

Client Protocol for Court Monitored Drug Treatment Program

Assessment:

- a. Meet with Treatment Team at the Opioid Treatment Program (OTP) for thorough assessment
 - i. Includes detailed history of drug use, medical and psychiatric history
 - ii. Includes completing documentation such as release of information for family physician, pharmacy, Nova Scotia Mental Health Court, etc.
 - iii. Urine sample required.
- b. Treatment team reviews assessment and communicates to client regarding admission or not, and date of start of treatment, if admitted.

Phase 1 – Stabilization: (minimum 3 months)

During this phase of treatment, clients must come to the clinic at the Nova Scotia Hospital (NSH) daily, seven days a week. Clients will also:

- review and sign OTP expectations and a maintenance contract
- provide consent for bio/photo ID for Methameasure
- complete EKG and blood work
- be photographed for identification purposes

Client Requirements During Phase 1:

1. Comply with program expectations and contract.
2. Come to clinic daily between 8:00 and 10:00 a.m. to receive methadone.
3. Attend all scheduled physician, nursing and/or social work appointments.
4. Participate in therapeutic groups and/or individual counselling and other addictions services as recommended by OTP treatment team.
5. Weekly check-in with OTP Social Worker.
6. Weekly randomized urine screening.

Note: Successful completion of the stabilization phase requires that urine has tested positive for methadone only and is negative for all other substances for a two-month period.

Phase 2 - Transitional: (minimum 2 weeks)

During this phase of treatment, clients must come to the clinic Monday through Friday and are permitted two methadone carries for Saturday and Sunday. Carries are doses contained in childproof pharmacy bottles for weekends and holidays.

Client Requirements During Phase 2

1. Comply with program expectations and contract.
2. Come to clinic daily between 8:00 a.m. and 10:00 a.m. to receive methadone.
3. Attend all scheduled physician, nursing and/or social work appointments.
4. Participate in therapeutic groups and/or individual counselling and other addictions services as recommended by treatment team.
5. Weekly check-in with OTP Social Worker.
6. Weekly randomized urine screening.
7. During this phase, client will receive methadone carries for Saturday and Sunday and for holidays.

Note: Client is required to keep take-home doses in a locked box in the fridge at home; client must provide proof of a lock box to OTP staff.

Successful completion of the transitional phase requires that urine has tested positive for methadone only and is negative for all other substances for a two-week period.

Phase 3 - Community

During this phase of treatment, clients receive their methadone from a community pharmacy and come to the clinic one time per month to see the physician and one time per month for a random urine screen. Pharmacy will generally require two witnessed ingestions of methadone per week and will dispense take-home bottles twice weekly to cover the other days' doses, usually on Mondays and Thursdays.

Client Requirements During Phase 3

1. Comply with program expectations and contract.
2. Demonstrate respectful and courteous behaviour to pharmacy staff at all times.
3. Attend an appointment each month with the OTP physician to receive a prescription for the month's required methadone.
4. Participate in therapeutic groups and/or individual counselling and other addictions services as recommended by treatment team.
5. Bring your prescription to the pharmacy.
6. Weekly check-in with OTP Social Worker.
7. Random urine screening to be completed one time per month at the clinic during normal clinic hours at the NSH.

8. Pharmacy staff will notify client regarding random urine screen and will require client to sign a form stating client was made aware of need to provide urine sample.
9. Failure to provide a urine sample within 24 hours of notification may result in treatment consequence.

Clients may stay in the community phase of treatment as long as needed, as they meet the above requirements.

Note: Clients may move back and forth the three phases of the program dependent on their compliance to program expectations, contract, and urine drug screen results.

Overview

The Court Monitored Drug Treatment Program (the “Program”) is a program of the Nova Scotia Mental Health Court (the “Court”) that offers an alternative sentencing process, based upon a post-conviction and pre-sentence treatment program to eligible offenders. The primary goal is to support the recovery of individuals who commit crime to support their substance dependency. This is hoped will:

- reduce the rate of re-offending;
- reduce the reliance on public health services;
- reduce the costs to the public associated with incarceration;
- reduce the incidence of addiction related petty crime and
- reduce court and other justice system costs.

