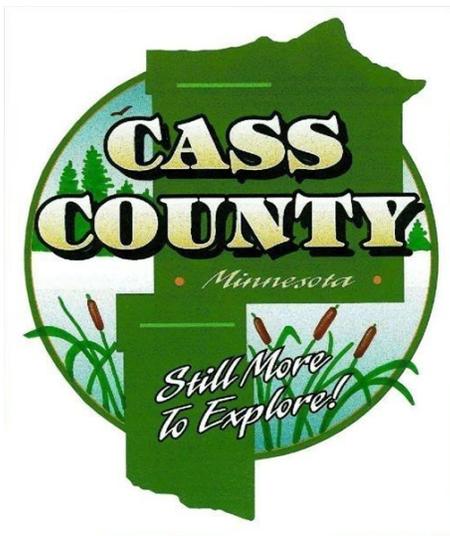


CASS COUNTY  
LEECH LAKE BAND  
OF OJIBWE  
WELLNESS COURT



PROCEDURE MANUAL  
NINTH JUDICIAL DISTRICT

February 23, 2017

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## ***Introduction***

The Cass County/Leech Lake Band of Ojibwe Wellness Court (DWI Court) is designed to coordinate substance abuse intervention with judicial oversight through enhanced supervision and individual accountability. The need for a Wellness Court in Cass County and on the Leech Lake Reservation has been an evolutionary process. As the number of DWI offenders has increased over the years, those in the court system are exploring various ways to deter and address repeat alcohol offenses and pursue more effective treatment options. As the growth and success of drug court programs nationally has increased, that philosophy has been adapted to the DWI arena as well. The DWI Court is the best vehicle within the criminal justice system for expediting the time between arrest and entry into treatment and for providing consistent and lengthy structure so the offender will benefit from the treatment experience.

## ***Steering Committee***

The Steering Committee is comprised of executive level personnel from the below listed agencies to facilitate the process, to expeditiously resolve issues, and to provide buy-in at the upper echelon so that later committees with non-executive level personnel will be comprised of people who are confident that the head of each agency is supportive of the Wellness Court mission. The Steering Committee consists of representatives from the following agencies:

- ❖ 9<sup>th</sup> Judicial District Court
- ❖ Leech Lake Band of Ojibwe
  - Tribal Court
  - Tribal Council Member Representative
  - Law Enforcement
  - Treatment
  - Human Services Director
  - Legal Director
- ❖ Cass County
  - County Attorney
  - County Board Member Representative
  - Sheriff's Office
  - Probation
  - Human Services: Adult Services
- ❖ 9<sup>th</sup> Judicial District Public Defender's Office
- ❖ Department of Corrections

## ***Planning/Core Team***

The planning/core team is a working group of people who carry out the daily tasks involved in planning, implementing, and operating the Wellness Court program. Although each team member contributes the perspective of his or her respective discipline, every member commits to working collaboratively and cooperatively as a team to assist participants in becoming sober law abiding citizens. With respect to issues relating to participants, every effort will be made to gain a consensus. However, the final decision lies with the Judges. The group meets regularly as a team and is comprised of the following representatives or their designee:

- Jana Austad, 9<sup>th</sup> Judicial District Court Judge
- Megan Treuer and Paul Day, Leech Lake Tribal Court Judges
- Christopher Strandlie, Cass County Attorney, or designee
- Jay Sommer, Public Defender
- Regional Native Public Defense Corporation
- Shirley Smith, Wellness Court Coordinator
- Jodi DeSkeere, DOC Probation Officer
- Bryan Harris, Wellness Court Agent, Cass County Probation
- Leech Lake Chief of Police, or designee
- Tom Burch, Sheriff, Cass County Sheriff's Office
- Ryan Fisher, Deputy, Cass County Sheriff's Office
- Leech Lake Addiction and Dependency Program Designee
- Victim's Representative
- Jim Schneider, Director Cass County Probation
- Mental Health Professional
- Community member
- Leech Lake Legal Director, or designee
- Treatment providers working with participants currently in program

New members to the planning/core team must sign a confidentiality form and review the procedure manual and handbook. New team members must also attend the webinar: [The Tribal Key Components and the Adult Drug Court Standards](#). Team members will be expected to attend the Biennial State Drug Court Conference and ongoing trainings when available.

