

Drug Treatment Court of Grafton County Sentencing Program



Policy & Procedures Manual

Revised
January 2020



Mission Statement

The mission of the Drug Treatment Court of Grafton County Sentencing Program is to improve community safety; decrease financial costs currently incurred by the criminal justice system; and assist criminal offenders in breaking the cycle of crime and drug abuse by means of judicially-supervised drug abuse treatment, intensive Supervision, and cognitive and behavioral modification in order to transform offenders into healthy, productive, law-abiding citizens.



Table of Contents

<i>PART 1—OVERVIEW OF DRUG TREATMENT COURT (DTC)</i>	4
<i>PART 2— THE TARGET POPULATION</i>	5
<i>PART 3— THE TARGET POPULATION</i>	5
<i>PART 4—ELIGIBILITY</i>	6
<i>PART 6— DRUG TREATMENT COURT PHASES PHASES OF DRUG TREATMENT COURT:</i>	10
<i>PART 7— RECOVERY-BASED SELF-HELP GROUPS</i>	10
<i>PART 8— DRUG TREATMENT COURT MEETINGS & COURT SESSIONS</i>	11
<i>PART 9— SPECIAL REQUESTS</i>	12
<i>PART 10— DRUG TREATMENT COURT RULES</i>	12
<i>PART 11— EMPLOYMENT</i>	12
<i>PART 13— MEDICATION ASSISTED TREATMENT (MAT)</i>	13
<i>PART 14— INCENTIVES & SANCTIONS</i>	15
<i>PART 15— TERMINATION</i>	15
<i>PART 16— COMMENCEMENT/ANNULMENT</i>	16
<i>PART 17— CONFIDENTIALITY</i>	16
<i>PART 18— RESTITUTION & FEE AGREEMENT</i>	17
<i>PART 19— PROCEDURE FOR AMENDMENT OF POLICY & PROCEDURES MANUAL</i>	17



PART 1—Overview of Drug Treatment Court (DTC)

What is a Drug Treatment Court?

Drug Treatment Court of Grafton County (herein referred to as DTC) is an Alternative Sentencing Program in Grafton County, New Hampshire. It is a multi-phase intervention program designed for adults who have pled guilty to drug-driven offenses and who have a Substance Use Disorder.¹

The DTC is a collaborative effort between several agencies. These agencies work together to provide substance misuse treatment, psycho-educational programs, and consistent supervision geared towards supporting and helping participants maintain a drug-free lifestyle.

The DTC involves frequent court appearances and random drug testing, as well as group and individual counseling. There is also a fee schedule that participants need to sign off and comply with during the program.

The DTC awards incentives for healthy, appropriate behavior and imposes sanctions for negative behavior. Participants who do not comply with the rules may be subjected to sanctions, up to and including, termination from Drug Treatment Court.

All members of the DTC will assist participants to ensure they understand what is expected.

¹ Adult Drug Court Best Practices Standards, Volume 1 and 2, <https://www.ndci.org/wp-content/uploads/2013/08/Best-Practice-Standards-Vol.-I.pdf>; <https://www.ndci.org/wp-content/uploads/2013/08/Best-Practice-Standards-Vol.-II..pdf>



PART 2— The Target Population

The Judge will make all final decisions regarding participation in the DTC Program, with input from the DTC Team. In addition to the Judge, the team includes the following members:

- Public Defender
- County Attorney
- Treatment Providers
- Coordinator of DTC (DTC Program Manager)
- Case Managers
- Law Enforcement
- Probation & Parole
- Grafton County Superior Court Clerk

PART 3— The Target Population

The DTC targets for admission offenders who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision, and who have committed a crime or combination of crimes (felony, misdemeanor, probation violation, parole violation). **These individuals are commonly referred to as “moderate to high-risk/high-need” offenders, as opposed to low-risk/low-need offenders.**

The applicants must be able to participate fully in the DTC program. This determination will be made by an evaluation of any medical or psychological conditions and/or by doing a psychosocial evaluation to determine possible barriers being experienced by the applicant, to determine if the conditions are sufficiently stabilized or to determine if the DTC program has enough resources to assist the applicant throughout the program.

If a Drug Court is unable to target only high-risk and high-need offenders, the program may develop alternative tracks with services that are modified to meet the risk and need levels of its participants. If a Drug Court develops alternative tracks, it does not mix participants with different risk or need levels in the same counseling group or residential treatment milieu.