The Program operates in conformity with the requirements of the *Criminal Code*, the *Canadian Charter of Rights and Freedoms*, the *Controlled Drugs and Substances Act* and other constitutional and statutory foundations, and the common law. The Program operates within the same legal framework that governs all adult criminal court proceedings in the Provincial Court of Nova Scotia. The Program operates on the basis of a guilty plea with a delayed sentencing process (as provided by s. 720(2) of the *Criminal Code*). It allows Judges to exercise their discretion in favour of an offender who has successfully participated in the Program by avoiding the mandatory minimum penalties set out in the *Controlled Drugs and Substances Act* (see ss. 10(4)(5) of that Act).

The following assumptions are pre-conditions to the operation of the Program and act as limitations on the activities of governing and advisory bodies.

1. The Program is a program of the Provincial Court of Nova Scotia.
2. The Program shall not establish any policy, or in any other way, affect or interfere with the independence of the Judiciary and, in particular, the independence of the Judge presiding in the Provincial Court of Nova Scotia while acting in his/her capacity as the Program Judge.
3. No governing or advisory body of the Program has the authority to, nor shall, declare policy that interferes with or purports to interfere with the Crown's decision to prosecute offences.
4. No governing or advisory body of the Program has the authority to declare policy that is inconsistent with or, that purports to override policies, of the Nova Scotia Department of Justice, Nova Scotia Department of Health and Wellness, and Attorney General of Nova Scotia and the Public Prosecution Service of Nova Scotia.

Mission Statement

The Court's Mission Statement is:

The Nova Scotia Mental Health Court works with people with mental disorders who are in conflict with the law. The Court's mission is to help them connect to services, develop rehabilitation plans, and improve their well-being and living situations in order to decrease their likelihood of re-offending. The Nova Scotia Mental Health Court also weighs the potential risk of harm to the public in all decisions from eligibility through rehabilitation planning.

The Goal of the Court Monitored Drug Treatment Program:

"To reduce the individual, social, and economic harm of illicit substance abuse through a collaborative partnership between the criminal justice system, agencies which treat substance dependency, and the community."

Outcomes

- Reduction or elimination of illicit substance use and substance abuse by participants.
- Acquisition of skills and knowledge by participants which result in reduction or elimination of criminal behaviour.

- Acquisition of life skills and knowledge by participants to improve employability and increase personal and social stability.
- Reduction in recidivism among participants.
- Increased self-sufficiency and protective factors among participants.
- Reduction of victimization in the community.
- Reduction of harms overall to victims and society.

Guiding Principles

1. Provision of a Court Monitored Drug Treatment Program (the “Program”) which offers an alternative to prison and provides viable means for reintegration into communities and families.
2. Development of relationships between courts, treatment and rehabilitation programs, public agencies and community based organizations.
3. Connecting participants to Nova Scotia Health Authority programs.
4. Identification of potential candidates as early on in the justice process as is possible.
5. Integration of addiction-treatment services with justice system case processing.
6. Development of a co-ordinated strategy to deal with participant non-compliance, including meaningful sanctions for non-compliance.
7. Development of an incentives system for compliance.
8. Provision of support counselling to ensure short and long-term success of program participants.
9. Provision of a frequent and random screening system for drug testing.
10. Provision of information and education to partners, stakeholders and the community about the Program and its benefits and outcomes.

Eligible Participants Criteria

Candidates for the Program are identified by the Crown Attorney, Duty Counsel or private defence counsel, police officers, probation officers, and community treatment partners, or they self-identify.

Not everyone facing drug related charges is eligible to apply for the Program. To be eligible for the Program, the applicant must:

- Be 19 years of age or older. This reflects the minimum age of participants in the Nova Scotia Health Authority Opioid Treatment Program (OTP).
- Be charged with a criminal offence(s) that is within the jurisdiction of the Provincial Court.

- Live in the Halifax Regional Municipality (HRM) and have substantial ties to that community which must include health care providers. Applicants must also be engaged in work, education, or volunteer work in the HRM.
- Acknowledge responsibility for the offences they are charged with and enter guilty pleas voluntarily.
- Have the consent of the Crown Attorney in the Program to participate.
- Have an opioid dependency that is substantially connected to the charges.
- Be assessed to have an opioid dependency, which can be treated with methadone or suboxone.
- Have a level of risk that is manageable and able to be monitored by the Program Team.
- Waive delay.
- Be likely to gain some benefit from participation in the Program.