## ***Mission Statement***

The mission statement of the Cass County/Leech Lake Band of Ojibwe Wellness Court is to enhance public safety by providing hope and opportunities for appropriate treatment with accountability, thereby improving the quality of life within families and in the community.

## ***Goals and Objectives:***

*Goal 1: Reduce costs associated with chemical use and criminal behavior.*

Objective 1: Reduce criminal justice costs associated with gross misdemeanor and felony level participants.

Objective 2: Reduce criminal justice costs associated with felony level participants.

*Goal 2: Reduce criminal behavior and recidivism*

Objective 1: 70% of participants will graduate from the program within three years of their start date.

Objective 2: 70% of participants will have 90 consecutive days of sobriety by the end of their first year in the program.

Objective 3: 90% of participants will not experience a driving impaired violation within one year after graduation.

*Goal 3: Enhance public safety*

Objective 1: 70% of participants will successfully complete treatment (inpatient, outpatient, aftercare/continuing care) within nine months of entering the Wellness Court.

Objective 2: 90% of participants who have violations will receive sanctions within one week.

Objective 3: Participants will have lower recidivism rate than non-participants in the historical control group one year after release from the Wellness Court or custody.

*Goal 4: Enhance the well-being of participants*

Objective 1: As appropriate, participants without a high school diploma will be enrolled and actively pursuing their GED within eight months of entering the Wellness Court.

Objective 2: As appropriate, participants will further their education by utilizing vocational/avocational services.

Objective 3: 90% of Wellness Court participants will be actively employed or actively enrolled in an educational program within 12 months of entering the Wellness Court.

Objective 4: Wellness Court participants will actively go through the process of having their driving privileges reinstated.

### ***Structure/Model***

Participants for the Cass County/Leech Lake Wellness Court will be screened for eligibility prior to arraignment (first appearance) or after a probation violation by Probation and referred to the Wellness Court team for review.

All individuals must be willing to address their chemical use issues and agree to be released from jail under the following guidelines:

- Supervised release status;
- Sign all necessary releases;
- Complete chemical health assessment and comply with recommendations;
- Comply with random urine and breathalyzer testing;
- Maintain contact with probation;
- Submit to drug test within 24 hours of release from jail;
- Report to Wellness Court bi-weekly
- Abstain from using or possessing alcohol or drugs without a doctor's prescription.  
**NARCOTIC MEDICATIONS WILL NOT BE ALLOWED WITH OR WITHOUT A PRESCRIPTION.**

Probation will screen all potential applicants for eligibility criteria and refer qualified applicants to the Wellness Court Team for acceptance. Participants are screened prior to their first court appearance and if found to be eligible, must enter into the program within 60 days of their arrest. Participants are accepted into the program pre-plea under the agreement to begin treatment programming and/or cognitive-based programming upon release from custody. The length of the program is determined by an individual's success in maintaining sobriety, compliance with program requirements, and meeting case plan goals. The minimum length of time that the program (phases 1, 2, 3) can be completed is 18-24 months. Participants must move through three phases of the program in order to graduate (phase 4.). Components of the program include regular court appearances, random drug and breathalyzer testing, random home visits (via probation officer and law enforcement on nights and weekends), regular case management contacts, chemical dependency treatment, cognitive-based educational programs and other supportive programming. The Wellness Court program is strictly abstinence-based.

The Wellness Court program functions with a team of criminal justice professionals who are all committed to the success of each participant, utilizing strengths-based approaches. The team consists of the following individuals: a judge, prosecuting attorneys, defense attorneys, probation officers, law enforcement, treatment providers, mental health professionals, and a coordinator. Staffing and court sessions are held every other week.

The **target population** is individuals 18 years of age and over who are residents of Cass County, or live on the reservation, and have been arrested for a 1<sup>st</sup> Degree, 2<sup>nd</sup> Degree DWI, OR 3<sup>rd</sup> Degree DWI with prior DWI conviction(s) or license revocation for an implied consent offense and who are facing a violation of probation that could result in revocation of their stay of execution. Participants are screened and accepted to the program pre-plea. The program is limited to twenty-five (25) participants.

