

New Mexico Judiciary

Treatment Court Standards

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PREAMBLE

All treatment courts established and operating at any level of the New Mexico Judicial System shall comply with these standards and operate as qualified treatment court programs consistent with the definition stated herein.

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A. CURRENT ELIGIBILITY STANDARDS

- Standard A.1 Consideration for admission to the treatment court program shall be limited to those potential participants who:
- a. Have a severe persistent mental illness, (Axis I or Axis II diagnosis or demonstrate behaviors consistent with such disorders), including co-occurring disorders, (e.g., Bipolar Affective Disorder and substance abuse disorder);
 - b. Voluntarily participate in the program;
 - c. Are competent to stand trial;
 - d. Have been charged with a third (3rd), fourth (4th) degree felony. (Under unique circumstances, some nonviolent second (2nd) degree felonies may be considered); and
 - e. Have charges including felony DWI (true 4th's only), Controlled Substance first (1st) offense, and any other third (3rd), fourth (4th) degree felony charges and any misdemeanors.
- Standard A.2 A potential participant with a prior misdemeanor conviction or adjudication of a delinquent act involving violence may be admitted to a treatment court program.
- Standard A.3 Each jurisdiction will define the admission criteria for violent offenders for their own treatment court, while following federal guidelines if they are receiving federal monies in support of their treatment court.

A violent offender is defined as a person

- a. Currently charged with or convicted of an offense during the course of which
 1. The person carried, possessed, or used a firearm or other dangerous weapon;
 2. The person used force against another person; or
 3. Death, or serious bodily injury, occurred to any person, without regard to whether any of the circumstances described above is an element of the offense or conduct of which or for which the person is charged or convicted.
- b. Has one or more prior convictions of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

Practice 1: In the event there is no provision to the contrary, the following factors will be considered in determining if a potential participant with prior criminal activity may be admitted to the program.

- a. *The nature and character of the prior criminal activity;*
 1. *The nature, seriousness, and circumstances of the prior conduct.*
 2. *Whether the prior crime was committed because of an unusual circumstance, which is unlikely to recur.*
 3. *The motivation for the prior criminal activity.*
 4. *The extent of the potential participant's involvement in the prior criminal activity.*
 5. *The potential participant's acknowledgment of wrongdoing.*

6. *Any other circumstance, which extenuates the gravity of the crime even though it is not a legal excuse for the crime.*
- b. *The potential participant's compliance with prior criminal justice supervision;*
- c. *The potential participant's background and life history;*
 1. *The family and/or community support available to the potential participant.*
 2. *The effect of the prior activity on the potential participant and his or her dependents.*
 3. *The age of prior activity.*
- d. *The potential participant's acknowledgment of a need for treatment; and*
- e. *Any equities or circumstances in the potential participant's background that would encourage inclusion of the participant into a treatment court program.*

B. SUITABILITY STANDARDS

- Standard B.1 A participant must agree, prior to induction, to comply with treatment and supervision plans, case management activities, and agree to take any prescribed medications as may be necessary.
- Standard B.2 Procedures established by the treatment court team shall assist the treatment court judge in determining the preliminary suitability of potential participants for the program by interviewing eligible participants and summarizing any background and/or treatment history information (e.g., medical, mental health, substance abuse), which may bear on the individual's appropriateness for the program.
- Standard B.3 A screening committee(s) or process shall be established to assist the judge in determining the overall suitability of potential participants for the programs.

Practice 1: Risk assessment factors contributing to admission to the treatment court program include family and community ties, employability, and a summary of the potential participant's prior history for offenses other than those which would "automatically" exclude him/her but which may be helpful in determining suitability for the treatment court program. Consideration of risk assessment factors is discretionary and shall be used by the treatment court judge on a case-by-case basis.

C. OPERATIONAL STANDARDS

Standard C.1 All participating agencies shall cooperate with efforts to establish treatment court programs, which meet the minimum standards of the judicial branch.

Standard C.2 Each participating agency shall, if funding is available, assign staff, and alternates, to be dedicated to the treatment court based on personal interest in the program, interpersonal skills, motivation and professional abilities.

Standard C.3 Each treatment court agrees to provide orientation and training for staff.

Practice 1: Wherever feasible, agencies as well as the Court will make full or part-time staff assignments to the treatment court for a minimum of one year to ensure stability and continuity of day-to-day operations and to strengthen collaborative relationships between the key professionals.

Practice 2: Courts shall restrict caseload size based on considerations of the level of risk for maintaining stabilization within the community, treatment needs of the target population, and available community intervention programs.

Practice 3: Treatment court should have on-going training of staff to ensure core competencies required to meet stated goals and objectives are maintained. Training should include, but not be limited to: awareness of systems of mental health disorders and treatments, medications and side effects of medication within the mental health field, case management service as a resource, supervision strategies with individuals with a serious mental health disorder, community treatment resources, crisis intervention skills, and/or strength-based application supervision techniques such as motivational interviewing.

Practice 4: Treatment court team members' base budgets should include funding for training of treatment court staff. Each treatment court should act as soon as practicable to provide appropriate training for new staff and team members.

Standard C.4: The sponsoring court and participating agencies will, where appropriate and feasible, support qualified treatment court programs by making appropriate adjustments to internal policies, practices and procedures to ensure successful day-to-day operation of the program.