Exceptions:

The County Attorney may make a DTC plea offer to a Defendant, even if there is a specific disqualifier listed above. The Defendant will only be accepted into the DTC program if all members of the DTC team **unanimously agree to the Defendant’s** participation.



PART 4—Eligibility

The Grafton County Attorney, or designee, will first determine whether a DTC plea is appropriate, after consultation with victims (where appropriate) and law enforcement, to include probation and parole, prior to making a DTC plea offer, the Prosecutor will complete a legal screening reviewing the qualifiers and disqualifiers and formally submit a DTC plea offer if preliminary eligibility requirements are met.

Qualifiers (Not all qualifiers need to be met in order to qualify for DTC):

1. Individuals diagnosed as having a moderate or severe substance abuse disorder as defined by the DSM 5
2. Individuals who have been assessed as moderate- or high-risk on the ORAS (Ohio Risk Assessment System)
3. Individuals who are a resident of Grafton County
4. Applicants who may have a diagnosed mental health disorder must have the cognitive/physical ability to fully participate in the DTC program (An applicant who has been diagnosed with a mental health disorder that can be managed with medications and treatment services available in the DTC program will not be disqualified)
5. US citizens/permanent resident
6. Adult offenders who are facing criminal charges
7. Individuals who have failed probation and/or previous traditional treatment programs or supervision methods
8. Individuals with unstable housing, high-risk peer associations, and lack of employment

Disqualifiers

1. Individuals with serious medical conditions outside the resources of the DTC
2. Individuals with mental health issues that cannot be stabilized within the resources of the DTC may not be eligible.
3. Individuals diagnosed with a mild substance use disorder
4. Individuals who have been assessed as low risk on the ORAS
5. Drug Profiteers, sale of drugs for profit other than to support his/her own drug habit

Eligibility and exclusion criteria for the Drug Court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in Drug Courts. Candidates are evaluated for admission to the Drug Court using evidence-based assessment tools and procedures:

- A. Objective Eligibility & Exclusion Criteria
- B. Moderate-High-Risk and Moderate-High-Need Participants
- C. Validated Eligibility Assessments



- D. Criminal History Disqualifications
- E. Clinical Disqualifications

- A. Objective Eligibility and Exclusion Criteria Eligibility and exclusion criteria are defined objectively, specified in writing, and communicated to potential referral sources including judges, law enforcement, defense attorneys, prosecutors, treatment professionals, and community supervision officers. The Drug Court team does not apply subjective criteria or personal impressions to determine **participants' suitability for the program.**
- B. Moderate- High-Risk and Moderate-High-Need Participants the Drug Court targets offenders for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision. These individuals are commonly referred to as high-risk and high-need offenders. If a Drug Court is unable to target only high-risk and high-need offenders, the program develops alternative tracks with services that are modified to meet the risk and need levels of its participants. If a Drug Court develops alternative tracks, it does not mix participants with different risk or need levels in the same counseling groups, residential treatment milieu, or housing unit.
- C. Validated Eligibility Assessments Candidates for the Drug Court are assessed for eligibility using validated risk-assessment and clinical-assessment tools. The risk-assessment tool has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently.

Referral/Application Process

Anyone can make a referral to the program via the referral form. This includes the prosecution, the defense, law enforcement, the court, or any interested party including the potential DTC participant. All referral forms are returned per the instructions on the referral form.

After the referral form has been submitted, prosecution will conduct a legal screening, to determine if there are any prior convictions or pending charges that would preclude the applicant from entering the program, and provide a plea agreement with Drug Treatment Court as part of the offer.

Once the legal screening has been completed, if there are no legal barriers to entering the program, the individual will complete the application, providing background information regarding past and current offenses, substance use, and prior treatment episodes. The individual will also execute proper releases of information, so all



agencies can communicate with each other and so corroborating information can be obtained, as needed.

If a plea offer is made, the plea offer and all accompanying discovery will be provided to the DTC Program Manager for the client file and further assessments.