### ***Eligibility Criteria***

The guidelines which the Wellness Court uses to identify and enter offenders into the program are as follows:

- 1<sup>st</sup> DWI, 2<sup>nd</sup> Degree DWI OR 3<sup>rd</sup> Degree DWI with prior DWI conviction(s) or license revocation for an implied consent offense and who are facing a violation of probation.
- Must be a resident of Cass County, or live on Leech Lake Tribal land; and remain a resident of Cass County, or on Leech Lake Tribal land, while participating in Wellness Court. After completion of phase 1, participants may have the option to reside outside the borders of Cass County, MN for the benefit of housing, employment, transportation, mental health services or other factors deemed appropriate by the team. The participant must petition the team in writing their request.
- If the case file is from another county, the county must be part of the 9<sup>th</sup> Judicial District or a transfer of venue from the other district must be obtained.
- Must have a chemical dependency assessment diagnosis of a *Substance Abuse Disorder*, in accordance with the current DSM-5.
- Must be physically and mentally able to actively participate in the program.
- Must be willing to sign a treatment contract to undergo drug treatment, which includes regular urine screens, group, individual counseling, or other recommended treatment. Every participant must sign designated releases of confidentiality.
- Must be able to make arrangements to attend treatment at the scheduled time.
- Must be 18 years of age or older.

- Must be willing to actively seek employment and/or enroll in an educational program and fully participate.
- If unemployed complete community service work to be determined by the current phase or the participant.
- Must be willing to accept sanctions of the Wellness Court Judges, which may include incarceration, community service, increased reporting to Court and/or probation officer, and increased attendance at community support meetings, such as AA or NA.

***Probation Violations:***

Defendants who have been placed on standard probation for a DWI and have a prior conviction for a DWI may be eligible if facing a probation violation, are found to have a substance abuse disorder and have been unable to abstain from alcohol use while on probation.

***Presumptive Commits:***

Clients who would be considered presumptive commits are not eligible for acceptance into the Wellness Court Program and can only be considered if they have only one prior Felony DWI and the Wellness Court Team believes that there are substantial and compelling reasons for departure based on the factors listed below:

- Recommendation from past probation officer;
- Prior criminal history;
- Past criminal behavior is related to the addiction;
- Prior assaults;
  - Clients with multiple assaults will be excluded
  - Clients with multiple domestic assaults will be excluded
- Client has not been amenable to traditional probation and has not been in an intensive supervised program;
- Other collateral information.

The sentence for clients who are presumptive commits will be different than for clients who are subject to the standard DWI felony sentence.

Presumptive commits:

- MUST complete longer phases
- MUST serve 6-15 consecutive days in jail

- MUST complete community service hours as determined by the Wellness Court Team.
- MUST pay Wellness Court fees as determined by the Wellness Court Team.
- MUST comply with all other Wellness Court rules.
- MUST plead to charges prior to starting Phase 1

### ***Disqualifications***

The guidelines that the Wellness Court uses to identify that an offender is ineligible for the program are as follows:

- No predatory offenses and or past convictions/adjudications for a predatory offense as outlined in MSA §243.166 and MSA §243.167.
- Has more than one prior Felony DWI conviction.
- Not be a “violent offender” as defined in 28 C.F.R. 93.3(d) as follows:
  - *Violent offender* means a person who either—
    - Is currently charged with or convicted of an offense during the course of which:
      - The person carried, possessed, or used a firearm or other dangerous weapon: or
      - There occurred the use of force against the person of another; or
      - There occurred the death of, or serious bodily injury to, any person; without regard to whether proof of any of the elements described herein is required to convict; or
    - Has previously been convicted 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.
- The offender has a violent criminal history as defined in 28 C.F.R. 93.3(d).
 

