sensitivity practices relative to gender identity, trauma, cognitive, or other individual-specific accommodations and needs.*
- 5.5** Results of initial sobriety testing shall be provided to the team as soon as possible after the provision of the sample.
- 5.5.1 *Research establishes that problem-solving courts that receive results from sobriety test within 48 hours of sample collection have improved participant outcomes.*
- 5.6** Information that a participant provided a diluted, altered, or positive sample, or failed to submit a sample, shall be immediately communicated to the problem-solving court team.
- 5.7** Problem-solving courts shall address a participant about a dilute result from a urine sample at the next available review docket. Participants who provide their first dilute sample shall, as the program response, participate in education about the causes of accidental dilution and how to avoid accidental dilution in the future. Subsequent dilute samples, or any deliberately altered samples, shall subject the participant to a sanction.
- 5.8** A minimum of 90 consecutive days of sobriety as verified through primary sobriety testing methods shall be required before a participant is eligible to graduate from a problem-solving court
- 5.9** At the beginning of the program and on a regular basis thereafter, the problem-solving court shall review with participants the expectations and parameters of sobriety testing and the consequences for non-compliance or for results that are positive or dilute.
- 5.9.1 Problem-solving courts shall provide educational information to participants regarding the effects of prescribed medications on sobriety test results.

Key Component #6

A coordinated strategy governs the problem-solving court's use of incentives, sanctions, and other responses to participants' compliance with program policies and procedures as well as progress accomplishing program goals and objectives.

- 6.1** Problem-solving courts shall create a regular schedule of review hearings occurring weekly or every other week for participants who are in the first phase of the program, and no less than once per month for participants who are in the last phase. *Frequency of review hearings may vary based on a participant's risks and needs, and/or district resources.*
- 6.2** Prior to program entry, all candidates shall receive a participant handbook written at an appropriate grade level for the population served. The handbook shall include information regarding program expectations and requirements, phase advancement criteria, and behaviors that will result in sanctions and incentives. Current participants shall be provided revised and updated handbooks as applicable.
- 6.3** Problem-solving courts shall have written policies and procedures for the use of incentives, sanctions, and therapeutic adjustments and the behaviors that elicit them.
- 6.3.1 Program rules, guidelines, and expectations shall be communicated in advance to candidates for admission to the program and at regular intervals to current participants.
- 6.4** Problem-solving courts shall organize incentives and sanctions on a gradually escalating scale, offering a range of options. Problem-solving courts shall objectively apply incentives and sanctions in a consistent and appropriate manner to match a participant's conduct and progress accomplishing program objectives, taking into consideration the participant's proximal and distal goals.
- 6.5** Responses to participant behavior shall be individualized but consistent with responses for others in the same phase for comparable conduct.
- ❖ Family Treatment Courts: FTC's shall consider the impact of a response on the needs of all family members.
- 6.5.1 Participant identity regarding gender and place on the LGBTQIA+ spectrum, culture, nationality, race, religion, ethnicity, language, and disability shall not be the basis for determining or changing the intensity of an incentive or sanction.

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- 6.5.2 Problem-solving courts shall ensure that decisions regarding responses to participant behavior account for the participant's trauma history.
- 6.5.3 *Problem-solving courts may intensify the response to a participant's behavior when circumstances regarding the behavior implicate a substantial risk of serious harm to the participant or others.*
- 6.6** Problem-solving courts shall use incentives to reinforce desired behaviors and healthy/positive lifestyle changes. Programs shall ensure a minimum proportion of incentives to sanctions based on current research and best practices.
- 6.7** *Problem-solving courts should include therapeutic adjustments in their contingency management practices and may use therapeutic adjustments at any time in response to participant behavior.*
- 6.7.1 Therapeutic adjustments shall be based on recommendations of qualified treatment staff to maintain consistency with the current treatment plan.
- 6.7.2 Therapeutic adjustments shall not be used or classified as sanctions *but may be paired with sanctions.*
- 6.8** Problem-solving courts shall ensure that incentives, sanctions, and therapeutic adjustments are immediate, certain, fair, and of appropriate intensity. Incentives and sanctions shall target specific behaviors and shall be administered with a clear direction for the desired behavior change or reinforcement.
- ❖ Family Treatment Courts: *FTC's should consider the needs of all family members when deciding incentives and sanctions.*
- 6.8.1 Incentives and sanctions shall be administered as closely in time to the targeted behavior as possible, but no later than the next scheduled court appearance.
- 6.8.2 Problem-solving courts shall ensure that all decisions regarding responses to participant behavior are clearly explained to the participant.
- 6.8.3 *Information regarding incidents of participant noncompliance should be communicated immediately to all members of the problem-solving court team to allow time for the coordination of an appropriate response/sanction.*
- 6.8.4 *A problem-solving court program may impose an immediate response outside of the review docket if the participant's behavior creates a substantial risk of serious harm to self or others. If a participant does not agree with the imposition of an*

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immediate response, a court appearance may be set in accordance with section 6.16 as soon as practicable after the discovery of the behavior or the imposition of the response.

