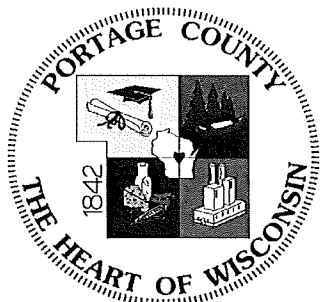




JUSTICE PROGRAMS DEPARTMENT

1462 STRONGS AVENUE, STEVENS POINT, WI 54481
PHONE: 715-346-1342 • FAX: 715-346-1677

TO: Portage County Treatment Court Oversight Committee

FROM: Honorable Judge Patricia Baker, Branch III
Andrea Starr, Director, Justice Programs Department

DATE: January 24, 2023

AGENDA

Treatment Court Oversight Committee
February 7, 2023 – 2:30 PM to 3:30 PM
Branch III Courtroom, Portage County Courthouse

To attend:

To Appear by Video: <https://wicourts.zoom.us/j/97242768370>

Phone: Dial: 1-312-626-6799 & Enter Meeting #: 972 4276 8370

1. Approval of the minutes from the November 8, 2022 meeting
2. Treatment Court Stats for 2022
3. Change in Sheriff's Department Representative
4. Peer Support Specialist
5. Explanation Differentiating Sanctions & Therapeutic Adjustments
6. Explanation of Judges Authority Over Termination Process
7. Explanation of Confidentiality in Participant Handbook
8. Update to Sweat Patch Protocol for Phase 5 Participants
9. Future Considerations
10. Adjourn

NOTICE: *A quorum of the Portage County Board of Supervisors or any committee thereof may be present at this meeting.*

Any person who has special needs and plans on attending this meeting should contact the Justice Programs Department as soon as possible to ensure that reasonable accommodations can be made. Telephone 715-346-1334.

Treatment Oversight Committee Meeting
11/08/2022 Minutes

In-person Appearances – Judge Patricia Baker, Rob Golla, Zach Bishop, Taylor Soule, Josh Ostrowski, Andrea Starr, Allison Tabor – Intern,

Virtual Appearances - Kasie Borchardt, Kim Vagueiro

Judge Baker called the meeting to order at 2:30 p.m. in Branch III Courtroom

1. Approval of the Minutes from August 2, 2022, Meeting

Baker asked for comments or edits related to the 08/02/2022 minutes and hearing none, declared the minutes approved by consensus.

2. Treatment Court Stats for 2022 as of August 2, 2022

Starr provided the following Treatment Court (TC) stats for 2022:

- Active: 12
- Pending: 4
- Under Review: 3
- Ineligible: 13
 - Violent Offense: 7
 - Lower Risk: 4
 - Not a Portage County resident: 1
 - Prior/Current Manufacturing/Delivery: 1
- Declined Participation: 3
- Terminated: 5
- Administrative Discharge: 1

3. Distribution of Narcan to Participants:

Starr indicated that the Health Department is willing to provide free Narcan and Fentanyl test strips. Starr discussed the advantages of distributing Narcan to participants if they qualify for Treatment Court or not and to provide Narcan to anyone that asks for it. The Committee agreed that Narcan and Fentanyl test strips should be distributed to participants.

4. Incentives & Sanctions Training:

Baker gave an overview of the Incentives and Sanctions Training that the Treatment Team attended. Baker stated that research was used to develop the best way to utilize incentive and sanctions into Treatment Court. The Treatment Team is going to meet to discuss how best to implement the information received in the training into our Treatment Court.

5. AODA Assessment Prior to Admission:

Starr indicated that during the last two TAD state reviews, it has been recommended that each individual that is assessed for Treatment Court should have an AODA assessment. This was not followed through on because it was initially told to Starr years ago that TAD funds could not be used for individuals that were not officially accepted into the program. In speaking with TAD in recent months, they have now stated that TAD funds could be used to assess individuals even if it unknown if the person is going to qualify for Treatment Court or not.

The Committee approved a change in the assessment process to include a formal AODA assessment prior to admission.

8. Future Considerations:

None.

