INDIANA OFFICE OF COURT SERVICES

PROBLEM-SOLVING COURTS PRACTICE GUIDELINES
Participant Medication Use

Over-the-Counter and Prescription Medications

Problem-solving court participants retain their 14th Amendment, Due Process right to seek medical care. A court entity may infringe on this right if its interests outweigh the liberty interests of the participants. A balance between the court's interest in the appropriate use of over-the-counter (OTC) and prescription medications and the participant's right to obtain medical care should be reflected in the court's policy and procedure manual.

Protocols requiring participants to obtain court/team/pharmacist approval prior to seeking emergency room assistance, visiting a physician or filling/taking prescription medications are significant intrusions on the participant's right to seek medical treatment that are likely not outweighed by the court's interest in monitoring medication use. Such protocols put the court staff in the position of making medical decisions for participants, potentially overriding a medical professional's decision to prescribe medication and effectively practicing medicine without the necessary training and qualifications which may result in unintended consequences significantly impacting a participant's health.

Requiring participants to disclose to any and all medical professionals that he/she is a problem-solving court participant and receiving treatment for substance abuse is prohibited by 42 CFR Part 2. The federal regulations were established to encourage individuals to seek treatment for drug and alcohol abuse by maintaining the confidentiality of the identities of these individuals as well as any records created as a result of alcohol/drug abuse treatment. There are many situations in which participants seek medical care that do not negatively impact their substance abuse treatment and participation in problem-solving court and requiring these individuals to disclose their participation in problem-solving court in these instances is not appropriate.

Suggestions for problem-solving court medication protocols:

- Require each participant to disclose to problem-solving court staff all prescription medications (and OTC medications if necessary) currently being taken and require updates as changes occur.
- Require each participant to bring all prescription medications to appointments with his/her case manager if necessary. The case manager can count pills to ensure the correct quantity is in the bottle - get picture of medication or have pharmacist describe markings on medication to ensure the pills in the bottle are the ones on the label.
- Require each participant to identify each physician the participant is currently seeing and require the participant to sign consents for release of information to allow problem-solving court staff to contact these physicians when needed – suggest communication

with a physician if you have evidence indicating a problem, such as a participant is abusing medication or seeking multiple prescriptions for the same medication.

- Remind participants that drug testing will be administered regardless of OTC/prescription medication use and failure to disclose medication use as required by policy may result in sanctions per the courts policies and procedures.
- If the problem-solving court team has concerns regarding the need for prescribed medications consult with an independent physician.
- Utilize the services of a pharmacist to understand prescription and OTC medications, their interactions and effects.
- The court program may hold and dispense medication only if appropriately licensed and trained by the Indiana Board of Pharmacy.

Medically Assisted Treatment

Drug or alcohol addiction or dependence results in physiological changes to the brain. Certain medically assisted treatments (M.A.T.) – including antagonist medications such as naltrexone, agonist medications such as methadone, and partial agonist medications such as buprenorphine – have been proven through rigorous scientific studies to improve addicted justice involved individuals' retention in counseling and reduce illicit substance use, re-arrests, technical violations, re-incarcerations, hepatitis C infections, and mortality.[1-7] The use of M.A.T. for addiction is endorsed by leading scientific and practitioner organizations in the substance abuse treatment field.[8-12]

Furthermore, the Americans with Disabilities Act (ADA) considers individuals who are addicted to drugs or are alcoholics to be disabled (as a general category, the individual would have to meet all qualifying conditions to be covered by ADA) unless these individuals are currently using illegal drugs or misusing legal drugs. This protection extends to individuals on a supervised M.A.T. program because these individuals are not using the drug illegally.

Problem-solving courts are encouraged not to impose blanket prohibitions against the use of M.A.T. by their participants. The decision whether or not to allow the use of M.A.T. should be based on a particularized assessment in each case of the needs of the participant and public safety. Any decision made by the problem-solving court judge whether or not to permit the use of M.A.T. should be made in reliance on expert evidence or consultation.

[1] Cornish, J. W., Metzger, D., Woody, G. E., Wilson, D., McLellan, A. T., Vandergrift, B. (1997). Naltrexone pharmacotherapy for opioid dependent federal probationers. *Journal of Substance Abuse Treatment, 14*, 529-534.

[2] Dolan, K. A., Shearer, J., White, B., Zhou, J., Kaldor, J., & Wodak, A. D. (2005). Four-year follow-up of imprisoned male heroin users and methadone treatment: Mortality, re-incarceration and hepatitis C infection. *Addiction, 100*, 820-828.

[3] Gordon, M. S., Kinlock, T. W., Schwartz, R. P., & O'Grady, K. E. (2008). A randomized clinical trial of methadone maintenance for prisoners: Findings at 6 months post-release. *Addiction, 103*, 1333-1342.

[4] Kinlock, T. W., Gordon, M. S., Schwartz, R. P., & O'Grady, K. E. (2008). A study of methadone maintenance for male prisoners: Three-month postrelease outcomes. *Criminal Justice & Behavior, 35,* 34-47.

[5] Magura, S., Lee, J. D., Hershberger, J., Joseph, H., Marsch, L., Shropshire, C., & Rosenblum, A. (2009). Buprenorphine and methadone maintenance in jail and post-release: A randomized clinical trial. *Drug & Alcohol Dependence, 99,* 222-230.

[6] O'Brien, C. P., & Cornish, J. W. (2006). Naltrexone for probationers and prisoners. *Journal of Substance Abuse Treatment*, *31*, 107-111.

[7] Stallwitz, A., & Stover, H. (2006). The impact of substitution treatment in prisons—A literature review. *International Journal of Drug Policy, 18*, 464-474.

[8] National Institute on Drug Abuse. (2006). *Principles of drug abuse treatment for criminal justice populations* [NIH Pub. No. 06-5316]. Bethesda, MD: Author.

[9] Center for Substance Abuse Treatment. (2004). *Clinician guidelines for the use of buprenorphine in the treatment of opioid addiction* [Treatment Improvement Protocol (TIP) Series 40, DHHS Publication No. (SMA) 04-3939]. Rockville, MD: Substance Abuse and Mental Health Services Administration.

[10] Center for Substance Abuse Treatment. (2005). *Medication-assisted treatment for opioid addiction in opioid treatment programs* [Treatment Improvement Protocol (TIP) Series 43, DHHS Publication No. (SMA) 05-4048]. Rockville, MD: Substance Abuse and Mental Health Services Administration.

[11] Center for Substance Abuse Treatment (2009). *Incorporating alcohol pharmacotherapies into medical practice.* [Treatment Improvement Protocol (TIP) Series 49. HHS Publication No. (SMA) 09-4380]. Rockville, MD: Substance Abuse and Mental Health Services Administration.

[12] National Drug Court Institute. (2002). *Methadone maintenance and other pharmacotherapeutic interventions in the treatment of opioid dependence* [Practitioner Fact Sheet Vol. III, No. I]. Alexandria, VA: Author.