6.9 Problem-solving courts shall respond to non-prescribed use of addictive or intoxicating substances when such use is detected through sobriety testing or admitted by the participant.

❖ Family Treatment Courts: A reassessment of child safety shall be included in the FTC's response to a parent's use, relapse, or dishonesty about use.

6.9.1 If requested by the participant, problem-solving courts shall submit a sample provisionally testing positive for a forbidden substance to a confirmation test prior to the imposition of a sanction.

6.10 Problem-solving courts shall not allow participants to use prescriptions for controlled substances unless medically necessary. *Problem-solving courts should gather information from trained medical professionals when considering whether to accept candidates who have valid prescriptions for controlled substances, such as narcotics for pain.*

6.10.1 Problem-solving courts shall rely on the judgment of the participant's physician or other licensed medical provider as to whether a prescription for a controlled substance is medically necessary and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.

6.10.2 Problem-solving courts shall include in their policies and procedures manual policies concerning the eligibility or ineligibility for program admission of candidates with prescriptions for controlled substances.

6.10.3 *Problem-solving courts should forbid use of medical marijuana while a participant is enrolled in the court.* If a problem-solving court disallows medical marijuana, it shall advise candidates for the program that a condition of entry is a waiver of the candidate's right to use medical marijuana, and that use of marijuana or THC for any reason while in the program will result in a sanction or other response.

6.11 All members of a problem-solving court team shall maintain professional demeanor in all interactions with candidates and participants.

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- 6.11.1 All members of a problem-solving court team shall not use shaming language during court reviews or any other interactions with candidates or participants.
- 6.11.2 Sanctions shall be delivered without anger, ridicule, or the use of foul or abusive language.
- 6.11.3 Problem-solving courts shall communicate with all participants in a trauma-informed manner. Additional care shall be taken when communicating with participants who have a known trauma history.
- 6.12** Problem-solving courts shall clearly describe objective criteria in their policies and procedures manual for deciding phase advancement, graduation, and unsuccessful termination.
- 6.13** Problem-solving courts shall base phase advancement on achievement of realistic and defined objectives. *Problem-solving courts may require specific and sufficient periods of sobriety prior to phase advancement.*
 - ❖ Family Treatment Courts: FTC’s shall base progression through the program to include the parent’s progress in the following areas, as applicable:
 - program requirements
 - the treatment plan
 - the out-of-home placement plan
 - the child protective services plan
 - ❖ DUI Court: DUI Courts shall base phase progression in the early phases of the program to include the participant’s progress developing a written plan addressing their transportation needs during the period of their driver's license suspension, if applicable.
- 6.13.1 *Problem-solving courts may reduce the intensity of supervision in later phases of the program.*
- 6.13.2 *Problem-solving courts should not use phase regression as a response to noncompliance.* While phase regressions are discouraged, if a problem-solving court uses phase regression as a response to a participant’s persistent or serious noncompliance, the problem-solving court shall create a remedial plan for the participant’s return to the original phase.
- 6.14** Problem-solving courts shall create graduation requirements that successfully establish a participant’s consistent accomplishment of community-based stability factors.

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Community-based stability factors include but are not limited to employment, living conditions, education, and/or other prosocial activities consistent with a participant's recovery maintenance and aftercare plan.

6.14.1 To graduate, participants shall either have paid all required court-ordered fines, fees, and/or restitution or have a court-approved waiver, a period of regular payments consistent with a payment plan, or a post-graduation payment plan.

6.15 *Problem-solving courts should use exhaustion of all available treatment and supervision options as the primary factor for deciding whether to subject a participant to unsuccessful termination.*

6.15.1 A participant's continued use of forbidden substances shall not be the basis for unsuccessful termination if the participant is otherwise compliant, unless all available responsive treatment options have been exhausted.

6.15.2 *Unsuccessful termination from the problem-solving court program should not be the sole reason for the imposition of an augmented sentence or disposition after revocation.*

6.15.3 Active participants for whom a new charge is filed that is not an eligibility disqualifier shall not automatically be subject to unsuccessful termination. *A new charge may prompt an appropriate response, discussed collaboratively by the problem-solving court team, that accounts for proximal, distal, legal, and safety considerations.*

6.16 Prior to the imposition of a response at a court review, problem-solving courts shall allow participants to explain their perspectives on factual controversies and on the imposition of incentives, sanctions, and therapeutic adjustments.

6.17 Jail sanctions shall be used judiciously and sparingly and only after less severe sanctions have been attempted.

6.17.1 Jail sanctions shall have a definite term.

6.17.2 Jail sanctions shall never exceed six consecutive days per sanction.

6.17.3 *Problem-solving courts imposing jail as a sanction should consider permitting scheduling adjustments to reduce disruption to medication-assisted treatment (MAT) and other medication management.*

6.18 Before the imposition of a sanction to jail or work release, problem-solving courts shall provide participants an opportunity to either exercise their due process rights pursuant to the 5th, 6th and 14th Amendments of the U.S. Constitution and Article 2, §25 of the Colorado Constitution and challenge the grounds for the sanction or waive their due process rights and proceed to the imposition of the sanction.