609.185	Murder in the First
609.19	Murder in the Second
609.196	Murder in the Third
609.20	Manslaughter in the First
609.205	Manslaughter in the Second
609.21, subd. 1a (a)	Criminal Vehicular Homicide
609.21, subd. 1a (b)	Criminal Vehicular Operation (Great Bodily Harm)
609.221-609.2231	Assault First – Fourth
609.224	If a felony level assault
609.2243	Felony Domestic Abuse
609.228	Great Bodily Harm caused by distribution of drugs
609.229	Crime committed for the benefit of a gang
609.245	Aggravated Robbery
609.25	Kidnapping
609.2661-609.268	Murder, manslaughter, assault and injury/death of unborn child
609.342-609.3451	Criminal sex, all degrees
609.498	Witness Tampering
609.561	Arson in the First
609.582	Burglary in the First, subd. 1(a)
609.66	Dangerous Weapons (firearms)

a.	Machine guns and short-barreled shotguns
609.668	Explosive or incendiary device without injury to others
609.712	Real and simulated weapons of mass destruction
a.	Crimes committed in furtherance of terrorism
609.713	Terroristic Threats
609.855	Crimes involving transit; shooting at transit vehicle

- The offender declines program participation.
- The offender is a juvenile.
- The offender fails to report for interview, contract signing and/or initial court date.
- The offender shows a lack of desire for change.
- The offender wants to transfer supervision out of Cass County.
- The offender is required to pay a large amount of restitution.
- The offender has serious mental health and/or medical problems.
- The chemical assessment and/or mental health assessment indicates the offender is not appropriate for Wellness Court.
- The offender is not a resident of Cass County, and/or does not live on Leech Lake Tribal land.
- Must not be registered as a gang member or affiliated with a gang.
- Must not have any outstanding warrants. Once existing warrant has been satisfied, will be eligible to be rescreened.

\*\*Any person deemed ineligible may petition the DWI Court team for reconsideration on a case-by-case basis.

## ***Phases***

### **Phase 1 (Treatment Phase)**

Objective: To enter and successfully complete the chemical assessment recommended treatment programs.

Duration: 3-month minimum, 60 days sobriety minimum.

Hearings: Participants are required to remain in the courtroom until the conclusion of all Wellness Court hearings.

#### Special Conditions:

- Participants are to abstain from the use of alcohol.
- Participants are not to enter establishments where the primary purpose is the sale of alcohol. If a participant wishes to go to an establishment that serves alcohol, there must be a designated eating area separated from the bar. The participant must not go into the bar area.

In addition to all the terms of Wellness Court and probation, participants will also be required to:

- Attend treatment as required by treatment provider(s) and participate in aftercare as directed;
- Attend Wellness Court every two weeks;
- Report as directed to provide PBT and/or urine screens;
- Abide by a curfew if imposed;
- Attend AA or other structured sobriety and accountability group at least two times a week. Record the location, time and topic of the meeting in their calendar book.
- Pay 1/3 of fees. This must be paid prior to advancement;
- Comply with case plan programming as determined by probation;
- Resolve case prior to phase change (no credit towards phase 2).

### **Phase 2 (Transition Phase)**

Objective: Utilize recovery skills to maintain sobriety and work the individualized case plan.

Duration: 6 month minimum, 90 days sobriety minimum.

Hearings: Except in exceptional cases and approved by the Team, participants are required to remain in the courtroom until the conclusion of all Wellness Court hearings.

### **Requirements:**

- Continue to complete aftercare;
- Attend MADD Panel;
- Attend Wellness Court bi-weekly;
- Report as directed to provide PBT and/or urine screens;
- Abide by a curfew if imposed;
- Attend AA or other structured sobriety and accountability group at least two times a week. Record the location, time and topic of the meeting in your calendar book.
- Maintain employment or be attending school. If unemployed perform an approved structured activity totaling 30 hours per week
- Pay 1/3 of Wellness Court fees to advance to phase 3;
- Comply with the case plan as determined by probation.

### **Phase 3 (Living Well Phase)**

Objective: To continue abstinence and maintenance of recovery to live a chemical-free lifestyle.

Duration: 6-month minimum for gross misdemeanor level, 180 days sobriety minimum.  
12-month minimum for felony level

Hearings: Unless otherwise ordered by the Court, participants are allowed to leave the courtroom after the conclusion of their hearing.

