

Developing and Implementing a Regional DWI Court in Michigan



*Provided by the
Michigan Supreme Court
State Court Administrative Office*

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INTRODUCTION

Regional Driving While Intoxicated (RDWI) courts began in 2013 with four targeted areas of Michigan covering sixteen counties where the access to problem-solving courts was, at best, limited. With the goal to ensure that all individuals have access to the services of a DWI court and spurred by the success of the ignition interlock pilot program, RDWI courts have taken root in areas where the offending population is spread throughout large geographic areas, which makes a single jurisdictional court fiscally unfeasible. By coordination throughout all participating jurisdictions of both court and non-court stakeholders, RDWI courts have become a solution to the limited availability of the ignition interlock program that allows repeat drunk drivers to regain restricted driving privileges. For further information regarding the interlock program, please see page 14.

RDWI courts are a type of problem-solving court that crosses jurisdictional boundaries to therapeutically address the substance use disorders of nonviolent offenders. By utilizing the problem-solving court methods of intensive judicial supervision, treatment, sanctions, incentives, drug and alcohol testing, and other individualized services, RDWI programs seek to provide repeat DWI and High Blood Alcohol Content offenders the tools to address their substance use disorders and reduce the likelihood of re-offense.

This manual was created using information from a variety of sources, most notably *The Drug Court Judicial Benchbook* published by the National Drug Court Institute (NDCI); Michigan statutes; and the principles, strategies, and components for DWI courts disseminated by the National Center for DWI Courts (NCDC).

For specific information regarding drug treatment courts in Michigan, refer to the State Court Administrative Office website at <http://courts.mi.gov/administration/admin/op/problem-solving-courts/drug/pages/default.aspx> or, the Michigan Legislature website at [http://www.legislature.mi.gov/\(S\(rrzj3145w1jkj4550jruq045\)\)/mileg.aspx?page=getObject&objectName=mcl-600-1060](http://www.legislature.mi.gov/(S(rrzj3145w1jkj4550jruq045))/mileg.aspx?page=getObject&objectName=mcl-600-1060).

ASSESSING NEED AND ASSEMBLING THE TEAM

Because the primary goal of a DWI court is to address alcoholism and substance abuse as the cause for impaired driving, a first step should be to determine if these problems exist in a jurisdiction. This may require referencing caseload data to determine what percentage of the caseload comprises repeat drug/alcohol offenders, examining the local jail's booking information, and analyzing probation violation statistics. If the caseloads are not large enough to justify creation of a stand-alone court, coordinating with another jurisdiction is the best possible option. By transferring cases to or receiving transfer cases from other jurisdictions, the court will be able to assist a wider geographical range of participants.

Once the need for an RDWI court has been established, many courts choose to establish a steering committee. RDWI courts require buy-in and support of the court, community, law enforcement officials, and political leaders in all participating jurisdictions. These stakeholders can help to determine the need for an RDWI court, potential program capacity, and can provide valuable links to necessary community resources. Ultimately, members of a steering committee should have the power to enter into memoranda of understanding in order to define the goals and objectives of the RDWI court and the roles and responsibilities of the respective parties. The steering committee may also help select the RDWI court team. Once the program has been established, the steering committee may continue to meet to review program performance and address policy or procedural changes.

An RDWI court team is a group of professionals who are primarily responsible for overseeing operations of the program and managing supervision of the RDWI court participants. The RDWI court team should be comprised of members from all participating jurisdictions. The judge serves as leader of the RDWI court team, which is recommended to include a program coordinator, a representative from the prosecutor's office, a member of the local defense bar, probation officers or case managers, treatment provider(s), local law enforcement, and representatives from local coordinating agencies or community organizations. It is important to consider how these positions will be funded. Some team members may volunteer their services, while others will be paid through a contract (MCL 600.1063). Some might be members of the court or county staff (paid by the local funding unit).

An RDWI court team may choose to reach agreement with representatives of the prosecutors' offices early in planning of the program. It is essential to have all of the prosecutors' offices support the RDWI court program and for the team to understand the types of cases that will be considered for eligibility, particularly if the court wants to offer deferred judgments or delays of sentencing. This understanding should be documented in the team's memorandum of understanding pursuant to MCL 600.1062.

CONSIDERING COMMUNITY RESOURCES

In addition to requiring substance abuse treatment, regular court review hearings, and adherence to program requirements, many RDWI court programs offer ancillary services to their participants. These resources are sometimes a required part of the program, such as with community-based support groups, but are sometimes specific to a participant based on need. For example, a participant who is unemployed may be referred to vocational training.

As an RDWI court team is assembled and development of the program is beginning, considering community resources is beneficial. Does the community have a twelve-step support group such as Alcoholics Anonymous or SMART Recovery? Does the team have knowledge about non-faith-based 12-step options? Are there specific support groups for men, women, different religious backgrounds, users of drugs other than alcohol, or other diversity-oriented

groups? Is there a variety of treatment providers and types of treatment available, ranging from services for those who need residential treatment to those who need outpatient treatment? Is there a GED program or are there vocational classes in the community? Researching and seeking out these organizations in order to form partnerships will help to offer a thorough, holistic plan to participants.

As partnerships begin to form, keep in mind how the various community-based organizations will fit into the team and program. Consider things such as community demographics, distance or travel concerns, target population, and the level of supervision. For example, there may be an excellent community-based support group in a county, but if the majority of participants live 20 or more miles from the group's location and lack adequate transportation, the group may not be the best choice for the program.

Rather than make specific referrals, many RDWI courts provide a list of community resources available to their participants. Even these general referrals require the RDWI court team to connect and share information with these organizations and their stakeholders. Sometimes, this will require the judge or program coordinator to promote the new RDWI court and its potential benefits within in the community.

GOING REGIONAL VS STAYING LOCAL

RDWI courts operate in much the same manner as a DWI court in a single jurisdiction; utilizing standard procedures and protocols. The differences lay in the challenges of a large geographical area. RDWI court participants could potentially be long distances from the RDWI court, causing travel to court hearings and functions to be challenging. The team may choose to discuss the potential of using technology, such as PolyCom, or the possibility of holding hearings in multiple locations in order to more reasonably allow individuals to participate in court hearings. Additionally, the services generally utilized within the local jurisdiction may not be available to nonresidents. Contracting with various treatment facilities and testing agencies will be vital to ensure that participants have every available opportunity within a reasonable distance. With the ignition interlock opportunities, participants may be able to drive in the later stages of the programs, but will be forced to rely on public transportation or family and friends for the initial stages. The court should also address the geographic area that will be covered by the case manager(s) in order to reach participants for assessments and home visits in the outlying counties. The hiring of additional case managers or the allocation of additional funds to the travel budget may be necessary to achieve the appropriate amount of participant supervision.