6.18.1 Problem-solving courts shall include within their policies and procedures manual a written plan for the provision of due process to participants who are facing a jail or work release sanction.

- ❖ The plan shall implement a procedure that is consistent with the requirements set forth in the “Due Process & Problem-Solving Courts” bench card, included as Appendix A.
- ❖ The plan shall ensure that the court record reflects the participant’s full advisement as to the due process rights that apply and reflects the participant’s knowing and voluntary decision to demand or waive the hearing.²
- ❖ The plan shall allow a meaningful opportunity after the participant’s advisement of rights for the participant to consider whether to demand or waive the hearing.

6.18.2 Evidentiary hearings, if demanded by the participant, shall be held forthwith and shall be circumspect in scope and duration.

6.18.3 Participants shall not receive a more substantial or severe sanction for choosing to exercise their due process rights than they would have received had they waived their due process rights and accepted the sanction.

² Examples of advisements forms are included in this document in Appendix A and are available at (SCAO website)

Key Component #7

Ongoing judicial interaction with each problem-solving court participant is essential to create relationships for effective case management.

- 7.1** The problem-solving court judicial officer shall preside over the problem-solving court for at least two consecutive years.
- 7.1.1 *Consistency of the judicial officer correlates with better outcomes for participants of problem-solving courts. Therefore, problem-solving court judicial officers should preside over the PSC for a longer or indefinite term.*
- 7.1.2 Routine rotation or alternating of judicial officers shall be avoided.
- 7.2** The problem-solving court judicial officer shall be assigned to the problem-solving court on a voluntary basis.
- 7.2.1 The judicial officer shall be knowledgeable about the problem-solving court model, substance use disorders, evidence-based treatment modalities, alcohol and sobriety testing, behavior modification, trauma-informed practices, and other problem-solving court related issues.
- 7.2.2 The judicial officer shall be current on legal, ethical, and constitutional issues applicable to problem-solving courts.
- ❖ Veterans Treatment Courts: The judicial officer shall be knowledgeable about military culture, the Veterans Administration, and veteran-specific issues.
 - ❖ Mental Health Courts: The judicial officer shall be knowledgeable about appropriate use of psychiatric medications.
 - ❖ Family Treatment Courts: The judicial officer shall be knowledgeable about current dependency and neglect legal standards, procedure, and timelines.
- 7.3** *The problem-solving court team structure should include a backup judicial officer who is trained in the problem-solving court model and protocols to cover staffing meetings and court reviews during the absence of the primary judge.*
- 7.4** The problem-solving court judicial officer shall attend and actively participate in all staffing meetings.
- 7.4.1 The problem-solving court judicial officer shall utilize information from the staffing meeting when interacting with participants at court reviews.

Non-Italics = Fundamental Practice – Required for Accreditation
Italics = Best or Permitted Practice – Not Required for Accreditation

- 7.5** The problem-solving court judicial officer shall conduct court reviews with each participant individually.
- 7.6** The problem-solving court judicial officer shall spend an average of at least three minutes interacting with each participant during their court review.
- 7.6.1 The problem-solving court judicial officer shall engage with and positively encourage each participant regardless of performance or response.
- 7.7** The problem-solving court judicial officer shall make all final decisions concerning the imposition of incentives or sanctions that impact a participant’s legal status or liberty interests. The decision shall take into consideration the consensus of the team as to the specific incentive or sanction.

Key Component #8

Problem-solving courts regularly collect, monitor, and evaluate data that demonstrates adherence to program goals, best practices, and effectiveness in maintaining fidelity to the problem-solving court model and evidenced-based recovery principles.

- 8.1** Program monitoring and management data shall be kept in electronic data systems, shall be easily obtainable, and shall be maintained in useful formats for regular review by problem-solving court teams, advisory and steering committees, and other applicable stakeholders.
- 8.2** Problem-solving court programs shall use the current statewide case management information system to maintain the formal and systematic collection of program performance data to allow for statewide evaluation and justification of outcomes and allocation of resources.
- 8.3** Problem-solving courts shall internally monitor and analyze collected participant data at a minimum of once per year to review program effectiveness.
 - 8.3.1 Problem-solving courts shall consider and use findings from collected participant data when modifying program operations, procedures, and practices.
- 8.4** The problem-solving court team shall coordinate with applicable state agencies to obtain recidivism data.
- 8.5** Problem-solving courts shall collect, monitor, and evaluate participant feedback, including participant satisfaction, using surveys or other evidence-based assessment tools, at regular intervals and/or at minimum at a participant's exit from the program.
- 8.6** *A process and outcome evaluation should be conducted by a qualified independent evaluator within three years of implementation of a problem-solving court program and thereafter at regular five-year intervals, to the extent feasible for the program.*
 - 8.6.1 Problem-solving courts shall consider and use findings from process and outcome evaluations when modifying program operations, procedures, and practices.
 - 8.6.2 *Problem-solving courts may conduct a cost-benefit analysis.*
- 8.7** *Problem-solving court programs should participate in the peer review process.*