**Requirements:**

- Report to Wellness Court every 4 weeks;
- Report as directed to provide PBT and/or urine screens;
- The remainder of the Wellness Court fees must be paid in full prior to graduation.
- Attend AA or other structured sobriety and accountability group at least-one time a week. Record the location, time and topic of the meeting in your calendar book.
- Complete a pro-social activity at least one time a week. Provide verification in writing describing the activity, who was present, and what was learned. The pro-social activity can include attending AA meetings over-and-above the one mandatory weekly meetings;
- Maintain employment or be attending school. If unemployed perform an approved structured activity totaling 30 hours per week;
- Perform a community service project totaling 32 hours. This project should be something the participant is not already doing.
- Obtain a valid Driver's License

***Commencement Criteria***

- The client must prepare their written responses to the graduation questionnaire which shows that they understand their personal problems with addiction, criminal behavior, and relapse prevention. This form must be submitted to the Wellness Court Coordinator or Probation Agent at least one month prior to their proposed graduation date so the team can review their petition.
- The client must show continued sobriety—no positive tests for 180 consecutive days prior to graduation.
- The client must be gainfully and consistently employed or in vocational/academic training, except in exceptional cases approved by the Team.
- The client must make all scheduled Court appearances and treatment appointments.
- The client must reach the goals of their individual case plan.
- The client must have stable living arrangements with clean and sober relationships.
- The client must have a definitive continuing care plan that may include community support meetings, mental health care, outpatient counseling, or group attendance.
- The client must have completed a community service project that was pre-approved by the Wellness Court Team
- The client must fulfill all Court obligations.

## ***Commencement***

The client will be eligible for commencement from the program when they have successfully progressed through all three phases of the program and completed the pre-graduation questionnaire. The Wellness Court Team will determine when the clients are ready for commencement. At commencement there will be a special ceremony and acknowledgement by the Wellness Court. Commencement ceremonies will occur once a quarter with the location rotating each time. All participants will be expected to attend graduation.

## **Phase 4 (Graduate Status)**

Objective: To continue abstinence and maintenance of recovery to live a chemical-free lifestyle

Duration: Up to 12-months

### **Requirements:**

- Report to Court quarterly.
- Report as directed to provide PBT and/or urine screens.
- Maintain Sobriety
- Maintenance of individualized case plan.
- Maintain employment or attend school.

## ***Wellness Court Alumni***

This optional phase is available to clients who have completed phase 4 who are living a life free from alcohol and other drug use but feel the need for continued support. This support could assist the client to maintain a healthy lifestyle and/or reach established personal goals such as college education, long-term employment, etc. Since this is an optional phase, there are no duration limits.

## ***Incentives***

Incentives are responses to compliance, perceived as a positive by the receiver. The Wellness Court Judges will reward participants with incentives for complying with program requirements on the basis of their own discretion and recommendations from the Wellness Court Team. Incentives may include any of the following:

- Verbal recognition/praise
- Applause
- Decreased restrictions (fewer drug tests, fewer Court appearances, etc.)
- Court appearance priority given according to Phase Level (Phase 3 clients appear

first)

- Recovery Days: Fish bowl drawings will be held during Court giving participants the chance to win various prizes. Participants will have to have attended all groups, treatment and sober support groups to be eligible for this drawing. There may be other incentives if the Core Team believes the participants have earned additional incentives. Once an incentive is received, per the above, a participant will not be eligible for the same incentive should the client repeat a phase.

### ***Gift Cards:***

Gift cards may be requested for Wellness Court participants for major milestones indicated below:

- Sobriety dates: 6 months then annually
- Employment: Get a job or promotion
- School: GED or graduate
- Family Goals: Finding appropriate housing
- Phase Changes and Graduation
- Driver's license reinstatement

### ***Sanctions***

Sanctions are the imposition of a consequence, perceived as negative by the receiver, as a direct result of a prohibited activity. The Wellness Court Judges will impose sanctions on participants on the basis of their own discretion and recommendations from the Wellness Court Team. Sanctions may include any of the following:

- Verbal reprimands and warnings from the Judges
- Verbal or written apology to the Judges or Team members
- Community service/additional educational programs
- More chemical testing, Court hearings, and /or support meetings
- Moved back a phase
- Sit in special term Court session
- Jail
- If a participant absconds from supervision, his/her sobriety days shall be reset to zero.
- If a participant "stalls" before any type of testing, his/her sobriety days be reset.  
*\*see attached NDCI Sanctions and Incentives.*