Clinical staff will assess the applicant using the ASI (Addiction Severity Index) to determine if the individual qualifies for the program given his/her substance use, personal history, and criminogenic risk and needs. If the individual is assessed as meeting clinical criteria, an ORAS will be administered by trained staff from the treatment provider, field services, or at the jail. The comprehensive assessment will include:

- 1) A criminal record check
- 2) Verification of current employment status
- 3) Check of living situation
- 4) Employment history
- 5) Educational history
- 6) Medical history
- 7) A comprehensive substance use disorder and mental health evaluation
- 8) Prior substance use and mental health treatment history
- 9) An offender risk assessment

The results of both the ASI and the ORAS will be communicated to the DTC Program Manager. The DTC Program Manager will inform the team of the results and whether the individual meets criteria for the program. Any specific conditions of acceptance will be determined at the meeting of the Drug Treatment Court team. Denials and reasons for those denials will also be reported to the team at weekly meetings. If the applicant has qualified for Drug Treatment Court, the DTC Program Manager will request to the clerk of the court to schedule a plea date. Upon entry of a plea of guilty, the participant will immediately begin all aspects of the Drug Treatment Court program and all requirements of probation and/or parole.

The information gathered by the applicant throughout the application process shall be entered into a standard database that will include information required by the program.

Transfer:

Drug Court Transfer of Cases

There are two ways to transfer a DTC case: pre-plea or post-plea. The following steps should be taken in order to transfer a drug court case to another county.

Pre plea

Before a defendant takes a plea, the case can be transferred to another county if the following conditions are met:



1. The County Attorney in both jurisdictions agree to transfer the case
2. The sending DTC team agrees to transfer the case
3. The new DTC team agrees to receive the new case
4. The new DTC clinical team agrees to conduct an assessment
5. If the new DTC clinical team determines the participant is eligible for drug court, the court file is transferred to the new jurisdiction.
6. The participant enters a plea in the new county and becomes a drug court participant of the new county. The participant is then subject to the policies and procedures of the new county, including policies on incentives and sanctions, community supervision, treatment, local resources, etc.

The oversight of this process should be conducted by the local DTC Program Manager and the coordinator of the new court.

Post plea

If a participant is in a drug court program and circumstances arise that would support their transfer to another drug court, the sending DTC team should discuss the potential transfer and determine whether the participant would be better served by the receiving county.

The DTC Coordinator/Manager of the sending team should contact the receiving Coordinator/Manager for discussion among the new team. If the receiving team also agrees to the transfer, then the DTC participant will review the new/receiving drug court's handbook and protocols. The sending DTC will transfer the case file to the receiving county upon motion of the participant. The motion to transfer must include a signed acknowledgement by the participant in which the participant agrees to the transfer and to be subject to the rules and requirements of the new drug court. The motion should also contain a request to amend the sentence to include successful completion of the new drug court as a requirement of the suspended sentence.

Additionally, the participant must sign releases to permit the sending DTC team to share with the receiving team **information regarding the participant's progress.**

Probation Supervision:

NHDOC (Department of Corrections) probation/parole supervision will be provided by the field office responsible for the county of residence unless there are extenuating circumstances. In the case of Hillsborough North (Manchester) and South (Nashua), supervision responsibility is designated by town within Hillsborough County.



PART 6— Drug Treatment Court Phases

Phases of Drug Treatment Court:

DTC is an 18- to 36-month intervention program divided into multiple phases. Each phase is focused on a key concept of recovery, from stabilization to continuing care. A participant must successfully complete each phase before transitioning to the next and must complete all phases prior to commencement.

For an outline of each phase, refer to the Participant Handbook, section VI: *What are the Phases of Drug Treatment Court?*

PART 7— Recovery-Based Self-Help Groups

DTC participants are expected to attend self-help activities, including Twelve-Step meetings (e.g. AA or NA), the Twelve-Step SMART Recovery meetings, or an equivalent program. **“Self-help” is defined as activities** that will teach you how to live a sober life and new skills to cope with challenging issues, and help you get support from others who are recovering from addiction. Participants are required to partake in at least two self-help activities a week and discuss the topics covered or knowledge obtained at these groups when meeting with their case manager.

Participants are expected to have a sponsor with at least four years of sobriety. A sponsor is a person in sustained recovery who can mentor you through your recovery and provide support when you need it. The best place to find a sponsor is at an in-person self-help meeting. At many meetings, the chairperson will often ask who would like to sponsor newcomers. Those who are interested in doing so will make it known by raising their hand.