Key Component #9

Continuing interdisciplinary education promotes effective problem-solving court planning, implementation, operation, and knowledge of fundamental and best practices

- 9.1** Problem-solving courts shall address staff training requirements and continuing education in their policies and procedures manual.
- 9.1.1 Recommended training shall align with state and national standards or practices endorsed by qualified national organizations and/or professional associations that have demonstrated expertise.
- 9.2** Training and education shall include the following topics: the problem-solving court model; NADCP Adult Drug Court Best Practice Standards; the Ten Key Components; and the Colorado Unified Problem-Solving Court Standards. *Training should also include any recommendations from the Colorado Problem-Solving Court Advisory Committee’s Training and Education Subcommittee.*
- 9.2.1 *Problem-solving court team members should assist in cross-training other team members in their specific disciplines and areas of expertise.*
- 9.3** *Problem-solving court team members should make every effort to attend, at least every other year, comprehensive training if available and as provided by state or national problem-solving court organizations, such as the National Association of Drug Court Professionals or the National Drug Court Institute.*
- ❖ *Veterans Treatment Courts: VTC’s may also attend Justice for Vets trainings or other veteran-specific training events.*
 - ❖ *Family Treatment Courts: FTC’s may also attend the National Center on Substance Abuse and Child Welfare (NCSACW) trainings, and Children and Family Futures (CFF) trainings and events.*
- 9.4** Within 60 days of joining the problem-solving court team, new team members shall receive formal training and orientation as recommended by the Training and Education Subcommittee on problem-solving courts and role-specific basics.
- 9.4.1 *Outgoing problem-solving court team members should assist in the training and transition of their replacements.*

Key Component #10

Programs forge diverse, data-driven partnerships among public agencies and community-based organizations to cultivate local support, enhance program effectiveness, develop resource sustainability, and support the long-term recovery of participants.

- 10.1** The problem-solving court team or steering committee shall meet quarterly to oversee the operations of the problem-solving court(s) and to establish and review policies and procedures. *The problem-solving court team or steering committee should regularly address at the quarterly meetings sustainability, program resources, information management, and outcomes of program evaluations.*
- 10.2** Problem-solving courts shall organize a local Advisory Committee that meets at least twice yearly to develop and/or strengthen their cooperation with community stakeholders. *Community stakeholders should consist of representatives from the court, community organizations, law enforcement, treatment providers, health providers, social service agencies, the business community, media, faith community, and other community groups.*
- 10.2.1 *The local Advisory Committee may consider forming an independent 501(c)(3) organization for grants and fund-raising purposes for problem-solving court incentives, resource development, and other assistance, such as transportation, housing, or counseling.*

ADULT PROBLEM-SOLVING COURT STANDARDS: GLOSSARY

Key Component 1

1.4: “**Staffing meetings**” refers to the meetings occurring immediately prior to a court review docket at which the multidisciplinary team examines the prior review period for each participant scheduled to appear on the docket and determines the appropriate individualized responses for that participant’s compliance and progress. (Also 2.3, 3.6, 7.3, 7.4, 7.4.1)

1.6: “**Participant**” refers to an individual who, as a result of a deferred or actual adjudication or sentence, is admitted to, participating in, and supervised by a problem-solving court.

Key Component 2

2.4: “**Candidate**” refers to an individual who is in the process of identification, referral, or evaluation for possible admission to a problem-solving court but who has not yet been admitted to the program.

Key Component 3

3.3: “**High-risk**” refers to a substantial likelihood that an offender will not succeed on standard supervision and has a relatively poorer prognosis for success in traditional rehabilitative services, resulting in a higher likelihood that he or she will continue to engage in the same pattern of criminal behavior. (Also, 3.3.1)

3.3: “**High needs**” refers to clinical disorders or functional impairments that, if treated, substantially reduce the likelihood of continued engagement in crime. (Also, 4.7.3)

3.4.1: “**Co-occurring Disorders**” refers to the coexistence of at least one mental health disorder and one substance use disorder but may include multiple diagnoses of behavioral health and other chronic diseases. (Also, 4.3; 5.1.4)

3.4.1: “**Psychotropic medications**” refers to medications for mental health disorders that modify normal functions of the brain instead of treating only the symptoms of the diagnosis they are prescribed to treat. Psychotropic medications are classified into five types – antidepressants, ant-anxiety medication, stimulants, antipsychotics, and mood stabilizers. Examples of psychotropic medications include, but are not limited to, chlorpromazine, imipramine, diazepam, and clozapine. (Also, 4.10; 4.10.1)