DRAFTING MEMORANDA OF UNDERSTANDING & LOCAL ADMINISTRATIVE ORDERS

MOU

A memorandum of understanding (MOU) describes the roles and responsibilities of each team member of an RDWI court program, including but not limited to the prosecuting attorneys (if the court wishes to offer delays of sentence or deferred judgments), judge, defense attorney, and treatment provider(s). It is important to include members from each participating jurisdiction. A memorandum of understanding among these key team members is required by MCL 600.1062. Either a single MOU signed and dated by all team members, or a separate MOU for each member may be used. The duration and terms of the MOU should be included. A sample RDWI court MOU can be found in Appendix A.

LAO

A trial court must issue a local administrative order (LAO) that governs the internal management of the court. All chief judges of the participating jurisdictions must sign the LAO. The model RDWI Court LAO can be found at <http://courts.mi.gov/Administration/SCAO/Resources/LAOs/LAO41-model.rtf>

GRANT FUNDING

Currently, the SCAO funds two different grant programs for DWI courts: one state-funded and one federally-funded. Each of the grant programs has different reporting requirements and reimbursable expenses. More information can be acquired on these grant opportunities at <http://courts.mi.gov/administration/admin/op/problem-solving-courts/pages/grants-and-funding.aspx>. Because this is a regional program, each region will submit one grant application and be responsible for one set of reporting requirements. Input from all county funding units and commissioners is vital not only to establish program buy-in, but also to create standard funding procedures. All SCAO grants are funded via reimbursement, meaning that expenses will initially be covered by local funding units and reimbursed on a quarterly basis by the grant. Fiduciary responsibilities will be designated to the coordinating court. Personnel operating in the other participating jurisdictions will need to subcontract with the RDWI court. Additionally, program staff will be required to enter data into the Drug Court Case Management Information System (DCCMIS), a tool to facilitate the daily operations of RDWI courts, as well as to collect data for subsequent analysis and evaluation. DCCMIS is designed to manage all client information from initial intake to program completion and beyond. The system stores client-level data and produces summary information needed by judges and court staff to facilitate decision making.

STATE GRANT PROGRAMS

Michigan Regional DWI Court Grant Program (MRDCGP)

Funding for the Michigan Regional DWI Court Grant Program (MRDCGP) comes from general fund dollars. Applications for this program are submitted by local courts to the SCAO each year. Existing programs must have an approved LAO, signed MOUs, and be recognized by the SCAO as an RDWI court to be eligible.

FEDERAL PROGRAMS

Office of Highway Safety Planning (OHSP)

The federal Office of Highway Safety Planning provides yet another funding opportunity. For this grant program, the SCAO is the grant recipient and the local courts are the subrecipients of funding. Applications are accepted each year. This program is exclusively for DWI court programs and funding varies annually. To be eligible, a program must be a new DWI court or an existing DWI court seeking funding to expand its program. Programs may be reimbursed for many of the same expenses as the MRDCGP, but again must also adhere to the guidelines listed in the OMB 2013-30465 Super Circular.

SUSTAINABILITY OF RDWI COURT PROGRAMS

RDWI court programs should be aware that these are competitive programs, not entitlements, and that grant funding is not assured at all times. Before implementing an RDWI program, the team should consider the means by which the program may be sustained long-term if grant funding is no longer an option.

Support from local businesses and county or city funding sources should be examined. For example, some local police departments offer free preliminary breathalyzer tests to participants of DWI courts. Occasionally, local businesses offer gift cards or discounts that can be used as participant incentives. Keeping track of program success, cost-benefit analyses, and other research will be crucial when persuading funding sources to dedicate funds to a program. The Drug Court Case Management Information System (DCCMIS) and the Drug Court Analysis System (DCAS) can be used to develop thorough statistical reports on a program.

District court RDWI court programs can also be supported in part by filing fees. Five dollars of the local share of filing fees can be earmarked for local DWI court funding per MCL 600.8371.

An additional option to consider in funding an RDWI court is whether to charge participation fees. Some courts charge a small program fee. In an effort to offset costs, other courts charge participants for services such as therapy or drug tests.

TRAINING

The National Center for DWI Courts (NCDC) provides training programs for both the planning and continuation phases of the DWI court programs. Applications and information about these programs can be found at <http://www.dwicourts.org/>.

Other training opportunities are provided by the National Association of Drug Court Professionals (NADCP), the Michigan Association of Drug Court Professionals (MADCP), and through the SCAO. MADCP hosts an annual two-day conference consisting of plenary speakers, multiple tracks of break-out sessions focusing on a wide variety of specialized training topics, and the latest in research and best practices. Certain types of grant funding can be used to pay for attendance at the MADCP conference. Additionally, NADCP hosts an annual conference in a different city each year. The SCAO provides training on DCCMIS and DCAS, training sessions on goals and grant writing, an annual DCCMIS User Conference, as well as various seminars throughout the year.

The SCAO website also contains links to training manuals and resources: <http://courts.mi.gov/administration/admin/op/problem-solving-courts/pages/default.aspx> . Contact the SCAO if there are further questions about training opportunities.

RDWI COURT OPERATIONS:

CONSISTENCY IN OPERATION

By operating as an RDWI program, the courts are choosing to operate collaboratively under one grant. In doing so, it is imperative that there be consistency throughout the program's operations. This includes, but is not limited to, all factors discussed throughout this manual. Stakeholder and team meetings should happen regularly to ensure that programs that choose to operate out of multiple locations are maintaining this consistency.

ELIGIBILITY CRITERIA, REFERRAL & SCREENING

It is important to establish clear, objective, and specific eligibility criteria for an RDWI court. Requirements that are too vague can lead to unintentionally disparate treatment or perceptions that the program is unfair. Defendants who meet the definition of "violent offender" under 2004 PA 224, MCL 600.106, are not eligible for DWI court in Michigan. Beyond statutory criteria, however, the team should consider many other issues in determining the target population for the program. One major factor to consider in the creation of the program is whether to accept drug offenses. RDWI courts were designed around the availability and ease of alcohol testing through ignition interlock devices, SCRAM tethers, Soberlink, and PBT. If the court decides to include drug offenders, the testing must expand to include multiple, random urinalysis tests that may not be readily available. Additionally, studies have shown that hybrid courts, courts that accept drug and alcohol offenses, have lower success rates than courts that operate separate DWI and drug courts. Other factors to consider might include the nature of the

current offense, past offense history, residency, and whether treatment resources are available to meet the offender's needs. The eligibility criteria must remain consistent across the entire program.

Once clear eligibility criteria have been established, potential RDWI court participants must be identified. The referral process is a cursory examination to determine that an offense is eligible for the program and that the offender fits basic program criteria. Checking the Law Enforcement Information Network (LEIN) may be necessary at this point or may occur during screening to ensure that participants' past and current charges allow them to be eligible for the program. It is best to have multiple individuals designated to identify offenders who may be appropriate for the program, and a system for referring those identified to the screening step must be established. For example, some individuals may be identified through local law enforcement upon booking; others through prosecutor screenings or probation's presentence investigation.