Practice 1: The sponsoring court and participating agencies will, where appropriate:

- a. Encourage agency-wide communication and cooperation among dedicated treatment court personnel;*
- b. Cooperate with the collection and maintenance of statistical and evaluation information based on statewide standards; and*
- c. Establish Memoranda of Understanding (MOU) as necessary to ensure the continuity of all legal policies and other standards necessary to the operation of each treatment court.*

Intake / Referral

Standard C.5 Each treatment court shall adopt written policies and procedures that will address intake and referral standards.

Standard C.6 Individuals referred to treatment court will be assessed for eligibility and suitability as soon as possible.

D. COURTROOM STANDARDS:

Standard D.1: Courts recognize the treatment court calendar as a priority and will establish a specialized, separate treatment court, on a part or full-time basis, dedicated to the evaluation, diagnosis, treatment and supervision of eligible and suitable treatment court participants.

Standard D.2 Results of drug testing may be used to:

- a. Determine if the participant is progressing satisfactorily;
- b. Determine if the plan needs modifying; and
- c. Determine appropriate sanctions.

Practice 1: Evidence of a drug test result shall not be used as evidence of a new crime. It may be used as a basis for sanctions, incentives, or determining whether the individual should be terminated or graduated from the program. It may be used to support a separate violation of probation upon termination consistent with similar disclosures as if the participant had been on regular probation supervision.

E. PROGRAM FEES AND TREATMENT COURT BUDGETS

Program Fees

Standard E.1 Treatment courts shall not collect program fees.

Budgets

- Standard E.2 Treatment court budgets shall consider the staffing needs of the required stakeholders including the public defender as counsel for the indigent client population, the prosecutor, and staff (contractual or actual court staff or other state agency staff). Each court must review funding to support or contract with the following personnel: public defender, prosecution, program coordinator, treatment/clinical staff, case management services, supervision officers, judge/special master, and data entry court staff.
- Standard E.3 For internal court operations, each court shall prepare a separate budget for treatment courts that may exist.
- Standard E.4 The AOC should request funding to conduct regular, qualified independent evaluations of treatment courts. Evaluations may be used to track performance and to assist treatment courts to improve services.
- Standard E.5 Each treatment court shall designate a program coordinator.
- Standard E.6 For budget preparation, the court shall consult (at a minimum) with team members including: public defender, district attorney, supervision officers, program coordinator, staff, and treatment staff (contractual or actual court staff or other state agency staff).
- Standard E.7 Treatment court programs are encouraged to utilize other community-based services and treatment providers who may be able to augment treatment court services through an integration approach.

F. COMPLIANCE RESPONSES

Standard F.1 The treatment court program must include a plan for compliance responses, including sanctions and incentives, based on individual behavior, which may be applied as an immediate and direct consequence of program non-compliance.

Practice 1: Sanctions for non-compliance should be individually based and consider: community risk, available treatment options, nature of the violation, participant's prior compliance, and any nexus between the violation conduct and underlying mental health stability. Sanctions should be proportional with the nature of the violation, community risk, and available community resources to address causative factors.

Practice 2: Non-compliance shall be reported to the Judge. If a community or personal safety issue, or third party risk factor is present, immediate court notification is required. A face-to-face meeting may be appropriate with the Judge, supervising officer and defendant may be appropriate for a non-compliance matter; serious non-compliance matters should have a scheduled hearing, which may include defense counsel and prosecution.

Sanctions may include, but not be limited to:

- a. Increased supervision contact;*
- b. Increased judicial oversight;*
- c. Retention in a phase or in the program for a longer period of time;*
- d. Community service or participation in a structured program;*
- e. Increased drug testing;*
- f. Jail;*
- g. Termination from program;*
- h. House arrest, curfews, and electronic monitoring; and*
- i. Written assignments.*

Therapeutic interventions may be used as appropriate in conjunction with sanctions such as:

- a. Review treatment plan and medication protocol and compliance;*
- b. Increased participation in outpatient individual and/or group sessions;*
- c. Increased case management;*
- d. Referral for educational services, employment, life skills, housing, and income support needs;*
- e. Participation in self-help groups; and*
- f. Commitment to community residential treatment for a specified period of time.*

Practice 3: Incentives may include but should not be limited to:

- a. Reduction of reporting to officer;*
- b. Transfer supervision to unsupervised status with Judge's authorization;*
- c. Early graduation;*
- d. Praise from the bench and/or supervising officer;*
- e. Certificates; and*
- f. Sentence reduced with successful participation considering victim input as required by law.*

G. CONFIDENTIALITY - GENERAL

Standard G.1 Treatment court information and records shall remain confidential, except as authorized for disclosure under these standards or by state law.

Standard G.2 Treatment court shall comply, at a minimum, with all applicable federal and state laws regarding confidentiality requirements.

Practice 1: Treatment courts shall receive training on federal confidentiality requirements and how they affect treatment court practitioners and contractors, based on funding availability.

Practice 2: The treatment court staff shall comply with the application of confidentiality laws and standards in the treatment court program.

Practice 3: Each treatment court shall “close” to the public court proceedings when treatment progress, medication compliance, and other potentially protected information is discussed. Further, the presiding judge may determine not to have such “closed” hearings transcribed, or may order transcript placed under seal, as well.

Practice 4: Treatment court review hearings shall be docketed electronically as judicial review hearings not mental health hearings or drug court hearings. This shall apply to all printed versions of the docket.

