**Montana Peer Review**

Checklist for reviewing program documents (draft 8-24-15)

The intent of this document is to provide guidance to peer reviewers on what to look for in drug court documents (Policy and Procedures Manual, Participant’s Manual, Release of Information, and Participant’s Contract) as part of the peer review process. Reviewers may wish to suggest inclusion of areas that are enumerated below in these documents as part of the final report.

**Policy and Procedures Manual**

1. **Drug Court Mission and Goals**

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| **❑**  **❑**  **❑** | 1. Introduction – What is the purpose and history of the drug court 2. Mission Statement – A general statement of the intent of the drug court 3. Goals and Objectives – General goals and specific objectives of the drug court (objectives that can be measured). |

1. **Program Organization**

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| **❑** | 1. Drug Court Team   Suggested content:   * Statement that team members agree with mission, goals and objectives. * Expected team meetings are enumerated. * Team member are responsible to report back to the team on progress of participants. * Team members are expected to raise issues/share concerns. * Generally decisions regarding participants will be made by team consensus; however, the judge can and will make final decisions if necessary. * Team meeting content is confidential. * Advocacy for a participant should be done in team staffing, but there is a united front outside of the staffing. * Team members are expected at both staffing and court sessions. * Team meetings are held outside of staffing and are held regularly to discuss policy and procedures, conduct training and address pertinent issues of the drug court. * Membership of the team should be included along with a description of each member’s responsibilities. |
| **❑** | 1. New Drug Court Team Members   Suggested content:   * New team members must review policy and procedures manual, participant handbook and other drug court protocols. * Judge will introduce new members to team and participants. * Describe training of new team members. |

1. **Specific Policies**

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| **❑** | 1. Admission Criteria: Description of the eligibility criteria |
| **❑** | 1. Participant Referral and Screening Process: A description of the process step-by-step. |
| **❑** | 1. Case Management Responsibilities: Who does case management and if more than one person, how are the responsibilities divided up. |
| **❑** | 1. Participant Status Reports:  * Who develops reports, what do they contain, when are they due. * Treatment report contains attendance, days missed, progress note, recommendations * Client Status Reports are for team members only. |
| **❑** | 1. Staffing Description: Who participates in staffing, what is the process, and an assurance that the information discussed will be kept confidential. |
| **❑** | 1. Status Hearing Description: Includes a description of the protocol used for the drug court docket, what is expected of team members, and if new information is brought forward what is the protocol? |
| **❑** | 1. Confidentiality Protocols: Includes discussion of the role of Releases of Information, who will be included and the role of the team regarding confidentiality. |
| **❑** | 1. Training: Includes commitment to a drug court that uses evidence-based practices, and therefore associated training is very important.   Other suggested content:   * The drug court will arrange for training as practical given budget limitations. * Team members will actively seek out and participate in training from national and state conferences to online courses and webinars. |
| **❑** | 1. Cultural Awareness and Inclusion Policy   Suggested content:   * The drug court recognizes it serves a population with diverse ethnic, cultural and spiritual backgrounds. * The program seeks to provide equal services for all participants and will not discriminate in admitting or in treatment services. * The drug court works to honor participants’ individual cultural background by utilizing treatment programs and/or community providers that support and encourage their participation in cultural, ethnic or spiritual celebrations or ceremonies and uses evidence-based practices. |
| **❑** | 1. Medication Assisted Treatment Policy: Summarization of MAT policies and protocols. |
| **❑** | 1. Medication/Prescription Policy: Clarifies policy regarding both prescription and non-prescription drug use by participants (controlled substance policy, if used, for what length of time, dosage and who will administer), policy regarding surgical procedures and over-the-counter medication policy. What is the policy regarding acute illnesses that may require medication intervention? In all cases, what is the protocol for the participant to follow? |
| **❑** | 1. Alcohol and Other Drug Testing: Type of testing used, reasons for testing, goals for testing, protocol for drug testing.  * Observed * Random * Look at creatinine/testing for dilution |
| **❑** | 1. Protocol for Confirmation of Contested Instant Drug Screening  * Difference between positive test and denying a positive test that is confirmed. * Policy regarding chain of custody. * Policy regarding confidentiality of testing information. |
| **❑** | 1. Sanctions and Incentives/Rewards/Recognition Protocol: Summary of policy and protocols used regarding sanctions and incentives.   Suggested content:   * Includes bifurcation of sanctions vs. therapeutic responses and reasons when sanctions are used for non-compliance and therapeutic responses are used to deal with the brain disease and drug use. * Includes policy and procedure when sanction includes taking away someone’s liberty and the associated process. |
| **❑** | 1. Protocol for Termination from Drug Court: Description of protocol for termination from drug court for both voluntary and mandatory and potential reasons that would result in termination.  * Description of reasons the drug court may terminate someone. * What the implications are for termination by the drug court team or if the termination in voluntary; specifically, what happens to the case. * Summary of the policy for re-applying in the future to enter drug court. |