Although an RDWI court candidate's offense may be compatible with the eligibility guidelines for a program and he or she may fit with other basic requirements of eligibility, the offender may not be suitable for a program for reasons such as mental illness or lack of a true substance use diagnosis. The screening process will assist the team in narrowing the pool of candidates to those eligible and appropriate for a program based upon their needs and the services that program offers. Although not as comprehensive as an assessment, screening involves interviewing the candidate to determine if there is likely to be an alcohol or drug use problem or mental illness, and that the offender meets the program's legal eligibility criteria. Many programs utilize a formal screening instrument. Each program should designate a team member to conduct the screening. If a screening instrument is utilized, this team member must be trained to administer the instrument. This is also a good time to gauge the candidate's interest in the program and to explain the program to him or her.

ASSESSMENT

While a candidate may seem appropriate for a program based upon screening information, if the candidate does not have a substance use disorder he or she is not an RDWI court candidate as defined by MCL 600.1060(c). The program will need to determine what assessment instrument or method will be used to determine a Diagnostic and Statistical Manual of Mental Disorders (DSM-V) diagnosis and who will perform the assessment. This may require determining necessary licensure for the assessment and hiring or contracting with a licensed professional. A list of assessment instruments can be found in Appendix B.

The team will also need to utilize an assessment tool to determine what type of treatment participants will receive. Nationally, the American Society of Addiction Medicine (ASAM) placement criteria are the most commonly used set of guidelines for placement of substance use disorder patients. ASAM provides five levels of care ranging from early intervention to medically-managed intensive inpatient treatment and recommendations for staffing, settings, and

other treatment-related considerations. For more information about ASAM, visit <http://www.asam.org>.

A criminogenic needs assessment should also be conducted before admission. The National Association of Drug Court Professionals (NADCP) published *Principles of Evidence-Based Sentencing and Dispositional Reform*. This publication discusses the importance of identifying criminogenic risk and psychosocial needs of offenders and using this information to build an individualized drug court plan. Some of the high risk criminogenic factors include young age at time of treatment, early onset of substance use and delinquency, previous criminal activity, and prior unsuccessful treatment attempts. High risk psychosocial factors include compulsive addiction to drugs or alcohol, mental illness, chronic medical conditions, and illiteracy. Research has shown that high criminogenic risk and psychosocial needs individuals require a more intensive treatment program to achieve success. However, subjecting low risk and low needs individuals to the same intensive treatment can be ineffective or even harmful to drug court participants. Additionally, it utilizes scarce resources in a counterproductive manner. Therefore, NADCP made the recommendation that programs keep high-risk and low-risk offenders in separate tracks or separate programs to avoid exposing low-risk offenders to antisocial peer influences or worsening their prognosis. A popular assessment tool is the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS). COMPAS assesses risk and needs factors in correctional populations and aids staff in determining how to place offenders in the community. COMPAS also assists problem-solving courts in designing case management support systems for offenders. For more information about COMPAS, visit <http://www.northpointeinc.com>.

ADMISSION

First and foremost, participation in an RDWI program is a completely voluntary decision made by an offender and his or her attorney. Once a participant has expressed interest, the court may move forward in the admission process. Admission decisions are usually a collaborative effort involving input from the judge, case managers, treatment providers, prosecuting and defense attorneys, and any other team members who have had contact with the candidate. Because RDWI programs cross jurisdictional lines, input from the judge and prosecutor from the originating court is vital in the admission process.

The judges and prosecutors from all participating jurisdictions should collaborate to establish the admission criteria, which includes legal and clinical eligibility. The prosecutors may be the gatekeeper for admission into the program based on legal criteria; however, the assigned RDWI court judge makes the final decision whether to accept the participant into the program. Admission should be in the best interest of both the candidate and the court. Once an admission decision has been made, admitted participants may be granted formal admission at an RDWI court hearing.

Another factor to consider in admitting a candidate to RDWI court is what approach the court will take with regard to judgment and sentencing. Participants must plead guilty before acceptance; however, some courts admit participants on a defer/delay approach, in which the participant has the opportunity to have his or her charge reduced or dismissed, or the sentencing delayed based on participation or success in RDWI court. Other courts use a post-sentence model, in which participants are sentenced into RDWI court as a condition of probation, and in which entering RDWI court may save the participant up-front jail time. Still other programs use a mix of the two approaches on a case by case basis.

Each team should provide several documents to newly admitted participants. MCL 600.1068 dictates that a participant must read and sign a consent form waiving the right to attorney representation, and also an agreement to participate in the RDWI court. Often, an RDWI court “contract” encompasses all of the requirements and expectations of the program, as well as any promises made to the defendant in terms of the charge or sentence. All participants should be provided a copy of the relevant sections of Health Insurance Portability and Accountability Act (HIPAA) and the Code of Federal Regulations (42 CFR Part 2). To facilitate communication among team members regarding substance abuse treatment information, participants will be required to waive their confidentiality rights. Items such as a participant handbook, incentives and sanctions grid, rules about appropriate courtroom attire and demeanor, appointment books for participants, or an address book or telephone number information sheet should be distributed at admission. Sample forms are available in Appendix C.

TRANSFERS

Because many of the participants will be coming into the program from outside of the coordinating court’s jurisdiction, a few steps should be followed to ensure a seamless transfer into the RDWI court. The participant must initially be referred to the RDWI court by the originating court and deemed eligible according to the RDWI court’s eligibility criteria. The participant’s case and associated fines and costs will stay with the originating court and supervision will be transferred into the RDWI court using SCAO-approved form MC 394, which is available in Appendix D. The RDWI court judge should obtain cross-assignment for the purpose of the RDWI court through the State Court Administrative Office’s Regional Office, allowing for the transfer to take place by cross-assigning the RDWI court judges as acting judges in the case’s original jurisdiction for the purpose of supervision only.

Upon acceptance into the program the transferred participant will attend the RDWI court in the same way as any local participant. The RDWI court judge is authorized to make all decisions associated with the individual’s participation as a judge of the transferring jurisdiction, including, but are not limited to, an award of incentives, jail and non-jail sanctions, phase changes, and assessment of participation fees. The transferring court must issue bench warrants; document jail sanctions; collect payment on any orders for fines, fees, restitution, and assessments; amend judgment of sentence; amend order delaying sentence; amend order of probation; and comply with the agreement made with the participant upon final disposition of the

case. Because the participant's case is still functioning out of the transferring court, it is imperative that all functions other than the general supervision be entered into the transferring court's case management system.

Upon completion of the program, the RDWI court will enter an order on SCAO-approved MC 394a, Order of Discharge from Drug Treatment Court Program, and submit it to the transferring court. After receiving the Order of Discharge, the transferring court shall file the order and enter the final disposition of the case in the case management system. For further information please review Administrative Memorandum 2013-01 available at <http://courts.mi.gov/Administration/SCAO/Resources/Documents/Administrative-Memoranda/2013-01.pdf>.

TREATMENT

Substance use treatment is an integral part of the RDWI court process to ensure that the participant has the best chance at continued sobriety.