Key Component 4

KC 4: “**Evidence-based**” refers to the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual participants. It means integrating individual clinical expertise with the best available external clinical evidence from systematic research. (Also, 3.3.1; 4.9; 7.2; 8.5)

4.3: “**Trauma-informed**” practices and care refer to practices and services that recognize trauma symptoms in clients and program participants, acknowledge and respond to the role of trauma in their responses to various situations and in their behaviors, and avoid re-traumatizing individuals to support their recovery and re-integration. (Also, 6.11.3; 7.2.1)

4.3.2: “**Medication-assisted treatments (MAT)**” refers to the use of FDA-approved medications, in combination with counseling and behavioral therapies, to provide a “whole-patient” approach to the treatment of substance use disorders. MAT is primarily used for the treatment of opioid use disorder. Research shows that a combination of medication and therapy can successfully treat these disorders and can help sustain recovery. (Also, 6.17.3)

4.4: “**Overdose prevention**” refers to multiple interventions that prevent overdose deaths and include increasing access to risk reduction services, increased access to naloxone (commonly known as Narcan), enhancing access to and engagement in treatment, and reducing high-risk prescription drug use.

4.11: “**Relapse prevention**” refers to cognitive-behavioral strategies that reduce the likelihood and severity of future relapsing behaviors for an individual after that individual has ceased or reduced the problematic behaviors.(Also, 4.11.1; 4.11.2)

Key Component 6

6.7: “**Therapeutic adjustments**” refer to timely modifications to prescribed medication regimens, self-care routines, treatment plans (including individual and group therapy), and self-monitoring plans that are instituted by the treatment provider in response to specific reoccurrences of problematic behaviors. (Also, 2.4; 2.5; 6.3; 6.7.1; 6.7.2; 6.8; 6.16)

6.13.2 “**Phase Regression**” refers to a participant being demoted or returned to an earlier phase of the program as a response to persistent or substantial noncompliance.

6.15.2: “**Augmented sentence or disposition**” refers to a resolution of the participant’s unsuccessful termination from a problem-solving court that results in a sentence that is more restrictive and/or punitive than what the participant may have faced had the participant been revoked from a traditional community-based sentence.

Key Component 8

8.4: “**Recidivism data**” tracks any new deferred agreement, adjudication, or conviction occurring at one, two, and three-year intervals after a participant’s separation from a problem-solving court, regardless of whether that separation is considered successful or unsuccessful.

8.6: “**Qualified independent evaluator**” refers to an individual who works independently of the program being evaluated, who can be objective, and who is experienced in evaluation design, including identifying what data to collect and the sources and timing of its collection. This individual also has expertise in data analysis and qualitative and quantitative research skills.

8.6.2: “**Cost-benefit analysis**” refers to an evaluation meant to determine the added value of a program in relation to the program’s overall cost. The purpose is to determine whether investment in a program is worth the cost of implementation and to compare programs by review the costs and benefits of each.

8.6: “**Process and outcome evaluation**” compares the predetermined objectives of a program’s process (or goals) with actual program activities and outputs to analyze the reasons why objectives were or were not met.

8.7: “**Peer review process**” refers to the program developed by the Colorado State Court Administrator’s Office in which a problem-solving court submits to a review by a peer review team to assess the program’s adherence to best practices. Peer review teams consist of experienced problem-solving court professionals that include at minimum a judge, a coordinator, and an SCAO staff member. The process includes review of program documents, observation of staffing and docket, and interviews with PSC team members. The content of the report from the peer review is for the benefit of the evaluated program only and is not used in determining accreditation.

Appendix A

Due Process:

Due Process & Problem-Solving Courts Bench Card

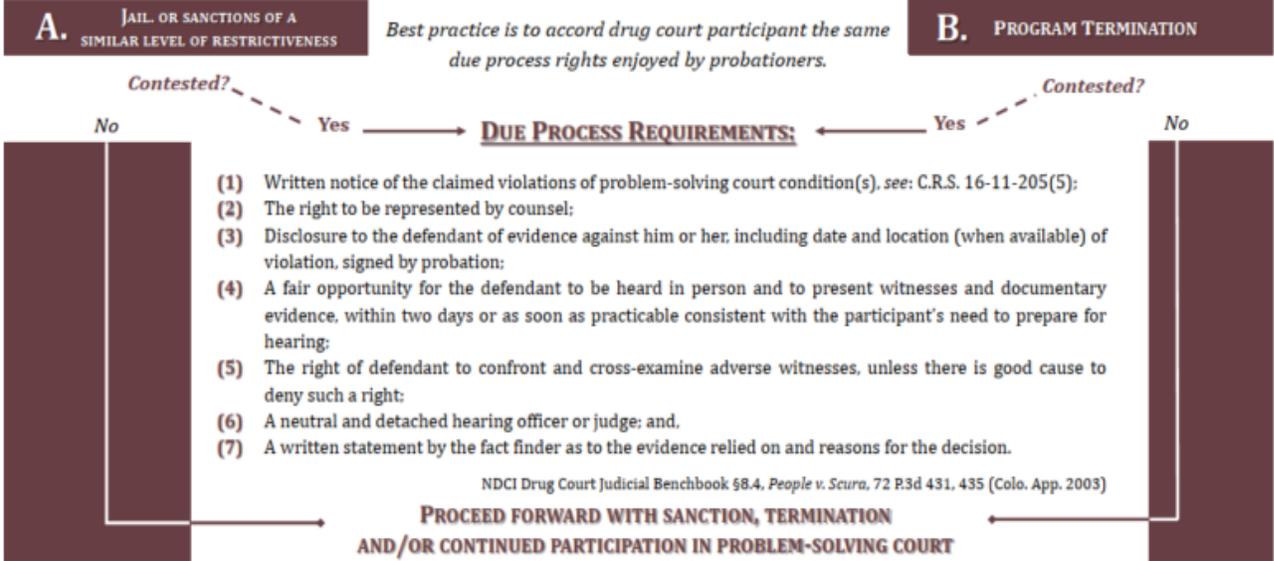
Example Written Notice of Violation

Example Jail Sanction Rights Advisement

DUE PROCESS & PROBLEM-SOLVING COURTS

Procedural due protections are due under the Due Process Clause when government infringes or implicates a person's recognized liberty or interest

5th & 14th Amendment, U.S. Constitution; Article II, § 25, Colorado Constitution; Drug Court Key Component #2



Terminology & Caselaw

For Additional Resources on Due Process Visit Problem-Solving Courts on JudicialNet

| | |
|-------------------------|---|
| Liberty Interest | Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. |
| Jail Sanctions | Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects. <i>Zadyvdas v. Davis</i> , 533 U.S. 678 (2001) |
| Waiver | A waiver of fundamental constitutional rights like due process must be made voluntarily, knowingly, and intelligently. <i>People v. Mozee</i> , 723 P.2d 117 (Colo. 1986) |
| | Voluntary the person waving must not be forced, either physically or psychologically, to relinquish his or her right. |
| | Knowingly the person waiving the right must “know” of the existence of the right and any other information legally relevant to the making of an informed decision either to exercise or relinquish that right. |
| | Intelligently the person waiving that right must be fully aware of what he or she is doing and must make a conscious, informed choice to relinquish the known right. |
| Recusal | When personal knowledge of disputed facts, due to partiality or bias acquired outside the context of the proceedings or from an “extrajudicial source” exists. (NDCI Drug Court Judicial Benchbook §8.4, pp. 170-1; Colo. Code of Judicial Conduct Rule 2.11) |

| | |
|---|-------------------------------|
| People of the State of Colorado v. , Defendant | COURT USE ONLY |
| | Case Number: Division: |
| Advisement of Rights Regarding Imposition of Jail Sanction | |

1. Defendant was sentenced in the above-captioned case to participate in, and successfully complete, the _____ Court ("the Program").
2. Pursuant to the policies and procedures of the Program, the Court is authorized to impose sanctions, up to and including jail sanctions, on the Defendant when the Defendant violates Program policies and procedures.
3. Defendant has been separately informed in writing of specific alleged violation(s) of the Program's policies and procedures.
4. In response to the alleged violation(s), the Court may impose the following jail sanction:
5. I, the undersigned Defendant, acknowledge that I have the following rights that I may exercise regarding the alleged violation(s):

Initials of Defendant

- _____ I have the right to deny the alleged violation(s) and demand an evidentiary hearing before a neutral and detached judicial officer regarding the alleged violation(s).
- _____ I have the right to have an attorney represent me at this hearing. If I am indigent, I have the right to request appointment of the public defender as my attorney at no cost to me.
- _____ I have the right see and examine the evidence against me.
- _____ At a hearing, the State must prove the alleged violation(s) by a preponderance of the evidence.
- _____ At a hearing, I have the right to testify or not testify. I also have the right to call witnesses, present evidence, and confront and cross-examine witnesses called by the prosecution.
- _____ I have the right to a written statement from the judicial officer presiding over the hearing as to the reasons for the decision and the evidence relied on.

I, the undersigned Defendant,

_____ Acknowledge I have read and understand this advisement, and (initial one choice below):

_____ **I Deny** that I have violated the Program's policies and exercise my right to an evidentiary hearing and all other attendant rights.

or

_____ **I Waive** my rights to an evidentiary hearing as set forth above and **accept** the imposition of the jail sanction. I am waiving my rights knowingly and voluntarily. I acknowledge and agree that this waiver is voluntary and not the result of undue influence, pressure or coercion. I am not under the influence of any drugs, intoxicants, or medication that would interfere with my ability to understand this advisement and waive my rights.