9. Meeting Schedule for 2023 is attached.

10. Adjourn.

DRAFT

Site Visit Recommendations:

Standard 6: Balancing the Non-Adversarial Approach with Due Process Concerns (p. 10-11)

- “Treatment courts must protect a participant’s due process and Constitutional rights while promoting public safety and working in a non-adversarial fashion.”
- “Develop written policy and procedures for: admission, sanctions, incentives, phase advancement, monitoring treatment compliance, successful completion, and termination/expulsion.”
- “Make a record of all public treatment court proceedings as required by Wisconsin Supreme Court Rule 71.01.”
- “Inform treatment court participants, both verbally and in writing, of all contracts, waivers, policies, procedures, rights and responsibilities prior to their admission into the treatment court. Participants acknowledge, by signature, their understanding of those documents and are provided with copies.”
- “Procedures for drug testing include a clear chain of custody for the samples and the opportunity for timely confirmation testing.”

State Recommendation

Policies and procedures are developed and written in the *Policies and Procedures Manual* and *Participant Handbook*. Consider adding a more detailed explanation of the admission process in both documents, as well as, **differentiating between sanctions and therapeutic adjustments for responses to behaviors**. The court proceedings were held in open court and recorded. The intake process was not observed during this site visit, so it is unknown what paperwork and policies are reviewed before admission to the treatment court. Participants must fully understand all of the requirements and expectations prior to agreeing to participant in the program. Confirmation testing is available and used when necessary.

Incentives, Sanctions and Therapeutic Adjustments (In Participant Handbook)

What

Incentives- rewards for meeting program requirements

Sanctions- consequences for not meeting program requirements

Therapeutic Adjustments – modify your treatment needs. Not an incentive or a sanction.

When

Incentives, sanctions, and therapeutic adjustments are told to you during court

How

Possible Incentives:

- Recognition/Praise by the Judge
- Applause in court
- Fishbowl Drawings
- Medallions for sobriety benchmarks
- Travel privileges
- Phase advancement
- Gift card (movie, food, gas card, etc.)

Possible Sanctions:

- Warnings: verbal or written
- Increased court appearances
- Jail time
- Community service hours
- Loss of travel privileges
- Written assignments for court
- Electronic monitoring

Possible Therapeutic Adjustments

- Increased treatment sessions
- Residential treatment
- Skill building assignments

Incentives, Sanctions, and Therapeutic Adjustments (In Policy and Procedure Manual)

Incentives Defined: A positive consequence that is the direct result of and is a reward for the participant's positive behavior.

Sanctions Defined: the imposition of negative consequences in response to undesirable behaviors. They must be predictable, consistent, and immediate.

Therapeutic Adjustments Defined: Based on Participants' clinical needs as determined by treatment provider and is not used to reward desired behavior or to punish undesired behaviors.

The sanctions and incentives will be applied as soon as possible after notice of the participant's behavior. The principle applied is that the participant should receive the least restrictive sanction based upon earlier behavior and sanctioning.

Incentives may include, but are not limited to:

- Recognition/Praise by the Judge
- Applause in court

- Fishbowl Drawings
- Medallions for sobriety benchmarks
- Travel privileges
- Curfew reduction
- Phase advancement
- Gift certificate (movie, food, gas card, etc.)

Sanctions may include, but are not limited to:

- Warnings: verbal or written
- Curfew
- Essay for Court
- Jail time
- Community service hours
- Loss of travel privileges
- Written assignments for court
- Electronic monitoring

Therapeutic Adjustments may include, but are not limited to:

- Increased treatment sessions
- Residential treatment
- Skill building exercises

State Recommendation

According to the *Participant Handbook*, the Team uses voting to make decisions about termination. As a reminder, "It is not permissible for a Drug Court team to vote on what consequences to impose on a participant unless the judge considers the results of the vote to be merely advisory (NADCP, Vol 1, p. 24)." According to the Judicial Benchbook, "Ultimately, when a consequence has to be imposed due to a drug court participant's noncompliant behavior, it is the judge's decision, after giving due consideration to the merits of the other team members' input (p. 50)." The judicial authority over the termination process is explained in the *Policy and Procedure Manual*. It is recommended that the *Participant Handbook* also include reference to the judge's authority in determining sanctions including termination. Many programs opt to discuss moving forward with termination without the judge present and if the Team determines to move forward, a termination hearing is scheduled.

Immediate Termination (In Participant Handbook)

1. Any member of the Treatment Team may make a request for termination.
2. Deciding factors can be but are not limited to a new felony charge or a safety risk to the community, self, or others or failure to progress in treatment.
3. The request for termination will be talked about at the Treatment Team meeting.
4. After discussion, the Team will vote on the proposed termination. The Judge is not present for the vote.
5. The Judge is informed of the Team's decision and ultimately makes the final decision on termination from the program.
6. The participant will be notified of his/her termination, if applicable, from the Treatment Court Program. Participants are given due process protections that include notice and a right to be heard at a court hearing.
7. The Department of Corrections will follow the revocation procedure. Once the termination is final, the Department of Corrections will follow recommended guidelines based on the violation.