The applicant may not be eligible to participate in the Program if he/she is charged with:

- a significant crime(s) of violence;
- trafficking in drugs for commercial gain;
- committing a drug offence in circumstances that raise concerns about drug-impaired driving or risk to young people; committing a residential break and enter; has a recent or significant history of violence; is a member of a gang or criminal organization; has a significant criminal record indicating he/she is unlikely to be successfully supervised; or has previously completed the Program.

Screening Process

Before participants are formally admitted to the Program, they are subject to a screening process which has two stages:

1. Crown Screening

Public safety is the primary focus of the Crown screening. Care is taken to ensure that violent offenders and commercial drug traffickers are not admitted. Some of the factors considered by the Crown when screening:

- How serious is the offence?
- What is the degree of harm resulting from the offence?
- How dated are the offences?
- Does the applicant have a history of breaching court orders?

- Has the accused had the benefit of the Drug Treatment Monitoring Program in the past? Was it successful?
- Does the accused have a general history of non-compliance with programming and counseling?
- Does the accused have a lengthy record of related offences?
- Does the accused have a longstanding history of violence?
- What is the likelihood of criminal recidivism and/or risk of violence?
- Are there adequate resources to manage the offender's needs within the community?

If the Crown Counsel does not consent to the candidate being admitted to the Program, then the application will not proceed. If consent is provided, then the application moves to the next phase.

2. Screening Assessment

Two assessments are completed within this screening with the candidate. The assessment will include:

- a. Readiness Assessment (if deemed ready, will move to the second)
- b. Assessment to evaluate suitability for the Opioid Treatment Program as determined by that Program.

Program Pre-Court Meeting

The Pre-Court meeting takes place before each of the scheduled Program Court appearances. The Pre-Court meeting is a case conference that includes input from various stakeholders: Crown Attorney, Defence Counsel, Addictions Program Clinician, and Probation. The purpose of the meeting is to report on and track participant progress. It is also the forum where candidate eligibility is determined. The Program Judge facilitates these working meetings.

Program Court Appearance

Once deemed eligible, the candidate will appear before the Court. At that time, the Court will accept the participant's guilty plea(s). Participants must:

- Sign a Consent and Waiver agreeing to be bound by the terms of the Program.
- Sign the Program Expectations.
- Begin treatment as and when directed.

While following the Support Plan, the participant will then appear before the Court on a regular basis where an update on their progress will be made to the Court.

Operational Guidelines and Procedures Overview

The Program participants enter the program on the basis of either drug charges, criminal charges, or both. The Program exists within an adult criminal Court in the Provincial Court of Nova Scotia and operates squarely within the law as applied to all criminal matters, including drug charges

The Program's Team, consisting of Crown Attorney, Defence Counsel, the Addictions Program Clinician, and Probation, meets on a weekly basis with the Program Judge, before the Court sits later in the same day. The Program Judge facilitates the Team's review of the status of each participant's case and progress. This is an important feature of the Program. Each partner contributes with an update concerning each participant who is on the court docket that day. Participants in the Program waive the right to attend these meetings and agree to be represented by their Counsel or Duty Counsel. Furthermore, the participants agree to their case being discussed at the Pre-Court meeting, including their participation and progress in the Program.

The participants in the Program attend the Court sitting. The Program Judge will call each case and speak with each participant individually to address any issues or concerns that the Court may have and to review the participant's progress.

Finally, it should be noted that the Program collaborates with community and governmental agencies to meet the needs of the participant, assist in his/her recovery, and assist in his/her completion from the Program.

Waiver and Guilty Plea

In order to participate in the Program, the candidate must plead guilty to the offence(s), be bound by release conditions, and adhere to the Program Expectations prior to sentence being imposed. An order for release conditions and the Program Expectations are mechanisms for supervision of the participant.

A Consent and Waiver in regard to the pleas and a Waiver of Delay must be signed. These Waivers are not signed until the candidate receives independent legal advice.

Release Conditions

A participant will be subject to release conditions of the Court. Orders subsequently varying the release conditions may be requested and reviewed by the Program Team.

The release conditions are designed to assist the participant in his or her progress through the Program, including, for example, avoidance of high risk (non-compliance) places and people, other non-contact provisions, other geographic restrictions, abstinence from drugs and alcohol, random substance testing, curfew, prohibitions against cell phones, pagers, or other electronic

telecommunication devices, disclosure of medical prescriptions, community service work, restitution to victims, requirements to seek employment, and firearm/weapons prohibitions.