1. **Program Components**

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| **❑** | 1. Stages/phases: Describes the stages or phases of drug court including the approximate length of the phase, the requirements of each phase and the criteria for graduation, including a description of recovery management after graduation.   Suggested content:   * You should not link treatment phases to drug court phases. * It is good to reward people for completing treatment phases as well as completing drug court phases. * Requirements for completing drug court phases are different then requirements for completing treatment phases. |

1. **Administration and Evaluation**

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| **❑** | 1. File Management: Includes a summary of how files are kept confidential consistent with 42CFR Part 2, who is responsible for the judge’s files, who has access to them, what is included content-wise, what happens to the files after a termination or a graduation and over what period of time. |
| **❑** | 1. Management Information System: Includes a summary of any local MIS that is being used and who is responsible for inputting data. Additionally, mention is made of the state InFo Path system and who is responsible for inputting data into that system. |
| **❑** | 1. Program Evaluation: A summary of the evaluation protocol will include whether there is (or is planned to be) an external or internal evaluation and evaluator, process and/or outcome evaluation, and/or cost-benefit analysis; what is the frequency of reports and reporting and to whom. |
| **❑** | 1. Policy Review: How often will a full policy manual and form review be conducted and what will the process consist of? |

**Participant’s Manual**

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| **❑** | **OVERVIEW:** This section includes a welcome to the new participant, a description of the reasons for the drug court, the organization of the manual and the responsibility of the participant. Additionally, the overview should include whether the program is voluntary or mandated, what is included in the drug court (frequency of court appearances, frequent judicial supervision, alcohol and other drug testing, home visits, group and individual alcohol and other drug treatment, etc.), sanctions and incentives and other auxiliary services including participation in self-help meetings. | |
| **❑** | **THE DRUG COURT TEAM:** A description of the drug court team and their responsibilities. Who constitutes the drug court team: Judge, Defense Attorney (your attorney), Prosecuting Attorney, Drug Court Coordinator, Treatment Specialist, Law Enforcement Representative, Probation and Parole Officer, etc. | |
|  | **❑** | **PROGRESS REPORTS -** This section includes a description of the staffing and that before each docket, there is a meeting of the team to review each case and discuss the participant’s progress, including drug/alcohol testing results, attendance, participation and cooperation in the treatment program, and compliance with drug court rules and requirements. |
| **❑** | **DRUG COURT SESSIONS:**  Suggested content: This section includes the participant’s requirements regarding appearances in Court, what the frequency is based on, what happens with a failure to appear (i.e., Will a warrant be issued? Is jail likely?). | |
| **❑** | **MEDICATIONS/PRESCRIPTION POLICY:** Clarifies policy regarding both prescription and non-prescription drug use by participants. In all cases what is the protocol for the participant to follow.  Suggested content:   * Controlled substance policy: if used, for what length of time, dosage and who will administers * Policy regarding surgical procedures * Policy regarding over-the-counter medications. (Are there pre-approved over-the counter medications, e.g., for pain: Ibuprofen, Tylenol, Aspirin, Aleve, and Motrin?) * Policy regarding acute illnesses that may require medication intervention. | |
| **❑** | **STAGES OF DRUG COURT:** Describes the stages or phases of drug court including the approximate length of the phase, the requirements of each phase and the criteria for graduation, including recovery management activities after graduation from drug court. | |
| **❑** | **12-STEP/SELF-HELP GROUP PARTICIPATION:**  Suggested content: This section should include a description of why 12-step meetings are important and required, the rules for attending, and how attendance will be monitored. Included should be information on what happens if one does not attend and how one can find meetings. | |
| **❑** | **PAYMENT OF COSTS AND FEES:**  Suggested content: This section includes a description of what costs and fees are associated with drug court and when payments are expected. Drug court costs should be reasonable and based on an ability to pay without interfering with treatment and recovery. Participants should also be informed of other associated costs, e.g., costs of treatment, drug test confirmations, etc. | |
| **❑** | **CONFIDENTIALITY:** This section should include information regarding state and federal regulations that require the identity of the participant to be protected. Further, that the drug court has developed policies and procedures that guard this privacy. The participant should be informed that they will be required to sign an authorization for the limited release of confidential substance abuse information to be disclosed only to drug court members for the purpose of monitoring their progress in drug court and that drug court team members must maintain the confidentiality of that information. | |