Immediate Termination (In Policy and Procedure Manual)

Any member of the Treatment Team may make a request for termination. The request for termination will be discussed at the Treatment Team meeting without the Treatment Court Judge present. After discussion, the Team will vote on the proposed termination. The Judge is then informed of the Team's decision and ultimately makes the final decision on termination from the program. The participant will receive written notice of his/her termination, if applicable, from the Drug Treatment Court Program and next steps of his/her due process rights.

Standard 7: Recordkeeping & Confidentiality (p. 12-14)

“Treatment courts contemplate the integration of criminal case processing and treatment participation. Sharing of limited confidential medical and treatment information is a necessary function of treatment court operations. However, the need to share such confidential information must be balanced with the presumption that criminal court proceedings are open to the public. Compliance with state and federal confidentiality laws can be accomplished with proper procedures, notification, consent forms and limiting disclosure of confidential treatment information to the minimum necessary to accomplish the intended purpose. Recordkeeping poses special concerns given the tension between open court records and confidentiality of treatment records. In order to comply with state and federal record keeping expectations for legal and medical information, all problem-solving courts must develop a bifurcated filing system to protect confidential medical and treatment records as much as possible, while still providing a complete record of judicial action in the open court file.”

A thorough confidentiality policy is included in the Policies and Procedures Manual that includes information on the bifurcated recordkeeping system. Information regarding confidentiality is not included in the Participant Handbook. The Participant Handbook does not discuss the use and reason for releases of information to allow the exchange of confidential information or that emails that contain confidential information are encrypted. It is recommended that statements regarding these policy omissions be added to the Participant Handbook.

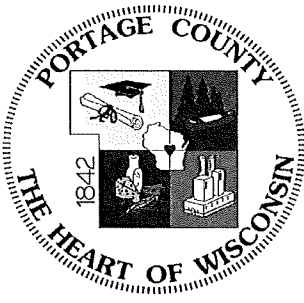
- “Define the recordkeeping system in the policy and procedure manual. Bifurcate the recordkeeping system to separate confidential information and records from other information and records. The bifurcated system consists of a criminal court file and a treatment court file for each participant.”
- Document all privacy policies and procedures, including digital communication, and limit the information disclosed to the minimum details necessary to accomplish the intended purpose.”
- “Ensure minutes kept by the clerk of court reflect court appearances and when a sanction, incentive or termination is imposed, and the reasons therefore, but omit any description of confidential information.”
- “Establish written policies and procedures for treatment file maintenance, access, storage, retention and destruction (DHS 92.12).”
- “A specific policy on email communication should be developed to ease communication barriers while ensuring participant confidentiality.”

Confidentiality (In Participant Handbook)

What

Drug Treatment Courts and confidentiality laws are designed to achieve the shared goal of encouraging you to obtain and remain in treatment. You will be asked to sign a release of information authorizing the transfer of information among the Treatment Team. Once you have graduated or are terminated from the program, the release of information is no longer valid.

Emails sent between Treatment Team members are encrypted to prevent unauthorized access to anyone outside of the Treatment Team.



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Sweat Patches for Phase 5

Patches will be used in place of in-person drug testing for Phase 5 participants only.

Sweat patch protocol is as follows:

1. Each patch will remain on each participant for 10 days.
2. Participants will schedule an appointment with Case Manager/Day Report prior to the 10 days to have the patch removed and a new patch to be put on.
3. Bathing, showering, swimming, exercising, and working are all considered "normal wear" activities and will not affect the patch.
4. While in Phase 5, participants are subject to no less than 2 random drug screens per month in addition to having the sweat patch.
5. Participants are to continue calling the Call To Test line daily to determine when their random drug test will occur.
6. Drug testing must be completed no later than the Wednesday prior to the graduation date. Rapid cup testing may be used on the day of graduation
7. Any tampering of the patch (picking at it, removing it, inserting a needle, etc.) may be considered a tampered test. If that occurs, participants may have to return to in-person drug testing for a length of time determined by the Treatment Court Team
8. If the patch is lost, that will be considered tampering. If that occurs, participants may have to return to in-person drug testing for a length of time determined by the Treatment Court Team.
9. If the participant tests positive for any drug while on the sweat patch, the participant will return to in-person drug testing for a length of time determined by the Treatment Team.
10. Sweat patches are to be sent for testing on the day of removal or replacement.