***These Sanctions will usually be followed.***

***However, the Judge has the right to alter any according to the circumstances.***

**SANCTION SCHEDULE FOR CASS COUNTY/LEECH LAKE WELLNESS COURT**

**Positive or Diluted Screens**

**Admit**

**Deny- must be sent in**

- |     |                                 |                  |               |
|-----|---------------------------------|------------------|---------------|
| 1.) | First Positive Screen           | 24 hours in Jail | 48 hours jail |
| 2.) | 2 <sup>nd</sup> Positive Screen | 48 hours in Jail | 4 days jail   |
| 3.) | 3 <sup>rd</sup> Positive Screen | 72 hours in Jail | 6 days jail   |
| 4.) | 4 <sup>th</sup> Positive Screen | 7 days Jail      | 7 days jail   |

Any additional Positive Screens will result in one week in jail as well as an additional sanction to be determined by the team. Screens that are sent in for lab testing and are found to be positive will be paid for by the participant. (*Participants gain more development when they are honest*)

**Inpatient Treatment and Half-way House**

- |     |                    |             |
|-----|--------------------|-------------|
| 1.) | Leave or discharge | 7 days Jail |
|-----|--------------------|-------------|

**Falsify Drug Screens**

- |     |     |                          |
|-----|-----|--------------------------|
| 1.) | 1st | Reset in Phase or revoke |
|-----|-----|--------------------------|

**Falsify Community Service**

- |     |                 |                          |
|-----|-----------------|--------------------------|
| 1.) | 1 <sup>st</sup> | Reset in Phase or revoke |
|-----|-----------------|--------------------------|

**No show for Treatment (Unexcused).**

- |     |                 |              |
|-----|-----------------|--------------|
| 1.) | 1 <sup>st</sup> | 8 hours CSW  |
| 2.) | 2 <sup>nd</sup> | 16 hours CSW |
| 3.) | 3 <sup>rd</sup> | 24 hours CSW |
| 4.) | 4 <sup>th</sup> | 32 hours CSW |
| 5.) | 5 <sup>th</sup> | 40 hours CSW |
| 6.) | 6 <sup>th</sup> | 5 days jail  |

Additional missed meetings will result in one week jail and an additional sanction to be determined by the team.

**A.W.O.L.**

- |     |                                        |
|-----|----------------------------------------|
| 1.) | One day in jail for each day or revoke |
|-----|----------------------------------------|

Sanction can be modified for mitigating factors including length of time on Warrant, turning themselves in on their own, a higher level of care being recommended or other factors determined by the team.

**Missed AA Meetings or Failure to Turn In**

- |     |                 |                    |
|-----|-----------------|--------------------|
| 1.) | 1st             | Make up AA Meeting |
| 2.) | 2 <sup>nd</sup> | 8 hours CSW        |
| 3.) | 3 <sup>rd</sup> | 16 hours CSW       |
| 4.) | 4 <sup>th</sup> | Weekend Jail       |

5.) 5<sup>th</sup> 5 days Jail

Additional missed meetings will result in one week jail and an additional sanction to be determined by the team.

**Unauthorized use of Prescription Medication**

1.) Same sanction as a positive.

**No Show Monthly Probation Meeting**

1.)	1 <sup>st</sup>	24 hours Jail
2.)	2 <sup>nd</sup>	Weekend Jail
3.)	3 <sup>rd</sup>	1 Week Jail

Additional No Shows will result in one week jail and an additional sanction to be determined by the team.

**Missed UA or Stall**

Reset days

**Forged AA Meetings**

1.) Reset in Phase or revoke

**Forgot to bring Journal to Court**

½ day Special Term Or 3 hours CSW

**Illegal Driving or Non-Compliant with License Restrictions**

1<sup>st</sup> Up to 7 days jail with possibility to serve as electronic home monitoring as determined by the team.

2<sup>nd</sup> Up to 7 days jail with possibility to serve as electronic home monitoring as determined by the team. Must serve first 48 hours in jail.

3<sup>rd</sup> Set back a phase, possible Termination

**Ignition Interlock Violations**

Participants are instructed to call their probation officer or law enforcement when they have a failed test on ignition interlock of .02 or more. Anything under .02 is considered a pass. All other ignition interlock violations, i.e. missed rolling tests or not providing 30 tests in 30 days will be left to the ignition interlock program to sort out. If a participant gets a positive test that locks them out and is reported to DVS, it will be considered a positive test and the appropriate sanction will be imposed.