Programs vary with regard to the expected time frame between admission to RDWI and the first substance use disorder treatment session. An achievable goal is to set this time frame at a two week maximum, meaning that an RDWI court participant has his or her first session with a treatment provider within two weeks of being admitted to RDWI court. The appropriate level of care should be determined by treatment professionals through the use of a placement instrument such as the American Society of Addiction Medicine (ASAM) guidelines. An individualized treatment plan should be developed for each participant. These plans should take into account general factors related to the participant's clinical needs, prognostic risks, and personal strengths and resources. Given that treatment modalities are determined by these individual risks and needs, it is important to ensure that each program accepts participants with needs that can be met by the types of treatment available in the community. In addition to the ability to meet the level of care needed by a particular participant, it is important that a new drug court consider cultural and gender issues. Research indicates that cultural sensitivity can improve the therapeutic relationship and improve treatment outcomes. Research also shows that holding separate treatment groups for men and women tends to produce better outcomes, especially for women.¹

RDWI courts should also determine what mental health services are available within their jurisdictions and what types of clients these programs serve. Both the substance use disorder and mental health symptoms should be addressed in order to most effectively treat these participants.

PROGRAM STRUCTURE AND PHASES

Virtually all RDWI court programs are structured into phases, with advancement through the phases based on objective criteria. Each team should develop program and phase requirements. The program should have a minimum and maximum length. Adult and DWI

¹ Brady, Kathleen T., and Sudie E. Back. 2008. Women and Addiction. In *Textbook of Substance Abuse Treatment*, 555-564. Washington DC: American Psychiatric Press.

programs often set their maximum length at 24 months (the statutory maximum for district court misdemeanor probation cases), with a minimum length near 12 months. If the court is operating out of many locations, it is imperative that the same program structure be used by all locations.

RDWI court programs have a varying number of phases. There is no required number of phases; however, the phase structure should focus on progressive goals for the participant. As participants progress, they are promoted to a higher phase where monitoring is reduced and requirements are changed. For example, when promoted, the number of drug tests per week may be reduced and a new requirement to complete a GED may be instituted. Each team should determine how many phases to include in their program, how long each phase will be (remembering that each phase can be a different length), and what the requirements will be in each phase.

Programs must also determine and specify the criteria for phase promotions. Must the participants complete all requirements of the phase to advance, 75 percent of the requirements, or will participants need to earn points that are tallied to determine phase advancements? Some courts require a participant to make a written application for phase advancement. Some programs offer incentives to reward phase advancement. Each team will also need to make a decision about the use of phase demotions. Sanctions other than phase demotions may be equally effective in correcting the participant's behavior, and may be significantly less demoralizing to participants.

An important factor that should frame this discussion is the need for consistency among and between participants. Phase requirements and program expectations should be clearly stated in the program contract or handbook, and then adhered to and supported by the team. For example, if the program requires 180 days of sobriety for graduation, allowing a participant with a recent relapse to graduate may create an appearance of unfairness to other participants.

Lastly, the team members will need to determine what the program requirements are for graduation. Will participants need to meet every requirement of every phase to graduate? Are some requirements flexible and others not? Will participants have to start and remain in each phase for a set duration regardless of their individual criminogenic risks? When a participant graduates from the program, the team should formally recognize the graduation with a ceremony.

STAFFING MEETINGS

Prior to each RDWI court review hearing, most programs hold staffing meetings. These are meetings for the purpose of updating all team members about the progress of each participant and making decisions regarding each case, such as whether to issue a sanction or incentive. Staffing reports can be generated and printed from the Drug Court Case Management Information System (DCCMIS). Staffing reports are customizable, and can include the achievements and difficulties of each participant, staff and treatment providers' recommendations for adjustments to treatment plans, drug test results, incentives and sanctions, and other program components. The team will need to determine which team members will

attend each staffing meeting and how decisions about participants will be recorded during the meeting. This will give the judge information about each participant who stands before him or her.

REVIEW

Judicial status review hearings typically follow the staffing meetings. These should be dockets dedicated solely to RDWI court participants. Participants attend these hearings as a group and remain in the courtroom as each fellow participant interacts with the judge. This allows participants to see the consequences of others' actions and builds a sense of mutual support among participants. Because RDWI court participants will be from a larger geographical area, courts may want to use Polycom or hold review hearings in multiple locations to remove the travel complication from the participants.

Based upon the participant's treatment needs and criminogenic risk, the frequency of judicial review hearings should be determined per participant. Although many programs set rigid guidelines for the frequency of judicial reviews determined by program phase, research indicates that low-risk offenders are successful with fewer judicial reviews than high-risk offenders. The National Association of Drug Court Professionals (NADCP) indicates in its publication, *Principles of Evidence-Based Sentencing and Dispositional Reform*, that high criminogenic risk offenders require "close and continuous monitoring of substance use, criminal activity, and treatment attendance. In addition, frequent status reviews are required by a criminal justice professional, typically a judge, who has the authority to impose meaningful and substantial rewards for accomplishments and sanctions for infractions." Research shows that holding status reviews for high-risk participants less often than biweekly or monthly will have little effect on improving their behavior or reducing substance use.

COMMUNITY SUPERVISION

RDWI court offenders are generally not at risk for using drugs or committing crimes while attending court hearings, visiting a probation officer, or participating in substance abuse treatment. The risks are in their social environments. Community supervision can extend the RDWI court's influence to the day-to-day settings in which the participant lives and functions.

Because no single agency is capable of monitoring offenders around the clock, RDWI courts should seek to form as many partnerships as are necessary to establish strong community supervision standards. Each program may wish to partner with local police agencies, probation offices, and local dispatchers of all jurisdictions. Connecting with these agencies can allow for the RDWI court to be notified when a participant has contact with law enforcement.

To enhance supervision, some RDWI courts utilize home visits, and usually administer alcohol breath tests during these visits. Home visits allow the RDWI court to check compliance with things like abstinence and curfews. Some visits are scheduled and include a routine check on the participant's home life, while others are unannounced in an effort to focus on program

compliance. Some RDWI courts have hired retired police officers to perform home checks on a part-time basis, or have contracted with probation agents from the various participating counties to fulfill the probation supervision duties. DCCMIS allows tracking of both announced and unannounced home visits, and whether there was a violation. Appropriate home checks can also allow for important information sharing with the treatment provider. For example, if a participant denies drinking, but the probation officer sees empty beer bottles during a visit, the counselor can use this information to begin a dialogue with the participant. Conversely, home visits can provide opportunities for the probation officer or case manager to “catch the participant doing something right.” For instance, a probation officer might notice that the participant has cleaned his or her home and seems to be living in a healthier environment. This information can be shared with the team and treatment provider to reaffirm the positive behavior.

Beyond working with local police agencies and conducting home visits, some RDWI court programs utilize technologies to implement electronic monitoring. GPS tethers and alcohol-detecting devices (e.g. Secure Continuous Remote Alcohol Monitor – SCRAM) can provide round-the-clock monitoring of a participant’s location or alcohol use. Some programs allow participants to get a restricted driver’s license under MCL 600.1084, which requires the use of an ignition interlock device. Other commonly-used devices allow for unscheduled breath tests or curfew phone calls. Program personnel should keep in mind that electronic monitoring should be used as a supplement to, not in place of, human supervision. For every machine, there will be someone who finds a way around it. Therefore, the best supervision is done by case managers and probation officers in the field, off-hours, enforcing the orders of the court and building accountability.