Defendant's Signature

Date

Appendix B

Medication-Assisted Treatment (MAT)

Appendix B - Medication-Assisted Treatment in Problem-Solving Courts

Medication-assisted treatment (MAT) is the use of medications, in combination with counseling and behavioral therapies, to provide a “whole-patient” approach to the treatment of substance use disorders. Medications used in MAT are approved by the Food and Drug Administration (FDA) and MAT programs are clinically driven and tailored to meet each patient’s needs.

Research shows that a combination of medication and therapy can successfully treat these disorders, and for some people struggling with addiction, MAT can help sustain recovery. MAT is also used to prevent or reduce opioid overdose.

MAT is primarily used for the treatment of addiction to opioids such as heroin and prescription pain relievers that contain opiates. The prescribed medication operates to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative and euphoric effects of the substance used.

(SAMHSA, 2021)

Commonly Approved Opioid Dependency Medications - Buprenorphine, methadone, and naltrexone are used to treat opioid use disorders to short-acting opioids such as heroin, morphine, and codeine, as well as semi-synthetic opioids like oxycodone and hydrocodone. These MAT medications are safe to use for months, years, or even a lifetime. As with any medication, consult your doctor before discontinuing use.

- **Buprenorphine** - suppresses and reduces cravings for opioids.
- **Methadone** - reduces opioid cravings and withdrawal and blunts or blocks the effects of opioids.
- **Naltrexone** - blocks the euphoric and sedative effects of opioids and prevents feelings of euphoria.

Opioid Overdose Prevention Medication – Naloxone saves lives by reversing the toxic effects of overdose. According to the World Health Organization (WHO), naloxone is one of a number of medications considered essential to a functioning health care system.

- **Naloxone** – used to prevent opioid overdose, naloxone reverses the toxic effects of the overdose.

(SAMSHA, 2021)

Office of Behavioral Health Licensing of Agency Requirements

Medication assisted treatment using a controlled substance shall be provided to individuals who are physically dependent on alcohol, illicit drugs, prescription medications, or a combination of these substances to alleviate the individual’s physical withdrawal symptoms and cravings, to help stabilize behavior, to increase productivity, and to reduce the risk of contracting and transmitting infectious diseases.

Approved agencies shall only dispense, compound, or administer, controlled substances by or on the order of a physician who currently possesses and maintains a license to practice medicine in the State of Colorado as provided by Article 240, Title 12, C.R.S. The physician’s medical order shall be documented in the individual’s treatment record.

502-1, 126)

(2 CCR

Ensuring Quality of Service

Licensees shall ensure that all personnel are working within their scope of practice and shall only allow licensed medical personnel to dispense, compound, or administer, controlled substances.

Each approved treatment facility shall provide formal training and testing on an annual basis to all employees on the Department's rules, the pharmacology of the substances dispensed and state and federal requirements regarding controlled substances and confidentiality. (2 CCR 502-1 Behavioral Health, 127)

Recommended Standards of Practice for MAT in Problem-Solving Courts:

1. Establish partnerships with probation, county jail(s), and OMAT providers.
 - a. Ensure that the number of patients on buprenorphine does not exceed the waiver limits of the providers at the facility
 - i. If methadone is administered at the facility, work with the opioid treatment program (OTP) that provides the medication to ensure that all federal and state regulations are met.
 - b. Ensure that normal controlled substance policy is followed when storing and distributing MAT medications that are controlled substances.
2. Universal screening of individuals entering into the problem-solving court for opiate use histories and needs. *May partner with jail/JBBS to conduct.*
 - a. A comprehensive substance use screening, with specific questions about opioids and MAT medications, should be administered as soon as feasible or urgently if withdrawal is suspected.
 - b. Staff should use self-report, objective medication reconciliation, urine drug screen (if applicable), and physical exam to diagnose substance use disorder using DSM-V criteria.
 - c. Validated withdrawal scales, such as COWS and CIWA, will be used to assess initial withdrawal and monitor progress.
 - i. Staff should use a validated withdrawal scale and evidence-based guidelines prior to the first dose of MAT in order to minimize the chance of precipitated withdrawal.
 - d. Initial screening may miss some patients who can benefit from MAT and consider treatment for these individuals who are identified by custodial staff or self-report during incarceration/program involvement.
 - e. Individuals diagnosed with behavioral conditions other than SUD should be linked to psychiatric care and treatment.
3. Create organizational structure for administration of the program (referral, eligibility, policies, etc.) for PSCs.
 - a. Participants receive education on the risks and benefits of treatment of withdrawal and substance use disorder, including information on alternative treatments and the risk of no treatment at all.
 - b. The lack of counseling capacity should not preclude a patient from receiving MAT; counseling and medication work independently but synergistically.
 - c. Treatment decisions should involve judicious consideration of all available medications for SUD, recognizing that the most convenient may not be the most effective.