In addition to complying with release conditions, the participant(s) will be expected to review, acknowledge, and comply with a separate set of Program Expectations (duties and obligations).

Breach of Release Conditions

If a release condition is disregarded by a Program participant, the Program Team views this as a serious matter, and the outcome will be decided by the Team which may include a sanction(s).

Incentives and Sanctions

Participation in the Program is monitored through two means: (1) compliance with release conditions, Court orders, and the Program Expectations; and (2) progress through addiction treatment and rehabilitation programs and other activities as reflected in the individualized Support Plan. Members of the Program Team, treatment service providers, and representatives of community and other support agencies and groups assist participants as they progress through the Program.

It is the intent of the Program to ensure that each participant who wants to succeed is given every reasonable opportunity to do so. As part of the Judicial supervision element, it is important that the Judge commend or acknowledge progress, achievements, and compliance, yet also sanction for non-compliance or lack of progress. In order to ensure consistency and maintain the integrity of the Court, the following principles are employed.

1. Three “pillars” inform the Program and the progress of each participant:
 - a) Public safety;
 - b) Recovery of the participant with substance dependency; and
 - c) Integrity of the Program.
2. Compliance with release conditions, Program Expectations, addiction treatment and other activities and Program requirements is an essential feature of the Program.
3. Both compliance and non-compliance must be acknowledged and dealt with by the Court.

4. The Program Judge will consistently recognize compliance through commendation and incentives. Similarly, the Program Judge will consistently sanction participants for non-compliance.
5. Commendations, incentives, and sanctions will be made as soon as possible after the event.

Incentives and Sanctions may include:

Incentives

- Commendation from the Program Judge
- Reduction in frequency of Court appearances
- Amendments to bail conditions to make them less onerous

Sanctions

- Admonishment from the Program Judge
- Increased frequency of court appearances
- Requirement for Directed Project
- Review of release conditions
- More frequent drug tests
- Removal from the Program

Voluntary Exit/Removal from the Program (Within 60 Days)

In all cases participants are given 60 days to reconsider his/her decision to participate in the Program, after they are formally admitted. The participant may apply to have his/her guilty pleas struck and the Crown will not oppose the application. In this situation, the participants release conditions are restored to what it was before entering the Program and his/her matters are returned to the normal criminal court system. If the participant does not choose to apply to strike his/her guilty plea(s) he/she may be sentenced by the Program Judge, if the Crown Attorney is agreeable.

Similarly, if in the first 60 days after formal admission to the Program, if it is determined that the participant is not suitable for the Program then the participant will be removed. Upon application, which will not be opposed by the Crown, his/her guilty pleas will be struck and his/her matters will be returned to the regular criminal justice system for prosecution.

Removal from the Program (After 60 Days)

The Program team may make recommendations to the Judge to remove a participant from the Program in certain situations including but not limited to the following:

- The Program is not conducive to the participant and their recovery.
- Others involved in the Program (other participants or treatment providers) are at risk because of the participant being in the Program.
- Or the public is at risk because of the participant being in the Program.
- The participant disregards aspects of their release conditions and Program Expectations; and/or fails to meaningfully participate in treatment.

Successful Completion

A participant will be deemed to have successfully completed the Program phase based on compliance in the following areas:

1. Proven abstinence from cocaine, opioids or methamphetamine that is confirmed by drug screening for a minimum of three months prior to completion of the Program; and
2. No new findings of criminal guilt or outstanding criminal or *Controlled Drugs and Substances Act* charges within the last 9 months; and
3. Obtained stable housing and/or demonstrated an ability to maintain housing; and
4. Demonstrated pro-social community involvement such as: employment, school, volunteer work with a charitable or non-profit organization, and/or other activities as approved of by the CMDTP.

The Program recognizes that participants may face unique needs and challenges and as such different completion criteria may be applied.

The completion of the Program phase of the CMDTP will conclude in a sentencing, which will then place a participant on a Probation Order (the duration to be determined). The Probation Order will be followed by the CMDTP's Probation Officer and the participant will be expected to attend Court as direct by the Judge. If the participant successfully completes the Probation term, their formal completion will be marked by a Graduation celebration.