SUBSTANCE ABUSE TESTING

Effective monitoring of substance use or abstinence is a vital component of any RDWI court program. Drug testing provides an objective means of determining recent use. It also serves as a deterrent to future use, in that participants know they could be tested at any time and face consequences for using. Drug testing also identifies clients who remain abstinent and can guide incentives or rewards.

It is important for a program to develop a written policy on drug testing procedures. A good resource to examine in developing procedures is the Office of Justice Program’s publication entitled *Drug Testing in a Drug Court Environment: Common Issues to Address*, available at <http://www.ncjrs.gov/pdffiles1/ojp/181103.pdf>. Drug testing requirements and expectations should be spelled out in the participant handbook. Clearly establishing the program’s rules in advance and communicating those expectations to participants promotes compliance and can reduce confusion.

Each team should have a same-gendered observer available for all urinalyses. The team will also need to establish a chain of custody policy so it is clear who will place a seal on the specimen, who will initial the seal, where it will be kept, etc. It is necessary to identify the

agency or agencies that will conduct testing and a lab that can confirm disputed positive tests. Drug testing is expensive so teams will need to determine how tests will be paid for. Many programs ask participants to pay for lab confirmation of disputed positive tests and then repay the participant if the test results prove negative. However, the remainder of the drug tests will likely need to be funded through other sources. Some programs require the participant to pay for testing; others use their operating funds. Still others partner with local law enforcement agencies; for example, in some jurisdictions, participants can get free alcohol breathalyzer tests at the police station.

For participants whose drug of choice is alcohol, the use of a Sober Link or Interlock device will be a convenient way to have them test multiple times in a day without requiring additional travel. Additionally, SCRAM tethers may be an option for continuous alcohol testing. These types of testing devices alleviate the travel needs of both the participants and case managers.

Testing should be conducted on a random basis and at different times of the day or night, including weekends. With regard to substance abuse testing, research provides evidence that less frequent but random testing can be more beneficial than daily testing as long as the participant believes that he or she could be tested at any time. Creating a system that ensures the random nature of testing will be beneficial. Many programs assign a color to each participant, which can also be tracked in the DCCMIS. This process requires participants to call into a telephone recording where they learn what color or colors will be drug tested that day and the time and location of testing. Additionally, the team will need to determine what types of tests will be administered (portable breath test (PBT), Ethyl Glucuronide (EtG), tether, etc.) and what specific substances will be tested for when participants report. This may vary by participant or be uniform for all program participants.

IGNITION INTERLOCK

One major incentive for which many participants are potentially eligible is a restricted driver's license through the ignition interlock program. 2013 PA 226 allows repeat DWI offenders the ability to receive this restricted license during their participation in a DWI or drug court program. The individual's license must be revoked for a minimum of 45 days and an ignition interlock device must be installed on the individual's vehicles before the approval may be made by the RDWI court judge. This restricted license will enable participants to drive to and from work or school and also all RDWI court functions, including 12-step programs and drug testing. Participants must carry proof of their destinations for reason of travel and shall provide that information to police upon request. An unrestricted license may be available to the participants after utilizing an ignition interlock device for the minimum of one year. Participants must successfully complete the RDWI court program, and pay all driver responsibility fees and wait the minimum period of the license sanction that would have been imposed by the Secretary of State. The bill in its entirety is available at <http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2013-HIB-5020.pdf>. Additional information is available through

the NCDC publication at

<http://www.dwicourts.org/sites/default/files/ncdc/Guidelines%20for%20the%20Use%20of%20Ignition%20Interlock%20Devices%20in%20DWI%20Courts%20-%20Final.pdf>. For answers to specific questions, please contact your Secretary of State Court Liaison.

INCENTIVES & SANCTIONS

The National Association of Drug Court Professionals (NADCP) published *Principles of Evidence-Based Sentencing and Dispositional Reform*, in which the organization indicates that the most successful programs utilize a variety of mid-range responses to participants' behaviors. Starting in the middle of the incentives and sanctions range allows programs to increase or decrease their responses to violations or achievements. The publication is available at <http://www.nadcp.org/sites/default/files/nadcp/NADCP%20Principles%20of%20Evidence-Based%20Sentencing.pdf>.

It is a good idea to determine what specific incentives and sanctions will be given for specific participant behaviors. This encourages fairness among participants and allows participants to predict the consequences of their actions. Once the team has determined the types of incentives and sanctions that will be used to encourage or discourage particular behaviors, consider documenting this information in the participant handbook. Making clear the rewards a participant might expect, or the consequences they will face for negative behavior, will help the participants to understand their roles and responsibilities in RDWI court.

NADCP states that incentives are “critical for producing long-term behavioral improvements.” In fact, giving incentives to individuals who are high-risk is especially effective because these participants are desensitized to punishment and are unaccustomed to being rewarded. Incentives do not need to be costly (courtroom applause or verbal praise from the judge) and can be individualized. For example, if a participant enjoys writing, an incentive might be allowing the participant to read a poem he or she wrote in open court. Incentives can also include monetary gifts such as bus tokens, books, and meal coupons. One economical way to award incentives with a monetary value is to employ the “fishbowl concept.” That is, to allow deserving participants to draw from a bowl for a chance to receive the available rewards.

Program violations are not treated like probation violations. Once an offender agrees to participate in RDWI court, he or she waives the right to counsel at review hearings that may involve administering a sanction, which may include a loss of liberty. Should the participant object to the imposed sanction, the court must advise the participant that a formal objection is equivalent to withdrawing from the program. Sanctions include things such as verbal warnings, community service, and curfews. They should be graduated in nature so that more severe sanctions, such as jail time, occur only after lesser sanctions have been administered and exhausted. NADCP recommends that jail sanctions be administered as quickly after the negative behavior as possible, remain short in duration, and allow for continued substance use disorder treatment, if possible.

CONFIDENTIALITY

In general, confidentiality in problem-solving courts is addressed by two federal statutes, the Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR Part 2. Despite conventional wisdom and practice, HIPAA does not apply to the courts, law enforcement, or probation officers. However, 42 CFR Part 2 applies to any program that is directly or indirectly assisted by any department or agency of the United States, which is interpreted to include any state or local court system.

HIPAA was enacted to improve health care by establishing standards for the electronic transmission of certain health records. A privacy rule prohibits certain entities from disclosing a patient's health information without proper consent or authorization. Although HIPAA does not specifically apply to the courts, it does apply to substance abuse treatment providers. Therefore, it is recommended that RDWI courts adhere to the spirit of the law by requiring participants to sign a consent form that meets HIPAA requirements. This consent can be integrated into the participant's 42 CFR Part 2 consent.