- d. Patients who enter incarceration taking a MAT medication should be maintained on the same medication and dose whenever feasible.
 - e. Staff may consider initiating MAT for patients who are not currently taking MAT but could benefit from it either for withdrawal management or because they are at high risk of relapse (either upon release or within the program).
4. Identify list of prescription and administration of FDA approved medications and the decision-making process for determining use.
 - a. Treatment decisions should be made between the healthcare provider and patient.
 - i. They should not involve any loss or gain of privileges depending on choices.
 - ii. Treatment decisions should not be influenced by disciplinary actions unless those involve medication diversion.
 - b. Treatment should weigh the potential medical benefit against drawbacks and consider the patient's well-being upon release.
 - c. Treatment decisions should consider the patient's likely disposition and the availability of MAT in that setting.
 5. Support compliance with current policies and establish policies on managing and maintaining clinical records and safe medication use.
 - a. Staff should collaborate to minimize diversion of MAT medications.
 - i. Normally, this consists of healthcare staff administering the medication and custodial staff monitoring patients for diversion.
 - b. Storage and administration of MAT medications should follow all federal, state, and facility guidelines for controlled substances.
 - c. Program staff should be familiar with the common contraindications and adverse reactions to MAT medications as well as the signs and symptoms of withdrawal, and common treatments for all the preceding issues.
 - d. Healthcare and counseling staff in the facility will provide naloxone to patients at risk of overdose, either directly or through community providers, prior to release.
 6. Develop maintenance of treatment and transition plans.
 - a. Transition plans must include the provider with whom the client will treat after incarceration (either jail sentence or sanction) or post-PSC program involvement (termination or part of aftercare).
 - b. The facility (and PSC program) should make SUD counseling available to all patients on MAT who desire it.
 - i. PSC/Healthcare staff may take counseling attendance into account when determining whether ongoing MAT therapy is appropriate for a patient.
 - ii. Counseling should consist of an evidence-based intake, individual or group counseling, and linkage to counseling upon release.
 - c. The administration of MAT medications should balance the health benefits of MAT to the patient with the security requirements and availability of custodial staff.
 - d. MAT dosing should be titrated to achieve an effective dose as rapidly as possible.
 - e. MAT medication should not be immediately withdrawn except in outstanding circumstances, because cessation of MAT medications can cause severe withdrawal.
 - f. Connection to outpatient MAT treatment is a crucial aspect of a correctional MAT program.
 - i. Every effort will be made to identify high-quality outpatient treatment providers, link patients with treatment immediately upon release, and improve the quality and duration of follow-up care.

- g. Discharge planning should consider psychosocial barriers to treatment follow-up, including transportation and insurance.
 - i. When possible, discharge planning should attempt to provide medical records to outpatient healthcare providers given the proper release of information.

References and Resources on Medication Assisted Treatment

“Medication-Assisted Treatment.” Substance Abuse and Mental Health Services Administration (SAMSHA), Accessed June 28 2021. <https://www.samhsa.gov/medication-assisted-treatment>

“Medication-Assisted Treatment (MAT) in the Criminal Justice System: Brief Guidance to the States.” Substance Abuse and Mental Health Services Administration (SAMSHA), March 2019. <https://store.samhsa.gov/product/Medication-Assisted-Treatment-MAT-in-the-Criminal-Justice-System-Brief-Guidance-to-the-States/PEP19-MATBRIEFCJS>

“Medication-Assisted Treatment (MAT) Medications, Counseling, and Related Conditions.”

Substance Abuse and Mental Health Services Administration (SAMSHA).

<https://www.samhsa.gov/medication-assisted-treatment/medications-counseling-related-conditions>

Colorado Behavioral Health Rules 2 CCR 502-1

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=9404&fileName=%20CCR%20502-1>; Pages 126 through 141 addresses MAT provisions and guidance.

State Opioid Treatment Authority

Office of Behavioral Health, 3824 West Princeton Circle Denver, CO 80236, (303) 866-7400

<https://www.samhsa.gov/medication-assisted-treatment/sota>

<https://cdhs.colorado.gov/behavioral-health/opioid-treatment-programs>

National Drug Court Institute (NDCI) Medication Assisted Treatment (MAT) – Medication for Opioid Use Disorder Toolkit

<https://www.ndci.org/resource/training/medication-assisted-treatment/moud-toolkit/>

OpiRescue - <https://opirescue.com/>

OpiRescue is a free overdose support tool provided by OpiSafe, a safe opioid prescribing platform for care providers. The recommended steps for responding to an overdose provided in this application have been developed by SAMHSA and are publicly available in the [SAMHSA Opioid Overdose Toolkit](#).

Citations

Citations to the sources for the Adult Problem-Solving Court Standards and Glossary definitions are maintained online and may be reviewed at the Problem-Solving Court Website under Advisory and Documents:

https://www.courts.state.co.us/userfiles/file/Court_Probation/01st_Judicial_District/Problem%20Solving%20Courts/Problem-Solving%20Court%20Reference%20Library.pdf