Standard G.3 Confidential treatment court information and records include the participant’s identity, diagnosis, evaluation, prognosis and treatment.

Practice 1: For purposes of evaluation, audit, and reporting, treatment court participants should be assigned and identified by a participant case number.

Practice 2: Treatment courts are encouraged to establish Memorandum of Understanding (MOU) on confidentiality and to have all team members sign and agree to follow confidentiality procedures. These MOU’s should be re-signed by replacement team members.

Practice 3: Confidential treatment court information and records do not include standard court orders and those documents critical to court functions, including, but not limited to the following: Judgment and Sentence, Order Deferring Sentence, Judgment and Final Disposition, Report on Treatment Court Violations, Remand Order, referrals and reference to referrals in any of the above mentioned documents.

Practice 4: To avoid prohibited disclosure in court proceedings and court documents of confidential information covered by the federal law or these standards, treatment courts are encouraged to provide language in the participant's release of information consent form that information as to the participant's identity, entry into or termination from the program may be disclosed--and become a part of the public record--to the extent necessary and pertinent in a probation revocation, initial disposition or sentencing proceeding.

Standard G.4 Confidentiality continues to apply to treatment court information and records even when the participant has voluntarily or involuntarily left the treatment court program.

Standard G.5 Except as authorized by court order under G.14.b, confidential treatment court information and records may not be used to initiate or to substantiate any criminal charges against a participant or to conduct any investigation of a participant.

Standard G.6 Except as specifically authorized by court order under G.14.b, no treatment court program may knowingly employ, or enroll as a participant, any undercover agent or informant.

Standard G.7 No information obtained by an informant or undercover agent, whether or not that agent or informant is placed in a program pursuant to an authorizing court order, may be used to criminally investigate or prosecute any participant.

Confidentiality - Security and Retention of Written and Electronic Program Records

Standard G.8 Written records which are subject to these standards must be maintained in a secure location and access to these records limited to authorized individuals.

Practice 1: The treatment court judge, in consultation with the treatment court team members, should determine access authorization to secure written records.

Standard G.9 Electronic data that is subject to these standards must be protected by security walls and security codes. Access shall be limited and disclosure/re-disclosure shall be subject to approval by the treatment court judge and team.

Note: See Standard H.3.

Standard G.10 Treatment courts shall adopt written procedures and/or policies, which regulate and control access to and use of written and electronic records, which are subject to these standards.

Practice 1: These standards apply to written and electronic records that may be in the possession of or accessible to the court and court staff, designated team members, treatment court contractors, and any other entity identified by the treatment court team.

Standard G.11 Once authorized access is obtained and initial disclosure permitted, the redistribution of confidential information and records is not permitted, unless it, too, is authorized on a limited, known basis.

Practice 1: Treatment courts must not only limit disclosure to authorized parties, but they must also limit the re-disclosure of confidential information and records.

Standard G.12 Retention of and destruction of treatment court records following graduation or exclusion from a treatment court program should follow the record retention and destruction schedules defined by Judicial Rules.

Confidentiality - Limited Authorized Disclosures

Standard G.13 Disclosure by Written Consent of Participant

Participation in treatment court is contingent upon a participant's approval of a Release of Information (ROI) form. Any participant who rescinds a waiver shall be deemed ineligible for continued participation. A treatment court participant may consent to the disclosure and re-disclosure of confidential records and information. Such consent must be in written form and it must contain the following elements:

1. Specific name or general designation of the program or person permitted to make the disclosure;
2. Name of the participant permitting disclosure;
3. Name or title of the individual(s) or the name of the organization to which (re)disclosure is to be made;
4. The purpose of the (re)disclosure;
5. How much and what kind of information is to be disclosed;
6. Signature of participant;
7. Date on which consent signed; and
8. Date, event, or condition upon which the consent will expire. The date, event, or condition must insure that the consent will list no longer than reasonably necessary to serve the purpose for which it is given.

Practice 1: The consent form should list the treatment court program team members to whom disclosure is authorized.

Practice 2: The written consent to disclosure should be knowing and voluntary, and the participant should have ample opportunity to review the consent form prior to signing.

Practice 3: If a participant cannot understand or read the English language, the consent form should be translated to assist the participant with language and/or comprehension.

Practice 4: A treatment court participant has a right to revoke a written consent to disclose confidential information and/or records based on treatment court agreement, but will not remain eligible as a participant in the program.

Practice 5: Treatment court team members and contractors may use and disclose confidential information and records only to the extent necessary to carry out their treatment court duties and job assignments.

Practice 6: At the time of admission, or as soon thereafter as the participant is capable of rational communication, the participant shall be given a summary orally and in writing of the federal confidentiality laws and regulations.

Standard G.14 Disclosure Without Prior Participant Consent

- a. Confidential participant information and records may be disclosed without the participant's prior written consent under the following circumstances:
 1. To report under state law an incident(s) of suspected child abuse and neglect to appropriate state or local authorities;
 2. To report to law enforcement the participant's commission of a crime on the premises of the program or against program personnel or of a threat to commit such a crime. Communications are limited to the circumstances of the incident, including the participant's status, as the individual committing or threatening the crime, the name, address, and last known whereabouts;
 3. To convey information to medical personnel to the extent necessary to meet a bona fide medical emergency;
 4. To convey information related to the cause of death; and
 5. To qualified personnel for the purposes of conducting scientific research, management audits, financial audits, program oversights, program evaluations, and reporting to the AOC Statewide Program Manager.