42 CFR applies to substance abuse program records. It protects the identity, diagnosis, prognosis, and treatment records of any participant in a substance abuse program. Essentially, 42 CFR Part 2 prohibits the direct or indirect acknowledgement of one's substance abuse diagnosis, prognosis, or treatment. Drug test results are not protected unless used for diagnosis or treatment. Therefore, because of the therapeutic use of drug testing results in RDWI courts, these records should also be considered protected under federal confidentiality laws.

Because it is important that the court and treatment providers maintain ongoing communication and exchanges of information regarding participants, those participants should be required to sign a valid consent form, allowing the disclosure of their treatment information. There are two requirements for a valid consent form: advisement of the participant's rights under the law, and the actual consent. The specific requirements for such a form can be found in *Practical Guide for Applying Federal Confidentiality Laws to Drug Court Operations* at <http://jpo.wrlc.org/bitstream/handle/11204/3304/1936.pdf?sequence=1> and in the language of the federal statute itself, available in its entirety at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=42:1.0.1.1.2&idno=42>. A sample consent form is also provided in Appendix E.

ALUMNI AND STEP DOWN GROUPS

Some participants struggle to maintain their sobriety after court supervision and accountability abruptly end at graduation. In response, some DWI court programs have instituted alumni groups as an option for participants who could benefit from continued support from the court and other DWI court participants. Due to worry over support and accountability soon falling away, some participants relapse shortly before graduation as a means to remain in the comfort of the program. Thus, many programs have also instituted step-down groups. These are groups in which participants can receive support prior to graduation. Participants may join

when promoted to the final phase of the program or at a specific time before their scheduled graduation (for example, during their last three months of participation). Some courts require participation in an alumni or step-down group, while other programs make participation optional.

Alumni programs engage in a variety of activities, including planning sober social events, publishing newsletters, participating in subsequent DWI court graduations, and developing 12-step meetings for the court's alumni.

Some programs engage alumni as mentors for current participants. These mentors provide a support system for new participants as they navigate DWI court. DWI court mentors provide support and encouragement to new participants, provide transportation for participants, attend graduation ceremonies, plan sober social activities, and sometimes serve as sponsors in 12-step groups.

The Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project at American University prepared a comprehensive report on drug court alumni strategies. The report, entitled *Good Beginnings: Development and Maintenance of Drug Court Alumni Groups*, can be accessed on the American University website at <http://jpo.wrlc.org/bitstream/handle/11204/763/247.pdf?sequence=1>

DISCHARGE

Participants can be discharged from a program for a variety of reasons, such as successfully completing the program, noncompliance with program rules, or absconding. The team will need to establish specific criteria for what constitutes successful program completion. For example, graduation requirements might include a minimum of 90 days sober, completion of all phase requirements, and employment or enrollment in school. Teams must also decide if court supervision of a participant ends when he or she successfully graduates or whether participants will be continued on probation. If the participant transferred from an outside jurisdiction, the court must transfer supervision back to the originating court through form MC 394a, available in Appendix D. Additionally, the team should determine how to hold graduation ceremonies; for instance, if they will be for individual or multiple participants, and who might be notified of the ceremonies (participants' families, friends, local stakeholders). Remember that if teams wish to invite local news media to the graduation ceremony, the participants must sign a release agreeing to be identified.

The team should set specific guidelines for program discharge. As with admission criteria, it is important to be fair in program discharges. Determining specific criteria and listing them in the program handbook or participant agreement can help reduce confusion. The team should also discuss how much time will be allowed before discharge of a participant who absconds. To ensure data accuracy, do not wait longer than 90 days before discharging an absconder as an unsuccessful participant. When a participant is unsuccessful and has program participation terminated, the court must enter adjudication of guilt (if it was deferred) and

sentence on the original charge to which the participant pled guilty. A record of the discharge status should be sent to the Michigan State Police.

Pursuant to MCL 600.1076, upon discharge the court must place on the record or in a written statement in the court file an indication of successful completion or termination and, if terminated, why the participant was terminated. If the participant successfully completes the program and had proceedings deferred, the court shall comply with the agreement made at admission. The court can discharge and dismiss proceedings against an individual who meets all of the following: the participant has never participated in RDWI court before, has successfully completed the program, is not required by law to be sentenced to a correctional facility, is not currently charged with and has not pled guilty to a traffic offense, and has not previously been subject to both (1) assignment to Youthful Trainee Act, and (2) dismissal of criminal proceedings. Finally, the court must send a record of discharge status to the Michigan State Police. If the participant successfully completes and did not have proceedings deferred, the court shall enter adjudication of guilt, sentence the individual (if not already sentenced), and send a record of the discharge status to the Michigan State Police.

EVALUATING YOUR PROGRAM

It is important to think ahead to how the court will evaluate the effectiveness and performance of the RDWI court program. Evaluation is a critical component of the RDWI court concept. Funding sources will want justification as to why a program is worthy of funding. The quality of the evaluation depends upon accurate and thorough data collection throughout the duration of the program. The program may choose to work with an independent evaluator to help with the design of the evaluation and/or to conduct analyses of the data. Evaluators can be professors or graduate students from local colleges and universities, or independent contractors with drug or DWI court evaluation experience. Some counties have evaluation staff that can provide services to the RDWI court. The SCAO conducts on-site reviews of grant-funded RDWI courts and provides feedback to those programs, but these reviews should not replace a full evaluation.

There are generally two types of evaluations that might take place in an RDWI court. The first is called a process evaluation, which tells the team what is or is not working in the program's day-to-day operations. For instance, the court may examine its screening process to ensure that potential participants are being screened quickly and efficiently. Or, the court may review its drug testing protocol to ensure that participants are being tested frequently and randomly, and that accurate test results are available in a timely manner. The second type of evaluation is an outcome evaluation, which measures the effectiveness of the program. Such an evaluation might look at the graduation rate in the program, and the recidivism rate of both successful and unsuccessful participants. A comparison group of similar offenders handled by traditional methods and/or a control group of eligible but randomly selected participants will be beneficial to have for baseline information and comparison.

All recognized RDWI courts are required to collect and provide data to the SCAO using DCCMIS. DCCMIS is a web-based program and there is no cost to the court to use the system. A court can begin using DCCMIS after submitting a local administrative order and memorandum of understanding, and when the court has signed a contract to use the system. Free training on the system is offered by SCAO throughout the year. A separate component of the system, DCAS, allows users to analyze the data they enter into the system and conduct statistical tests. DCAS is a valuable tool in evaluating a program.

FURTHER INFORMATION

For additional information and individual contacts please contact the SCAO Trial Court Services Division at (517) 373-7351

APPENDIX A – Sample Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

_____ REGIONAL DRIVING WHILE IMPAIRED TREATMENT COURT

This is an understanding among the _____ Courts and participating Prosecuting Attorneys, County Sheriff Departments, Community Corrections, Probation Departments of the above mentioned courts, Defense Counsel Representatives, Treatment Providers, Substance Abuse Services and the Program Coordinator.