The DTC team also recognizes that Twelve-Step meetings are not the only self-help activities available. Participants are encouraged to seek out other self-help activities. To qualify as a self-help activity, the activity must be therapeutic in nature, as to aid in the **participant’s recovery**. **Before** a participant begins any self-help activity other than AA/NA or Smart Recovery, the activity must be approved by the DTC team to confirm compliance with the **participant’s treatment goals**.

Self-help activities include, but are not limited to:

- AA/NA 12-Step Meetings
- SMART Recovery Meetings: Smart Recovery is a self-help organization that focuses on learning and utilizing cognitive behavioral techniques (i.e. recognizing and changing faulty thinking patterns) to maintain sobriety. SMART Recovery holds regular meetings. Learn more about the program and available locations online at smartrecovery.org.



- Support groups, such as those offered at mental health centers and hospitals for a variety of issues
- Religious services, such as those at a church, temple, or mosque
- Therapeutic art, exercise, or writing classes designed to aid in coping with mental health issues (including drug and alcohol recovery)
- Additional classes offered by the DTC staff or community members (e.g. classes on financial management or healthy eating).
- Recovery Centers and/or Recovery Coaches

PART 8— Drug Treatment Court Meetings & Court Sessions

DTC Large Team Meeting:

The DTC team will meet each week at a time to be set by the DTC Program Manager. Generally, every other week following the team meeting, there will be a court session attended by some or all of the DTC participants (depending upon Phase).

The attendance of all DTC team members at the meeting is strongly encouraged, as it is vital for all disciplines to be represented.

Reports on treatment, supervision, and case management are required to be made available to all DTC team members no later than 4:00 pm on the business day prior to the scheduled team meeting.

DTC Court Session Guidelines:

- Participants must appear for all DTC Courtroom Sessions applicable to them
- Participants must arrive at least ½ hour prior to the scheduled DTC court session
- Participants must be dressed appropriately for Drug Court (refer to the Participant Handbook, Section XVII: *Is there a dress code?*)
- Participants are not to leave the courtroom during the DTC session without permission from the Judge
- Eating, drinking, and chewing gum is not allowed in the court room
- Cell phones brought into the courthouse will be collected before entering the courtroom

If at any time during the court session a DTC team member notices inappropriate behavior in the courtroom, they should request permission from the judge to approach the bench and advise him/her of the situation.



DTC Cancellation Policy:

Cancellation or rescheduling of DTC sessions shall be at the discretion of the presiding Justice. In the rare event that no Judge is available to preside over the DTC session, the DTC Program Manager will arrange for a meaningful alternative program.

PART 9— Special Requests

Participants must gain permission for special requests to engage in any activity that is outside the rules and regulations of Drug Court or Probation Supervision. A special request includes, but is not limited to: staying out past curfew, sleeping at another **person's home, missing a DTC appearance** or a treatment appointment, changing residence, overnight trips, and attending events etc.

All special requests of any kind must be submitted in writing to the Case Manager one week prior to the date of the requested activity, so that the team has ample opportunity to fully discuss the request.

Exceptions to this policy will be handled on a case-by-case basis. Any emergent requests should be submitted to probation supervision.

PART 10— Drug Treatment Court Rules

Each participant shall be provided with a copy of the DTC rules at the time they plead into DTC. DTC rules include, but are not limited to, the general and specific rules set **forth in the Participant's Handbook**. Participants are advised to familiarize themselves with these rules in Section II of the Participant's Handbook: *What are the Program Rules?*

PART 11— Employment

During Phases 2 through 5 of the DTC program, all participants are required to be employed full-time, a full-time student with part-time employment, or a combination of both. Failure to become employed full time may be grounds to deny phase progression. Full-time employment constitutes a minimum of 32 hours. These hours may be from a combination of more than one job.

For further details concerning employment, refer to **the Participant's Manual**, Section II: *What are the Program Rules?*



PART 12— Use of OTC or Prescribed (Non-MAT) Drugs While in Drug Treatment Court

Participants are not to take any over-the-counter medications that contain alcohol or any chemical that might impact a drug test, unless it has been approved by a physician.