| **❑** | **LEGAL ADVOCACY/JURISDICTION:** The drug court may want to request jurisdiction over minor pending cases or new charges/violations (for example, municipal court charges or possession charges that occur during the participant’s early involvement in the program). The drug court, with prosecutor agreement, determines if appropriate offenses can be brought in, and would not include drug distribution, serious felonies, or charges that occur after the team believes the participant should have stabilized. | |
| **❑** | **DRUG COURT RULES:** In this section, the participant should be informed aboutrules that must be followed to be in good standing in drug court. Examples of such rules include:   1. Sign a Drug Court Contract, which outlines the rights, benefits, and responsibilities of the participant. 2. Abide by all rules, regulations and requirements imposed by the drug court. 3. Maintain the confidentiality of other drug court participants. 4. Always tell the truth. Overcoming addiction is not easy. The treatment team cannot help address relapse or other issues unless you they are honest. 5. Participate in all treatment and services as required. 6. As a condition of participation in the drug court program, a person’s property, place of residence, vehicle or personal effects may be searched at any time, with or without a warrant, by the drug court coordinator or any law enforcement officer. Evidence lawfully seized is admissible as evidence in any proceeding whether or not the proceeding is for the offense in connection with which the search was originally made. 7. The participant must keep the court informed of the current address and phone number at all times. 8. The participant must obtain prior approval to leave the jurisdiction. 9. Do not use or possess any alcohol, illegal drugs, or any drug paraphernalia. 10. Medical marijuana is not permissible in the program. 11. The participant must inform treating physician(s) that they are a recovering drug dependent person and may not take narcotic or addictive medications or drugs, unless approved by the attending physician and/or drug court team, and only in the case of a medical emergency. 12. Participants may not possess or use any weapons unless specifically authorized by the drug court, and disclose the presence of any weapons possessed by anyone else in the household. 13. Participants may not make any threats toward other participants or staff or behave in a violent or threatening manner. Violent or inappropriate behavior will not be tolerated and may result in arrest and/or termination from the drug court program. 14. Participants may not enter any business whose primary item of sale is alcohol; nor a gaming establishment. 15. Participants must avoid, when possible or as ordered by the drug court, associating with persons using or possessing alcohol or other drugs. 16. Any use of alcohol or other drugs or contact with law enforcement shall be reported to the drug court within 24 hours. 17. Pay costs and fees as ordered by the drug court. 18. Participants must be on time and attend court sessions and treatment sessions as scheduled, submit to alcohol and other drug testing, and remain clean and sober and law abiding. 19. Drug court participants are expected to act and dress appropriately in Court. This section should clearly describe expected courtroom behavior (and what not to do, such as arriving late, talking in the audience [unless invited], eating, cell phone use, etc.) and what “appropriate attire” is to the Court. It should include responses to non-compliance with these rules. 20. Drug court participants are warned that driving while licenses are suspended or revoked may result in incarceration, additional penalties, and increased license suspension periods. Participants are also expected to appropriately address their transportation needs by relying on properly-licensed friends and family members, walking or bicycling or taking public transportation. 21. As a drug court participant, you are prohibited from fraternizing or becoming romantically involved with any other drug court participant or with any other drug court team members. Additionally, all drug court team members are prohibited from fraternizing or becoming romantically involved with any drug court participants. | |
| **❑** | **INCENTIVES:** What are incentives, who determines when incentives are awarded and what is the range of incentives. | |
| **❑** | **SANCTIONS:** What are sanctions, by whom, why are they given, and what is the range of sanctions. | |
| **❑** | **TERMINATION FROM DRUG COURT:**  Suggested content: What are the violations that could result in someone being terminated from drug court? What is the procedure that will occur if there is consideration being given to terminate someone? (e.g., written notice that explains why termination is being considered, if entitled to a hearing and what happens if termination occurs). | |
| **❑** | ALCOHOL AND OTHER DRUG TESTING: Participants should be informed that they will be required to submit to alcohol and other drug use testing throughout their participation in drug court. This section should inform them of the types of testing that may occur, that tests will be observed, what happens if they refuse to test, or if a test is diluted or tampered with. The section should describe what happens if the test is positive. May include steps to take to ensure that a UA will not result in a diluted test. | |
| **❑** | **GRADUATION:** This section should describe what the general requirements are for graduation and what will occur upon the completion of all requirements, i.e., a graduation ceremony, etc. | |
| **❑** | **MANAGING RECOVERY IN LADDER PHASES OF DRUG COURT AND FOLLOWING DRUG COURT AND ALUMNI CLUB PARTICIPATION:**  Suggested content:This section should describe what support systems are operational both from the drug court and the community to help the graduate maintain their sobriety both while in the ladder phases of the drug court as well as for years after graduation. | |