Practice 1: Such personnel as identified in G.14.a.5. should not identify, directly or indirectly, any individual participant in any report of such research, audit, oversight, evaluations or report.

Practice 2: The Judicial Information Division (JID) of the Administrative Office of the Courts (AOC) shall strive to create and maintain a secure central treatment court information/data repository to assist the AOC Statewide Program Manager in producing reports for the courts, legislature, and executive branches of state government and for other authorized purposes.

- b. Disclosure by Court Order. Treatment court judges may issue a court order for (re)disclosure or use of confidential information and records, but must do so in accordance with the due process and procedures established under 42 C.F.R., Part 2, Subpart E, of the federal regulations.

Confidentiality and Accountability

Standard G.15 Confidentiality disclosure violations, problems, concerns and issues should be brought to the immediate attention of the treatment court judge or designated Judicial Officer who shall resolve these matters in a manner that protects the integrity of the treatment court program and privacy rights of the participant.

Practice 1: Whenever possible, the treatment court team members should participate with the judge or designated Judicial Officer in mutually resolving issues of confidentiality, disclosure and re-disclosure.

Other Applicable Disclosure Restrictions

Standard G.16 Rules of professional conduct and evidentiary privileges shall still apply unless expressly waived by the participant.

H. DATA COLLECTION

Automated Data Collection Systems and Evaluations

- Standard H.1 Each treatment court shall establish and maintain an automated data collection system to collect each treatment court participant's personal and treatment information and program progress. The data collection system shall be physically located where it can be properly secured and controlled by the treatment court. Each data collection system shall include information sufficient to calculate the approved performance measures.
- Standard H.2 Each treatment court will maintain a current inventory of computer hardware and system software used for treatment court program purposes.
- Standard H.3 Each treatment court shall establish written security procedures to protect participant data entered into each treatment court database.
- Standard H.4 The Administrative Office of the Courts (AOC) shall maintain a statewide central repository to collect every treatment court programs' data in a secure location at the Judicial Information Division (JID) in Santa Fe. JID will install and maintain a dedicated treatment court server and central repository behind its firewall to prevent unauthorized access to any New Mexico treatment court data. JID technology staff will provide systems administration on an ongoing basis. JID will create programming to allow the AOC Statewide Program Manager to produce reports from all New Mexico treatment court data for continual statewide program reporting and to respond to Legislative Finance Council (LFC) and Department of Finance Administration (DFA) with annual aggregate treatment court information.

Practice 1: The central data repository will not retain any personal identification information.

Practice 2: The AOC shall provide individual treatment courts with the necessary technical support to establish and maintain required databases, given available funding.

- Standard H.5 The Statewide Program Manager should work with a qualified, independent evaluator to conduct appropriate evaluations of treatment court programs, given available funding.
- Standard H.6 All treatment courts will be responsible for maintaining proper fiscal records and fiscal accountability in accordance with state laws.

Minimum Data Collected in Each Treatment Court

- Standard H.7 Each treatment court shall collect in the court's treatment court automated database, at a minimum, the following information:
- a. Personal Information (Taken at Intake)
 1. Name;
 2. Social Security Number;
 3. Date of birth;
 4. Place of birth;
 5. Gender;

6. Race;
 7. Current marital status;
 8. Number of children in family; and
 9. Number of participant's dependents.
- b. Pre-Program Criminal History (Taken at Intake)
1. Previous criminal conviction record/chronological offense
 2. Current case charge(s) or petitions, or referring offense
 3. Current Case Type (drop down menu of the following):
 - a.) Misdemeanor;
 - b.) Juvenile;
 - c.) Felony; and
 - d.) Traffic.
 4. Client Referral Type (drop down menu of the following):
 - a.) Pre-adjudication (e.g., conditions of release);
 - b.) Preindictment Plea (PIP);
 - c.) Early Plea Program (EPP);
 - d.) Post-adjudication (pre-sentence);
 - e.) Probation;
 - f.) Parole;
 - g.) Probation violator; and
 - h.) Dual supervision (probation and parole).
- c. Behavioral Health Treatment History (Taken at Intake, Progress and Exit)
1. Mental Health Treatment History;
 2. Diagnosis, if available;
 3. Mental Health Prescription Medications Y/N;
 4. Medication compliant Y/N;
 5. Substance abuse history Y/N;
 6. Primary substance of abuse (drop down menu);
 7. Secondary substance of abuse (drop down menu);
 8. Nicotine dependence Y/N;
 9. Alcohol dependence Y/N;
 10. Substance abuse test results at intake (drop down menu);
 11. Relapse Prevention Y/N;
 12. Inpatient treatment history Y/N;
 13. Outpatient treatment history Y/N;
 14. Treatment compliant Y/N;
 15. Lives independently Y/N;
 16. Natural supports Y/N;
 17. Transportation Y/N;
 18. Case Management;
 19. Treatment Guardian; and
 20. Payee.
- d. Employment (Items 1-3 and 6 are Taken at Intake, in Progress, and at Exit; 4 is Taken at Intake; 5 is Taken at Exit)