1. The aforementioned parties agree to share the following vision for the _____ Regional DWI (RDWI) Court:
 - A. Enhance the quality of life throughout associated counties;
 - B. Provide leadership through innovative services;
 - C. Continuously improve services;
 - D. Achieve program goals through teamwork;
 - E. Break the generational cycle of criminality and substance abuse.
2. We endorse the goals and mission of the _____ Regional DWI Court Program in order for participants to eliminate future criminal behavior and improve the quality of their lives. For these programs to be successful, cooperation must occur within a network of systems to facilitate and achieve the mission and vision of the _____ Regional DWI Court;
3. We agree that the mission of the RDWI court program shall be to successfully rehabilitate substance abusing individuals while maintaining public safety;
4. There are ten principles under which the respective agencies work cooperatively:
 - A. Drug and alcohol addiction is a chronic relapsing disease that is treatable and substance abuse is reversible behavior, but which, if unaddressed, may lead to continuing and increasing criminal behavior and other personal, family, and societal problems.
 - B. RDWI court programs offer an opportunity to direct those in crisis with addictions and abuse to begin a rehabilitation process, which may ultimately lead to a reduction or elimination of addiction and abuse and permit the development of a productive lifestyle.

- C. Treatment intervention should occur early on upon entry to the criminal justice system to achieve maximum treatment outcomes.
 - D. Thorough assessment and evaluation is a critical component of the DWI court program.
 - E. Participants with drug and alcohol abuse issues cannot maximize their treatment potential without appropriate treatment intervention that includes their families.
 - F. Participant accountability is foremost in the program, with written program agreements and Court monitoring of behavior on a biweekly basis. Court monitoring will include incremental sanctioning for negative behaviors and positive rewards for improved behaviors.
 - G. RDWI court programs are established with written protocols, which are well defined and documented through the Policies and Procedures Manual. The Program Manual will be updated annually, to respond to the changes in the needs of the programs, participants, families, agencies and community.
 - H. Pre-adjudication participant entry in to the RDWI court program shall be governed by written eligibility criteria with the concurrence of the prosecuting attorney.
 - I. Information about participant progress, participant family progress, and the functioning of the RDWI court program shall be made available to all parties.
 - J. Effective evaluation of the RDWI court program shall be sought with appropriate responses being made relative to these evaluations.
5. The roles of the parties are as follows:
- A. Prosecuting Attorneys: Provide initial screening of eligible participants; participate in biweekly team meetings and biweekly court sessions. Provide feedback, ideas, and suggestions as needed. Represent the interests of the prosecutor and law enforcement.
 - B. County Sheriff's Departments and Community Corrections: Attend biweekly team meetings and court sessions. Supervise participants and provide advice and suggestions on community corrections sanctions, when appropriate. Provide feedback to the court on the DWI court participants' follow-up on all ordered sanctions.
 - C. Probation Department and/or Case Managers: Attend team meetings and biweekly court sessions. Provide probation oversight for all RDWI court participants. Work with the Regional DWI Court Coordinator in supervising and monitoring the

individuals in the program. Prepare presentence reports and perform drug tests as needed. Schedule show causes for participants who have violated the program rules and are subject to dismissal.

- D. Regional DWI Court Judges: Chair meetings, preside in court, and coordinate team activities, evaluations, and planning.
- E. Defense Counsel Representatives: Attend team meetings and biweekly sessions. Ensure that defendants' procedural and due process rights are followed. Provide feedback, suggestions, and ideas on the operation of the court.
- F. Regional DWI Court Coordinator: Schedule and attend meetings, arrange for additional screenings of persons referred by the prosecutor. Answer inquiries from defense attorneys on possible eligibility. Oversee data entry into DCCMIS system. Establish community resource connections for services. Act as a liaison with treatment providers and drug testing contractor (if applicable), probation and residential treatment facilities.
- G. Addiction Recovery Centers, Family Services & Children's Aid and Substance Abuse Services: Attend team meetings and court sessions, report on progress of participants, and offer insights and suggestions on the treatment plans of individuals in the program.
- H. Community Mental Health: Attend team meetings and court sessions, report on progress of participants, and offer insights and suggestions on those participants who have mental health issues in addition to substance abuse problems.

Effective Date: _____

End Date: _____

Signature and date of all parties.

APPENDIX B – Assessment Instruments to Consider

Assessment Instruments to Consider

ASI – Addiction Severity Index

ASI-Lite – Short version of Addiction Severity Index

BSAP – Behavioral Severity Assessment Program

GAINS – Global Appraisal of Individual Needs

NEEDS – Comprehensive Adult Assessment Tool

SALCE – Substance Abuse/Life Circumstances Evaluation

SASSI – Substance Abuse Subtle Screening Inventory

The following combination of evidence-based instruments is recommended for *assessment* of co-occurring disorders in drug courts (Peters, Bartoi, & Sherman, 2008)²

A. Either the Psychiatric Research Interview for Substance and Mental Disorders (PRISM),

or

B. A combination of either the Minnesota Multiphasic Personality Inventory-2 (MMPI-2), the Millon Clinical Multiaxial Inventory-III (MCMI-III), or the Personality Assessment Inventory (PAI) to examine mental disorders,

and

The Addiction Severity Index (ASI) to examine substance use disorders.

² Peters, R. H., Bartoi, M. G., & Sherman, P. B. (2008). *Screening and assessment of co-occurring disorders in the justice system*. Delmar NY: The National GAINS Center.

APPENDIX C – Sample Sobriety Court Program Agreements

SOBRIETY COURT PROGRAM AGREEMENT

People of the State of Michigan

vs.

_____ **Defendant**

Charge: _____

I agree to abide by the terms and conditions of the Sobriety Court Program (“program”) set forth below.

I agree to:

1. Not consume any alcohol or go where alcohol is served or associate with anyone so involved.
2. Not possess, use or deliver any controlled substance or associate with anyone who does.
3. Not violate any criminal law of any unit of government
4. Be employed or be enrolled in an educational program, and be actively pursuing employment.
5. Participate with the SCRAM alcohol monitoring program as directed by the Sobriety Court Judge/ Team.
6. Submit PBT’s and/or drug screening as requested.
7. Complete community service according to the community service agreement that I will sign at sentencing.
8. Notify the Sobriety Court Coordinator of any police contact, arrest or criminal charge within 24 hours (weekend & holidays excepted). I acknowledge, I may be prosecuted for any new offense(s) and terminated from the program.
9. Immediately notify the Sobriety Court Coordinator of any address and/or phone number change(s).
10. Make full and truthful reports to the Sobriety Court Coordinator.
11. Not engage in any assaultive, threatening, or intimidating behavior.
12. Comply with all terms and conditions of my probation and treatment recommendations of my treatment provider including after and continuing care recommendations.
13. Attend all appointment/ meetings on time.
14. Not leave the state without prior written consent of the Sobriety Court Coordinator.
15. Timely follow-up with referrals that the Sobriety Court Coordinator determines will assist me in maintaining sobriety and a law-abiding lifestyle in the community.
16. Authorize the Sobriety Court Coordinator to contact all parties involved in the reconciliation of restitution, if any.
17. Pay all outstanding monies resulting from my conviction and participation in the Sobriety court. I will enter a payment plan/ wage assignment within 2 weeks of sentencing. I understand I must make the agreed upon payments or face sanctioning by the Sobriety Court.
18. Attend a minimum of three (3) AA/NA meetings per week and to provide written verification weekly.