For further details concerning use of over-the-counter or prescribed medications while in the DTC program, refer to **the Participant's Manual**, Section VIII: *What are the Program Rules?*

PART 13— Medication Assisted Treatment (MAT)

Medication Assisted Treatment (MAT) is an accepted treatment modality in the Grafton County DTC **provided that the participant's treatment provider is approved by the program and is compliant with the Substance Abuse and Mental Health Services Administration (SAMHSA) best practices.** If a potential participant wishes to use a provider that is not on the list of approved providers, they can request that the provider be added to the list.

What is MAT?

Medication Assisted Treatment (MAT) is a SAMHSA approved treatment option for alcohol and opiate addiction. MAT incorporates prescription medication, along with **chemical dependency counseling and social support, into an individual's treatment plan.** Some forms of medication utilized in MAT include Suboxone, Methadone, and Vivitrol.

Procedure for Acceptance into DTC When Patient is Engaged in MAT Pre-Admission:

If an individual being screened for DTC is currently on a MAT plan through an authorized provider who **indicates that such MAT is a necessary part of the individual's** chemical dependency treatment, prior to admittance the individual must complete the following:

- 1) Sign a release of information between the MAT provider and the DTC Therapist
- 2) Provide a copy of the entire treatment plan* to the DTC Manager
- 3) Take steps to ensure that there is communication between the MAT provider and the DTC Therapist at all times

Understand that any abuse of the MAT regimen (e.g. using illicit drugs/alcohol, over medicating, not following any of **the provider's** regimen/protocols, missing urinalysis tests or counseling sessions) will prompt review by the DTC team and may result in court sanctions.



**According to SAMSHA guidelines, a treatment plan must include a plan for: who dispenses the medication, reliable security of the medication (to ensure the medication is not being diverted or taken in a manner not prescribed), counseling and treatment (the medication is assisting treatment, but is not the treatment). The counseling may be the identical counseling recommended for DTC.*

MAT Post Opt-In:

Current DTC participants also have the option to explore MAT as part of their individualized service plan. However, this can only be done as a therapeutic option recommended by the DTC Therapist and the MAT provider. A current participant may not make this decision on their own. The participant must take the following steps prior to beginning an MAT regimen:

- 1) The participant will meet with their treatment provider to discuss MAT requirements and restrictions, and sign Releases of Information before their first appointment is arranged
- 2) **The participant's DTC Therapist will be responsible for maintaining contact with the MAT provider and providing status updates for the participant's court reports**
- 3) Any non-compliance due to the misuse of the MAT medication may result in sanctions imposed by the court, including the possibility of termination from the DTC program
- 4) If at any point while in the DTC program a participant wishes to cease their MAT regimen, they must discuss this with their treatment provider and receive authorization from the MAT provider

MAT Titration:

At no point will a participant be required to wean off of their medication, unless advised to do so by the MAT provider or a medical professional. Titration is not a requirement for graduation from the DTC program.

MAT in Grafton County House of Corrections:

The Grafton County House of Corrections will not provide MAT medication unless the recipient is pregnant and on a physician-approved MAT plan.

The DTC participant and the MAT provider must be aware of the possibility of an interruption to the MAT medication regimen if the participant is incarcerated for a sanction.



PART 14— Incentives & Sanctions

Best practices suggest that Drug Courts provide incentives for good/positive behavior changes and impose sanctions for negative behavior. The range of incentives may include verbal recognition to gift cards, while the range of sanctions may include verbal redirection to incarceration.

A list of possible incentives and sanctions is included in the Participant Handbook, section X: ***What happens if I don't follow the rules?***

PART 15— Termination

Reasons for Termination:

If treatment options have been exhausted and a DTC participant is no longer working towards recovery, their participation in the program may be terminated. Factors to be considered in determining whether a participant meets the criteria for termination may include, but are not necessarily limited to, one or more of the following:

- a) Commission and/or conviction of a new criminal offense
- b) Participant absconds from the DTC program
- c) Repetitive positive drug screen results
- d) Non-compliance with specific DTC program conditions
- e) Non-compliance with specific Supervision conditions or rules
- f) Lack of attendance at treatment sessions
- g) Threats or acts involving violence towards others
- h) Revocation of consent for communication with providers

Termination Procedure:

The DTC participant will be informed by the Judge during a court session that they have been recommended for termination by the DTC team. The prosecution representative will file a motion to terminate participation in drug court and impose the suspended sentence. Defense counsel will be appointed, and a termination hearing will be scheduled.

