**Memorandum of Understanding**

Medical Practitioners Prescribing Medications for Opioid Use Disorder forParticipants in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Treatment Court

**I. Access to Medications for Opioid Use Disorder**

1. 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.
2. 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]](#footnote-1)
3. 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.
4. 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.
5. 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.
6. 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.

**II. Domains of Responsibility**

1. 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.
2. 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.
3. 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.
4. 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
5. Monitoring urine or other test specimens for the expected presence of medications or their metabolites
6. Conducting random pill counts
7. Using medication event monitoring devices (MEMDs) that record when and how many pills were removed from the medication vial
8. 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
9. 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
10. 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.
11. 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.
12. 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.
13. 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**

1. 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:
2. Assessment results pertaining to the participant’s diagnosis, treatment needs, and indications for MOUD or a particular medication
3. Attendance at scheduled medical appointments
4. Adherence to the medication regimen, barriers to medication adherence if any, and willful misuse of the medication
5. Side effects, if any, from the medication and indicated responses to those side effects
6. Symptom improvement, including changes in opioid cravings, withdrawal symptoms, and associated mental health symptoms such as depression, boredom, irritability, or anhedonia
7. Results from PDMP reports indicating whether the participant obtained any unauthorized prescription from another provider for a controlled medication
8. Any efforts by the participant to tamper with or invalidate drug or alcohol tests if such tests are performed by the treating medical provider
9. Evidence of treatment-related attitudinal improvements such as increased insight or motivation for change
10. Any menacing, threatening, or disruptive behavior directed at the medical provider, other medical staff members, fellow patients, or other persons.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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**

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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**

1. 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 partnering agencies of the \_\_\_\_\_\_\_\_\_\_\_\_\_ Treatment Court have set their signatures and endorsement of the terms of this Agreement:

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Prescribing Physician or Medical Provider Date

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Treatment Court Judge Date

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Treatment Court Coordinator Date

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OTHER PARTIES AS INDICATED

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> [↑](#footnote-ref-1)