**Standard Release of Information (Consent Form)**

The elements of the written consent are definite. The consent form requires 10 elements:

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| **❑** | 1. The name or general designation of the program(s) making the disclosure. |
| **❑** | 2. The name of the individual or organization that will receive the disclosure. |
| **❑** | 3. The name of the participant who is the subject of the disclosure. |
| **❑** | 4. The purpose or need for the disclosure. |
| **❑** | 5. A description of how much and what kind of information will be disclosed. |
| **❑** | 6. The patient’s right to revoke the consent in writing and the exceptions to the right to revoke or, if the exceptions are included in the program’s notice, a reference to the notice. |
| **❑** | 7. The program’s ability to condition treatment, payment, enrollment, or eligibility of benefits on the participant agreeing to sign the consent, by stating either (1) that the program may not condition these services on the patient signing the consent, or (2) the consequences for the patient refusing to sign the consent. |
| **❑** | 8. The date, event, or condition upon which the consent expires if not previously revoked. |
| **❑** | 9. The signature of the patient (and/or other authorized person). |
| **❑** | 10. The date on which the consent is signed.  In a criminal justice context, expiration of the consent may be conditioned on an event instead of a date. Thus, expiration may be conditioned upon the drug court participant’s successful completion of or termination from the program. |

**Participant Contract**

The participant contract includes the following information:

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| **❑** | 1. Voluntary vs. Mandatory  * a. Voluntary termination policy * b. Possible ramifications * c. Potential benefits of completing Drug Court |
| **❑** | 1. Entitled to Defense Counsel  * a. Conditions under which there could be a contested, adversarial hearing * b. Agreement to Sanctions and Incentives |
| **❑** | 1. Confidentiality  * a. Release of information for Team to determine initial suitability and progress * b. Release of information to Team to receive medical, mental health, chemical dependency treatment, legal, social service, educational records, etc. * c. Agreement to keep confidential others information subject to civil and criminal penalties |
| **❑** | 1. Treatment  * a. Agreement to fully participate * b. Agreement to develop a personal recovery plan and participate in self-help groups, including acquiring a sponsor * c. Agreement to contact after Drug Court to help support my recovery * d. Agreement to enter treatment at a level determined by the provider and if behavior warrants, may be ordered additional treatment and/or inpatient treatment |
| **❑** | 1. Supervision  * a. Agreement to complete individual face-to-face and telephonic meetings with case managers * b. Agreement to notify Drug Court within 24 hours of any contact with law enforcement * c. Agreement not use or possess any prohibited substance (alcohol and other drugs) * d. Agreement to subject self, possessions, and any place or object in participant’s possession including residence or vehicle, to a search without a warrant * e. Agreement to provide notice of any change in contact information to case managers at least 24 hours in advance * f. Agreement not to leave jurisdiction without obtaining prior approval from the Drug Court * g. Agreement not to use work as an excuse for noncompliance—scheduling work around court and treatment requirements is participant’s responsibility |
| **❑** | 1. Drug Testing  * a. Agreement to provide proper samples for testing for presence of alcohol and/or other drugs, including on weekends and holidays * b. Agreement that if participant misses a drug test, fails to provide a test sample, provides a sample of insufficient quantity, alters a test sample, tampers with an alcohol monitoring device, tampers with a drug test, or produces a diluted or adulterated drug test, the Drug Court will consider the test to be a positive test and sanction accordingly * c. Agree to provide a drug sample within \_\_\_ hours of the call-in time or Drug Court may consider this a positive test for alcohol and/or other drugs and sanction accordingly * d. Agreement that participant will disclose and admit to use of any alcohol and/or other drugs prior to testing. Failure to disclose use (and testing positive) will result in participant paying the additional costs associated with test confirmation and will result in sanction for dishonesty accordingly |
| **❑** | 1. Participation and Compliance  * a. Agreement to appear personally and on time for all scheduled Drug Court sessions, appointments, and therapy sessions. * b. Agreement to dress appropriately for Drug Court and treatment sessions. * c. Agreement not to engage in abusive, aggressive, or offensive behavior, or use insulting language or physical gestures. * d. Agreement to be honest and forthright with Drug Court team members, therapists, and law enforcement. * e. Agreement to complete each assignment on the date and time ordered, to abide by every requirement ordered by the Drug Court; otherwise a sanction may be given accordingly. * f. Agreement to not use mind-altering substances, including “designer drugs,” even if they can be purchased legally over the counter, alcohol, illicit drugs, and drugs not prescribed to me. * g. Agreement to not associate with persons who use or possess alcohol, illicit drugs, drugs not prescribed to them, or medical marijuana. * h. Agreement to use prescription medications only as directed and to advise prescribing physician(s) of participation in Drug Court. Agreement to inform Drug Court of all prescription medication consumed. * i. Agreement to not: eat any foods containing poppy seeds, hemp seeds, or alcohol (like vanilla extract, baked Alaska, cherries jubilee, etc.); drink beverages labeled “non-alcoholic” (that actual contain alcohol – such as O’Doul’s), take over-the-counter medication; use mouthwashes; use herbal/homeopathic medications, pseudo-ephedrine, colognes, perfumes, body sprays, insecticides, any alcohol-based or personal care product, including hand sanitizers, any adulterant, any item that may be used as a mind altering substance or that may result in a positive drug test. * j. Include a policy on the use or possession of any weapons. * k. Include policy on entering a business where the sale of alcohol or gaming is primary. * l. Include policy on fraternization/becoming romantically involved with other participants or member of Drug Court Team. * m. Include policy on paying drug court costs/fees, treatment costs, and drug testing costs. * n. Include policy on driving while licenses are suspended or revoked and results. * o. Agreement to remain law abiding and obey local, state, federal and tribal ordinances. |
| **❑** | 1. Sanctions and Incentives  * a. Include policy on incentives and sanctions |
| **❑** | 1. Requirements for Graduation  * a. Include policy on fulfilling all Graduation Requirements unless waived by Judge |
| **❑** | 1. Recovery Management Policy  * a. Include a policy and describe what will occur after graduation in the way of Drug Court contacts, alumni club membership, etc., to help the Drug Court participant maintain their sobriety/recovery |
| **❑** | 1. Termination  * a. Include statement that decision to terminate lies with Drug Court Judge with input from Team * b. Include statement that Drug Court may hold termination hearing in participant’s absence * c. Include statement that if terminated, court that sentenced may revoke participant’s sentence and re-sentence or initiate other proceedings in case * d. Include statement that breach of contract may result in issuing a bench warrant for participant’s arrest |
| **❑** | 1. Term of Contract  * a. State term of contract |
| **❑** | 1. Acknowledgement Statement by Participant |
| **❑** | 1. Acknowledgement Statement by Attorney |
| **❑** | 1. Statement of Approval by Judge |