The motion shall outline in writing, the **participant's** conduct that prompted the request for termination.

A hearing should be held within 30 days of the filing of the motion. The participant will be entitled to representation and, along with their lawyer, have the opportunity to be present, heard, and to cross-examine the witnesses.



The final decision to terminate a DTC participant and impose the previously suspended sentence will be at the discretion of a Judge after an evidentiary hearing.

PART 16— Commencement/Annulment

Participants must have been in the DTC program for a minimum of eighteen (18) months and successfully completed all phases of the program prior to commencement.

Following commencement, a DTC participant can apply for annulment pursuant to the provisions of RSA 490-G:2, III. The State will not object to the annulment of the Drug Treatment Court charges pursuant to statute if the defendant has meaningfully participated in and successfully completed all phases of the DTC followed by one year of good behavior and compliance with all terms and conditions of probation.

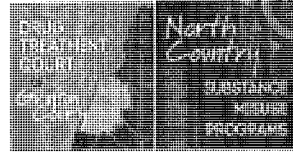
PART 17— Confidentiality

All members of the DTC team must hold in strict confidence information discussed during pretrial interviews, assessment, DTC team meetings, treatment sessions, and other DTC related activities. No test result or statements made by DTC participants during the above-mentioned activities shall be admissible against participants in any prosecution other than in DTC program proceedings. Evidence otherwise uncovered by the State through routine criminal investigations, however, shall not be deemed inadmissible because such evidence was also disclosed by the DTC participant as a consequence of participation in the DTC.

Under federal law, information regarding substance abuse treatment is protected by the provisions of 42 United States Code (USC) Section 2990dd-2, and the regulations implementing these laws at 42 Code of Federal Regulations (CFR), Part 2. Federal confidentiality regulations (42 CFR Part 2) prohibit the release of information about participants in substance abuse treatment without a written consent from the individual.

Release of information without consent is allowed when any member of the DTC team feels that any of the following apply:

- Participant commits or threatens to commit a crime, either at the program or against any staff person or other participant of the program
- Participant is suspected of child, dependent, or elder abuse (a report will be submitted to the appropriate state or local agency)
- Participant verbalizes homicidal thoughts/intents/plans
- Participant verbalizes thoughts/intents/plans of committing suicide



All participants entering the DTC program are required to complete a form entitled, *Consent for Disclosure of Confidential Substance Abuse Information*. The participant will have the opportunity to consult with their attorney before signing any consents or contracts.

The DTC administration reviews all consents and contracts with the participant to identify if the participant is illiterate or cannot comprehend the language in which it is printed. If the participant cannot understand or read English, an interpreter will be provided.

If a participant revokes consent, they will be terminated from the program.

During any non-Court session where the participant's treatment and progress is being discussed, no one other than the Grafton County DTC team members may attend, without the express written consent of all participants being discussed on that date.

Additionally, any non-Grafton County DTC team members— including, but not limited to evaluators, researchers, or visiting personnel from other courts— who attend any non-court sessions where the participant's treatment and progress is being discussed, must sign a confidentiality agreement to be kept on file.

PART 18— Restitution & Fee Agreement

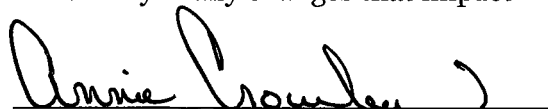
DTC participants will be ordered to pay a Drug Treatment Court participation fee. Payment of the fee will be required before a participant can commence from the program.

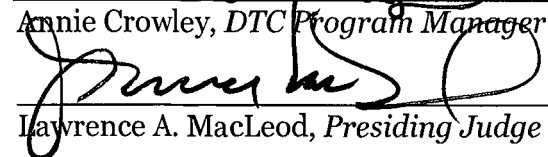
The collection of restitution, if any, shall be facilitated through the Department of Corrections with the assistance of the Drug Court Case Manager.

PART 19— Procedure for Amendment of Policy & Procedures Manual

This Policy & Procedures Manual is intended to be an evolving document, which may be modified to meet the changing needs and experiences of the DTC team and best practices. DTC participants shall be notified immediately of any changes that impact their substantive rights and responsibilities.

Approved Date: 2/3/20


Annie Crowley, DTC Program Manager


Lawrence A. MacLeod, Presiding Judge