1. Currently employed/unemployed;
2. Employer name and address;
3. Type of work or profession;
4. Employed on entrance into program Y/N;
5. Employed on exit from program Y/N; and
6. Disabled.

e. Financial Information (Taken at Intake, and at Exit)

1. Receiving public assistance Y/N
 - a.) Housing;
 - b.) Medication;
 - c.) SSI;
 - d.) SSDI; and
 - e.) Public Insurance (Medicaid, Medicare, Salud).
2. Ability to Pay Fees/Fines (drop down menu: Able to Pay, Fees Waived, or Community Service).

f. Education (Taken at Intake, in Progress, and at Exit)

1. Highest level completed at Intake (drop down menu: grade 1- 17);
2. Current enrollment and level; and
3. Highest level completed at Exit (drop down menu – same as for #1).

g. Community Service (Taken at Exit)

1. Number of hours completed.

h. Program Activity (Taken in Progress)

1. Referral date;
2. Intake date;
3. Current program phase;
4. Sanctions ordered;
5. Detention ordered;
6. Inactivation date; and
7. Reactivation date.

Practice 1: Participation in program activities, including substance abuse testing, shall be tracked, but each treatment court can choose whether to track activities through the automated database or by other secure means.

i. Exit

1. Termination from program (drop down menu of the following):
 - a.) Voluntary Termination (no fault);
 - b.) Involuntary Termination (at fault);
 - c.) Transfer to another New Mexico treatment court program;
 - d.) Death;
 - e.) Graduation to Aftercare Program;
 - f.) Graduation from program; and
2. Completion of Aftercare Program (Date).

- j. Recidivism
 - 1. One-year review and re-arrest/re-offense/new petitions information
 - 2. Two-year review and re-arrest/re-offense/new petitions information
 - 3. Three-year review and re-arrest/re-offense/new petitions information

Practice 1: In collecting data for calculation and reporting of the recidivism rate, each treatment court shall only include participants who have graduated within the last two fiscal years from the date of the report.

- k. Program Costs
 - 1. Treatment Costs
 - 2. Start date (for cost data)
 - a.) End date (for cost data);
 - b.) Drug testing;
 - c.) Client treatment; and
 - d.) Client family treatment.
 - 3. Other Costs
 - a.) Start date (for cost data);
 - b.) End date (for cost data);
 - c.) Direct staff (include pro-rated cost of part-time staff);
 - d.) Service costs (outside vendor costs billed to treatment court not included in Treatment Costs);
 - e.) Indirect staff (those providing services not directly paid by treatment court); and
 - f.) Miscellaneous costs (such as office and client supplies, printing costs, staff training, etc.).

Practice 1: Data shall be maintained in a secure fashion and access to this data governed by confidentiality rules and regulations.

Performance Measures for New Mexico Treatment Courts as They Relate to Data Collection

Standard H.8 For every fiscal year, the AOC will provide to the New Mexico Legislature treatment court information defined as performance measures for all New Mexico treatment courts, if required. The data shall be collected in two categories: all information to determine whether treatment court programs are meeting their mission, goals, and service definitions which measure strengths and weaknesses in every treatment court program as established by the Drug Court Advisory Committee for all New Mexico treatment courts; and recidivism and graduation rate, among other measures, which will be used for legislative budgeting purposes.

Standard H.9. Specifically, treatment court performance measures are defined as the following (applicable business rules and calculation mechanisms are set forth in Appendix A):

- a. Each treatment court shall electronically record for every fiscal year cumulatively the percentage change in arrests of graduates from the one-year period prior to their program induction to the one-year period post-graduation, as set forth in the business rules adopted by the AOC (see Appendix A).

- b. Each treatment court shall electronically record for every fiscal year cumulatively the percentage change in number of jail days of graduates from the one-year period prior to their program induction to the one-year period post-graduation, as set forth in the business rules adopted by the AOC (see Appendix A).
- c. Each treatment court shall electronically record for every fiscal quarter the number of treatment court graduates as well as the graduation rate. The graduation rate shall be calculated based on the business rules adopted by the AOC (see Appendix A);
- d. Each treatment court shall electronically record for every fiscal quarter the costs for a participant per day, as set forth in the business rules adopted by the AOC (see Appendix A);
- e. Each treatment court shall electronically record all data elements required by the minimum data set as defined in Standard H.7. A court may electronically record further information beyond that defined by the minimum data set, but at least the minimum data set must be collected and transmitted every fiscal quarter to the AOC. In addition, each court will set a target for this measure each fiscal year, indicating the targeted percentage of transmitted records which shall contain the minimum data set;
- f. Each treatment court shall electronically record for every fiscal quarter the number of days from a participant's referral for screening to intake into the program. This time period will be adjusted in keeping with the business rules adopted by the AOC (see Appendix A). In addition, each court will set a target for this measure each fiscal year indicating the targeted number of days each participant's referral process will require at a maximum;
- g. For purposes of the treatment court performance measures only, "recidivism" is defined as a re-arrest or re-offense as set forth in the business rules adopted by the AOC (see Appendix A). This data will be reported for every fiscal year cumulatively and historically for each treatment court and statewide;
- h. Each treatment court shall electronically record for every fiscal quarter the percentage of treatment court graduates who are employed, or full-time students, retired, or disabled (for reasons other than drug use) upon graduation. This data will be reported by each treatment court and statewide; and
- i. Each treatment court may optionally record for every fiscal year cumulatively the percentage change in the number of graduates who committed multiple offenses in the one-year period prior to their program induction as compared to those graduates who committed multiple offenses in the one-year period post-graduation, as set forth in the business rules adopted by the AOC (see Appendix A).