19. Allow the Sobriety Court Coordinator or field service agent, together with law enforcement officers, into my home any time for supervision.
20. I acknowledge that I have received a copy of the sanctioning matrix, that I have read it, and understand that it will be used when imposing any sanctions in my case.

Also, I understand that:

21. I must complete a Healthcare Contact Form each time I am seen for any medical, dental, or psychiatric treatment.
22. I must have prior permission from the Sobriety Court Coordinator before consuming any medication, and may NOT use any narcotic substance.
23. I must have prior permission from the Sobriety Court Coordinator before entering any establishment that dispenses alcohol for consumption on the premises.
24. Court proceedings are open to the public and are recorded. Additionally, that the Court files are open and accessible to the public. To the extent that the public, including the media, may view the Court proceedings and/or view my Court File and/or transcript of any audiotape, I waive my right to confidentiality as provided by statute and regulations, including 42 C.F.R. That the confidentiality statutes and regulations prohibit specified disclosures including, by way of example only, my eligibility and/or acceptability for substance abuse treatment services and my treatment attendance, prognosis, compliance and progress. I waive all such rights as long as I am participating in the program.
25. My photograph will be taken for my Sobriety Court file.
26. The data in my public and confidential file may be used for research, data analysis and program evaluation by the Sobriety Court, their evaluators or the Supreme Court Administrator's Office.
27. Failure to comply with all terms and conditions of the program will result in the following:
 - a) notification to the Judge that I am in violation
 - b) sanctions as determined by the Judge with input from the Sobriety Court Team and/or
 - c) termination from the program.

The Sobriety Court Coordinator agrees to:

1. Meet with me as needed to help assure my successful completion in the program.
2. Monitor all tests to be certain the results are accurate.
3. Report my progress and test results to the Court.
4. Refer me to any community agency at the Sobriety Coordinator's disposal which may assist in my recovery.

I understand that the Sobriety Court may amend these conditions and/or add new conditions. I understand that if changed, I must comply with the amended or added condition(s), or be terminated from the program, and if terminated, I may be confined in the County Jail of my sentencing county until a determination can be made of additional sanctions.

*Used with permission from the West Michigan Regional Sobriety Court Program

**CONSENT FOR DISCLOSURE OF CONFIDENTIAL SUBSTANCE ABUSE AND
MENTAL HEALTH RECORDS**

I, _____, participant, do authorize and request that the 97th & 98th District Regional DWI Court, the Houghton/Baraga/Keweenaw/Ontonagon/Gogebic County Sheriff's Departments, the Houghton/Baraga/Keweenaw/Ontonagon/Gogebic County Prosecutors, Copper Country Mental Health Services, Gogebic Community Health Services, and any other specified treatment provider:

to disclose and receive any information relating to:

- My substance abuse treatment by any of the above agencies
- My mental health treatment by any of the above agencies
- All drug screen results and alcohol tests obtained by any of the above agencies

I understand that the purpose of, and the need for this disclosure is to:

- inform the court and the other above-named parties or agencies of my eligibility and/or acceptability for substance abuse treatment services;
- to report on and adequately monitor my treatment, attendance, prognosis, and compliance with the terms and conditions of my probation;
- to discuss and assess my status as a participant in the Regional DWI Court Program;
- To assess and comment on my progress in accordance with the Regional DWI Court's reporting and monitoring criteria.

I agree to permit disclosure of this confidential information only as necessary for, and pertinent to, hearings, and/or reports concerning the status of my participation and compliance with the conditions of my probation as defined by the Regional DWI Court.

I understand that information about my medical status, mental health and/or drug treatment status, my arrest history, my levels of compliance or non-compliance with the conditions of my Regional DWI Court participation (including the results of urinalysis or other drug screening tools,) and other material information will be discussed and shared among members of the Regional DWI Court team.

I further understand that summary information about my compliance or non-compliance will be discussed in open court, specifically, whether I have attended all meetings, treatment sessions, the results of urinalysis or PBT testing as required, and the disclosure of my compliance or noncompliance with the terms and conditions of my probation as defined by the Court.

I understand that treatment information normally is confidential under federal law. I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations, which governs the confidentiality of substance abuse patient (or client) records and that it is a crime to violate this confidentiality requirement unless I voluntarily consent to permit its disclosure. Recipients of this information may re-disclose it only in connection with their official duties.

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Regional DWI Court such as the discontinuation of all court-ordered supervision or probation upon my successful completion of the Regional DWI Court requirements, or upon sentencing for violating the terms of my Regional DWI Court involvement.

PARTICIPANT SIGNATURE

DATE

WITNESS SIGNATURE

DATE

*Used with permission from the 97th & 98th District Regional DWI Court

APPENDIX D – Case Transfer Forms

[MC 394: Order Transferring Supervision to Drug Treatment Court Program :](#)

[http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcriminal/mc394.pdf#search="MC394.pdf"](http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcriminal/mc394.pdf#search=)

[MC 394a: Order of Discharge from Drug Treatment Court Program :](#)

[http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcriminal/mc394a.pdf#search="MC394a.pdf"](http://courts.mi.gov/Administration/SCAO/Forms/courtforms/generalcriminal/mc394a.pdf#search=)

APPENDIX E – Consent

CONSENT FOR DISCLOSURE OF CONFIDENTIAL SUBSTANCE ABUSE INFORMATION: DRUG COURT REFERRAL

I, _____, hereby consent to communication between

(name of defendant) _____, and Judge _____, (name of treatment program) (name of presiding judge, drug court judge) _____

(prosecuting attorney, assistant prosecuting attorney, public defender, assistant public defender, or defense counsel) the probation department of _____ and _____.

(name of jurisdiction) (name(s) of other referring agency)

The purpose of, and need for, this disclosure is to inform the court and all other named parties of my eligibility and/or acceptability for substance abuse treatment services and my treatment attendance, prognosis, compliance, and progress in accordance with the drug court program's monitoring criteria.

Disclosure of this confidential information may be made only as necessary for, and pertinent to, hearings and/or reports concerning _____.

(list charges, docket number and indictment number)

I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the drug court program for the above-referenced case, such as the discontinuation of all court _____ supervision upon my successful completion

(and/or, where relevant, probation) of the drug court requirements OR upon sentencing for violating the terms of my drug court involvement _____.

(and/or, where relevant, probation)

I understand that any disclosure made is bound by Part 2 of Title 42 of the Code of Federal Regulations, which governs the confidentiality of substance abuse patient records and that recipients of this information may disclose it only in connection with their official duties.

Date Name

Signature

Signature of defense counsel

Signature of interpreter (where applicable) Signature of parent or guardian (where applicable)

*Adapted from a sample provided by S. Rebecca Holland, Legal Director, The Osborne Association, Brooklyn, NY