Practice 1: Each treatment court shall report the targets set for the performance measures defined in H.9.f and H.9.g starting one calendar year from the Supreme Court's approval of the Treatment Court Standards.

Administrative Office of the Court's Electronic Data Monitoring and Reporting Responsibility

- Standard H.10 The Administrative Office of the Courts shall be responsible for providing aggregate reporting on Performance Measures as defined in Standard H. 9. The AOC shall be responsive to all reporting requests made by the LFC and DFA.
- Standard H.11 The AOC shall work with treatment courts statewide to ensure the data necessary for capturing all information required to produce reports for the Legislature is received into the Treatment Court Central Repository (central repository) on a timely basis.
- Standard H.12 The AOC/JID shall ensure the secure access network and central repository for all statewide treatment court data is maintained and updated on a timely basis.

I. TREATMENT STANDARDS

- Standard I.1 Treatment court participants shall be required to participate in a comprehensive and integrated program of mental health, alcohol, drug and any other related treatment and rehabilitation services as approved by the treatment court, herein referred to as the “treatment court treatment program.”
- Standard I.2 The primary goal of the program is to provide services to participants who have a mental health disorder or a co-occurring disorder in order to assist the individual in complying with treatment while complying with the Court ordered Conditions of Release in order to improve the participants’ quality of life and ensure public safety.
- Standard I.3 The treatment court treatment program’s services shall be integrated and coordinated with the treatment court team under the direction of the treatment court judge.
- Standard I.4 The treatment court treatment program’s services shall be provided in a gender appropriate and culturally competent manner.
- Standard I.5: Treatment court participants shall be required to comply with the standards, practices and client rules of the treatment court treatment program.
- Standard I.6: The minimum treatment standards of the treatment court program, shall include mental health, alcohol and other drugs treatment, rehabilitation, other related services, and other requirements as shall be established in writing by the treatment court. These requirements shall be approved by the treatment court judge and incorporated in the treatment court policies and procedures.
- Standard I.7: The minimum treatment standards of the treatment court program for a court shall include:
- a. Screening;
 - b. Admission criteria;
 - c. Assessment, Clinical Evaluation and Initial Treatment Plan;
 - d. Individual, family and group counseling, as deemed necessary by each individual program;
 - e. Ancillary, adjunctive, and other services such as occupational, rehabilitative, educational and/or mental health counseling (services may be provided by the program or by arrangements with other agencies or providers);
 - f. Minimum requirements of each phase (if phases utilized);
 - g. Minimum requirements of self-help participation (if required);
 - h. System of ongoing individualized reassessment and treatment planning;
 - i. System of random alcohol and other drug testing;
 - j. Transitional or aftercare counseling; and
 - k. Discharge criteria.
- Standard I.8 Advancement within the treatment court and graduation from the program shall only be determined by the treatment court judge and on the condition that the participant has satisfied the established minimum criteria.

- Standard I.9 The minimal length of the treatment court treatment program for successful completion shall be approved by the treatment court judge and incorporated in writing in the treatment court program policies and procedures.
- Standard I.10 Discharge or termination from the treatment court treatment program shall only occur with the approval of the treatment court judge.

J. TREATMENT PROVIDER STANDARDS (as applicable to each program)

- Standard J.1 Treatment providers shall comply with these standards, those established in the treatment program standards and as applicable throughout the treatment court standards.
- Standard J.2 Judicial agencies providing treatment services internally with their own staff members may meet the requirements of these standards through their own policies, procedures and practices in lieu of the requirements herein so long as they are substantially equivalent.
- Standard J.3 The treatment court program shall only utilize providers in accordance with state and federal laws.
- Standard J.4 The treatment court program shall only utilize providers of other clinical services in accordance with their respective licensure requirements when appropriate.
- Standard J.5 The treatment provider shall provide the treatment court with copies of all clinical staff licenses.
- Standard J.6 The treatment provider must document all applicable business licenses and State of New Mexico Taxation and Revenue Department Certificate.
- Standard J.7 The treatment provider shall maintain in force general and professional liability insurance coverage in an amount determined by the treatment court. Evidence of coverage or verification of immunities and limitations of the New Mexico Tort Claims Act Section 41-4-1, et. Seq, 1978, must be provided by the treatment provider.
- Standard J.8 The treatment provider's facilities shall comply with the applicable fire and safety standards established by the State Fire Marshall and health, safety and occupational codes enforced at the local level.
- Standard J.9 The treatment provider's services and facilities must meet all requirements of the Americans with Disabilities Act of 1990, and all applicable state and local rules and regulations.
- Standard J.10 The treatment provider shall develop written policies and procedures that will ensure compliance with these standards, the treatment court program requirements and the scope of services. The treatment provider shall provide services in accordance with the written policies and procedures.
- Standard J.11 The treatment provider shall establish written rules governing the rights and conduct of clients. The client, and significant others, if applicable, shall be informed of the rules regarding admission, discharge, expulsion, and program expectation for clients admitted to treatment. Each client, and where required significant other shall sign these rules prior to or at the time of admission.
- Standard J.12 The treatment provider shall maintain a record on each client, maintain client records and client identifying information in a confidential manner, secure consent for release of client information in accordance with State and Federal Regulations (Title 42, Code of Federal

Regulations, Part 2), and these standards. Client records shall be kept secure from unauthorized access.

- Standard J.13 The treatment provider shall obtain and have on file a consent for treatment signed by each individual.
- Standard J.14 The treatment provider shall assure that participants meet the clinical criteria for admission to the program as established in conjunction with the treatment court program.
- Standard J.15 The treatment provider shall provide services in accordance with the established scope of services and standards of the treatment court program.
- Standard J.16 The treatment provider shall maintain for each participant documentation including but not limited to assessments and treatment plans, progress notes, services provided, attendance records and drug test results.
- Standard J.17 When provided by the treatment provider, they shall develop and implement a plan for random alcohol and drug testing of participants in accordance with the established scope of services and standards of the treatment court program. Such plan shall include at a minimum:
- a. Frequent testing for alcohol and drugs on a randomized basis;
 - b. Policies and procedures to ensure security and reasonable controls to deter tampering or misrepresentation of specimens or test results;
 - c. Procedures to maintain and secure test results to the court as soon as possible;
 - d. A means to communicate positive test results to the treatment court as soon as possible; and
 - e. A mechanism for confirmation of positive test results by an approved laboratory.
- Standard J.18 The treatment provider shall designate a staff member(s) who shall be present at all treatment court sessions to report on clients' progress, compliance, etc. The staff member shall be adequately aware of the clients' status to report accurately to the treatment court judge.
- Standard J.19 The treatment provider shall provide written reports of clients' assessments, progress on a monthly basis, incident reports, treatment plans, and a discharge summary at a minimum.
- Standard J.20 The treatment provider shall establish a localized network of public and private agencies through memoranda of understanding or other formal agreements to provide support of services as appropriate.
- Standard J.21 The treatment provider shall maintain fiscal records in accordance with generally accepted accounting principles, State requirements and any contractual specifications.
- Standard J.22 To ensure adequate client safety and care, every treatment provider shall have a quality assurance program designed to evaluate the quality of care provided and promote efficient and effective services.

Standard J.23 The treatment provider shall participate in fiscal, operational or other audits as required by the court or other authorized agency.

- Practice 1: With regard to participation in “self help” groups this should be individually based and consistent with the treatment & supervision plans and not applied to all participants.*
- Practice 2: Compliance with taking prescribed medication should be a standard tool to help manage the mental health disorder.*
- Practice 3: Standards should seek to address “responsible living” and “self management” of any mental health diagnosis as an objective.*
- Practice 4: Treatment and provider goals should foster medication compliance, education, employment, and/or development of pro-social activities to support successful community adjustment.*
- Practice 5: All treatment provided must adhere to ethical standards of best practice, holding the well being of the participant above all other agendas.*

K. ROLE OF THE TREATMENT COURT JUDGE

Standard K.1 The focus and direction of a treatment court program are provided through effective leadership of treatment court judges in partnership with the treatment court team.

- Practice 1: The judge is in a unique position to exert effective leadership in the promotion of coordinated treatment control efforts.*
- Practice 2: To encourage full commitment to the success of a treatment court program, the treatment court judge should allow the treatment court team to participate fully in the design -and implementation of the program.*
- Practice 3: Partnerships should be formed among the judge, all affected criminal justice agencies and the treatment provider, which will allow collaboration in decision-making, sharing of resources and coordination of efforts.*
- Practice 4: The judge is responsible for maintaining a non-adversarial atmosphere in the treatment court. All staff must see their job as the facilitation of the participant's rehabilitation.*
- Practice 5: The judge is one of the key motivational factors for the participant to seek rehabilitation. Less formal and more frequent court appearances must be scheduled to allow the judge to motivate and monitor the participants.*
- Practice 6: The judge should conduct court so all participants benefit by observation of others as they progress (or fail to progress) in treatment (see treatment standards).*
- Practice 7: The treatment court judge and the treatment court team serve as program advocates. They represent the program in the community, before the federal, state, and local governments, criminal justice agencies, and other public forums.*

L. OVERSIGHT AND ACCOUNTABILITY FUNCTION

Standard L.1 The Supreme Court will enforce compliance with these standards.

Standard L.2 Treatment courts shall cooperate with the Supreme Court and the AOC to ensure compliance with these standards.

Practice 1: It is recommended that treatment courts conduct internal program audits every twelve months.

Appendix A

Performance Measure Definitions and Business Rules

Arrest-Reduction Rate of Graduates:

This measure determines if there is a reduction in the number of arrests for program graduates when compared to the number of arrests prior to their program participation. The measure is calculated by dividing the number of arrests for graduates in the one-year period post their graduation by the number of arrests in the one-year period prior to their program induction. That percentage is subtracted from 100% to obtain the reduction rate.

Applicable Business Rule:

The calculation will be based only on those graduates who graduated during the fiscal year just prior to the fiscal year for which performance measures are being reported. For example, if performance measures are being reported for Fiscal Year 2008, this arrest-reduction rate calculation would be based on all of those program graduates who graduated during Fiscal year 2007. This will ensure that each graduate included in the performance measure will have at least one-year post-graduation on which to base the post-graduation arrest calculation.

Incarceration-Days-Reduction Rate of Graduates:

This measure determines if there is a reduction in the number of days spent in jail for program graduates when compared to the number of jail days prior to their program participation. The measure is calculated by dividing the number of jail days for graduates in the one-year period post their graduation by the number of jail days in the one-year period prior to their program induction. That percentage is subtracted from 100% to obtain the reduction rate.

Applicable Business Rule:

The calculation will be based only on those graduates who graduated during the fiscal year just prior to the fiscal year for which performance measures are being reported. For example, if performance measures are being reported for Fiscal Year 2008, this incarceration-days-reduction rate calculation would be based on all of those program graduates who graduated during Fiscal year 2007. This will ensure that each graduate included in the performance measure will have at least one-year post-graduation on which to base the post-graduation jail days calculation.

Number of Graduates:

This measure counts the number of participants who have successfully completed the treatment court program at the end of each fiscal year.

Graduation Rate:

This measure calculates the percentage of graduates at the end of each fiscal year by dividing the number of participants who exit the program into the number of graduates.

Applicable Business Rule:

The number of participants who exit the program would require a preliminary calculation: the total number who exited the program minus the volunteer terminations, transfers to another program, and those who died while in the program.

Cost-per-Client-per-Day:

This measure determines the cost per participant per day excluding judge costs or indirect administrative costs but including costs of Special Masters. The measure is determined by taking the total number of days in the program per client per reporting period and dividing the amount of expenditures by the number of days for an average cost per day for the reporting period. (Take the total amount of expenditures and divide by the total number of client days.)

Applicable Business Rules:

Total Program Costs include:

1. Support Personnel Costs: Paid staff essential to the treatment court team and the treatment court's operation, including those not billed to the treatment court (e.g., a public defender's services, district attorney's services, APPO's, surveillance officers, case managers, mental health professionals). Include all those providing more than 20% of their work week in direct support of the drug court program (equivalent to one 8-hour day a week, on average).
2. Operational Costs: Costs include services that are essential to the treatment court team and treatment court's operation. Examples of such essential costs include drug testing, travel/training, gas/oil/maintenance of vehicles, printing charges, equipment rental, telephone charges, and advertising. Do not include non-essential services that are provided free of charge to the treatment court (such as GED training).

Percent of Automated Treatment Court Records that Meet Minimum Data Set:

The Treatment Court Standards specify a minimum data set for each participant, and this measure will evaluate how comprehensively that minimum data set was adhered to. This will tie to the Judiciary's Strategic Plan goal of timely case flow management, as well as the goal of using technology to process cases and manage resources.

Retention Rate:

This measure determines the percentage of participants who remain in the program.

Applicable Business Rules:

The total number of terminations (voluntary and involuntary) are divided by the total number of participants who were active at any time during the reporting period. That percentage is subtracted from 100% to obtain the retention rate percentage.

Recidivism Rate of Graduates:

This measure determines if graduates are reentering the justice system. The measure is determined by the number of graduates who re-offend (as defined in the applicable business rule below) divided by the number of graduates, as program data is available from NM CJIS and electronic court records.

Applicable Business Rule:

Determine each fiscal year if graduate has had subsequent conviction for 1, 2, or 3 years after graduation.

Multiple-Offense Reduction Rate of Graduates:

This measure determines if there is a reduction in the number of program graduates with multiple offenses. Graduates with multiple-offenses are defined as those with four or more arrests in a twelve-month time span. For this calculation, the number of graduates who had four or more arrests in the one-year period prior to their induction will be divided into the number of graduates who had four or more arrests in the one-year period post graduation. That percentage is subtracted from 100% to obtain the reduction rate.

Applicable Business Rule:

The calculation will be based only on those graduates who graduated during the fiscal year just prior to the fiscal year for which performance measures are being reported. For example, if performance measures are being reported for Fiscal Year 2008, this multiple-offense reduction rate calculation would be based on all of those program graduates who graduated during Fiscal year 2007. This will ensure that each graduate included in the performance measure will have at least one-year post-graduation on which to base the post-graduation arrest calculation.

Definitions

Agency: Any participating for-profit, non-profit or government agency that is involved with a treatment court.

AOC: Administrative Office of the Courts

AOD: Alcohol or other drugs

Eligibility: Participants are eligible according to policies and procedures established in each treatment court and the statewide treatment court standards. An individual may be eligible for a program but may not be suitable for placement.

Incentives: A reward for compliance with program rules and progress in treatment. Incentives may be in the form of less restrictive reporting standards, donated gifts from the business community or private citizens, etc.

Natural Support: Natural supports constitute supportive relationships with family and friends that have either been established or re-established as a result of continued success in treatment; and the reduction in stressors that impact recovery.

Qualified Treatment Court Program: Qualified treatment court programs meet all criteria in maintaining a treatment court according to the treatment court standards. Qualified treatment courts are those that are fully operational through federal, state or private funding, have an assigned treatment court judge or judges, and have a treatment court advisory panel.

Suitability: An individual who is deemed suitable by the treatment court judge or reviewing committee and is one amenable to treatment and program requirements.

An additional resource for Mental Health terms and background information: Judges' Criminal Justice/Mental Health Leadership Initiative. (2007). *Judges' Guide to Mental Health Jargon: A Quick Reference for Justice System Practitioners*. Delmar, NY: CMHS GAINS Technical Assistance and Policy Analysis Center for Jail Diversion.