### ***Treatment Procedure***

Upon completion of the chemical dependency assessment, the client is given a recommendation for substance abuse treatment by the chemical dependency assessor (a complete assessment file is provided to the Wellness Court Coordinator). The recommendation may include day/night treatment or may be a referral to a different modality, including secure (in jail) treatment, non-secure treatment, inpatient treatment or traditional drug counseling.

Appropriate cases are assigned to a particular program and location, depending on clients' need, financial situation, and residence location. The client is informed to report to Court the following court date for his/her first Wellness Court appearance. The client will be required to report to court on a regular basis at the instruction of the Wellness Court Judges. Verbal/written updates from treatment and chemical monitoring will be presented at subsequent Court dates. If the client is not in custody, a treatment provider will schedule the client's first appointment with his counselor.

### **TREATMENT PROVIDERS:**

Following the screening process, Wellness Court clients appear in Wellness Court at a time regularly set aside for these reviews. The Wellness Court Team is in attendance. The Team includes representatives of the treatment providers and probation officers. The clients are addressed by the Wellness Court Judge to ascertain that they understand the demands and rigorous schedule the program will place upon them. They will then speak with their treatment provider representative who will give them specific information regarding the time and place of treatment.

Those at liberty leave the Court and are expected to report at the designated time to the assigned treatment facility for intake. Those who are incarcerated are returned to jail and will be picked up by the treatment provider and transported to the facilities where the treatment intake process takes place. They begin treatment immediately (if day treatment clients) or return that evening.

Report forms indicating attendance progress, problems and drug screen results are provided to the Court at staffing. All clients must return to Wellness Court as directed by the Wellness Court Judge.

At the end of the treatment program, the clients have completed the structured treatment program and continue to participate in community support meetings under supervision of the Wellness Court Team.

### ***Community Support Meetings / Sponsors***

Each participant is expected to attend community support meetings. Participants can use the following as support group meetings: Alcoholics Anonymous, Alanon, Wellbriety, Narcotics Anonymous, Talking Circles, individual counseling, and Sweat

Lodges. If a participant wishes to substitute any other meeting or activity, he/she can bring it to the Team for approval.

Each participant is expected to obtain at least one sponsor. A participant's sponsor must be the same gender as the participant; must be willing to talk with the Wellness Court Team; must be a person that will help the participant work on his/her 12 Steps; work out of the Big Book; and attend meetings with the participant. The sponsor is also being left open to a spiritual /cultural advisor who will support the participant in their recovery.

Verification: Participants must have their journals signed at their support meetings and be able to provide follow-up verification if necessary. The Wellness Court probation agent also may be "spot checking" for verification.

### ***Supervision Procedures***

The Wellness Court Agent will be responsible for monitoring the clients' compliance with the following Wellness Court requirements:

- 1) Wellness Court orders;
- 2) Chemical dependency assessment;
- 3) Attendance at counseling and therapy for time set by Wellness Court;
- 4) Completion of Wellness Court contract/case plan;
- 5) The offender will remain chemically free.

### ***Application for Special Event Furlough:***

#### ***Special Event Request Forms (Phase II and III)***

If a participant wishes to attend an event or leave Cass County or the Leech Lake Tribal land for an overnight stay, they must submit a special event request form. (SERF). An applicant must have participated in Wellness Court for a minimum of 90 days, have completed phase I and have 45 days of continuous sobriety. The application must be submitted to the probation agent by 3:00 p.m. the Tuesday prior to their next DWI Court appearance. Exceptions will be made in emergency situations on a case by case basis.

### ***Drug Testing Procedure***

Alcohol and other drug testing is one of the ten key components for a problem-solving Court and is essential to program integrity. Test results can act as a deterrent to future alcohol and drug use; identify clients who are maintaining abstinence; identify clients who have relapsed; provide incentive, support and accountability for clients; is adjunct to treatment; and frames sanction decisions. Effective testing is frequent (at least twice a week), random (unexpected, unannounced and unanticipated), and observed. The Wellness Court uses different methods to test the clients for chemical use; some of the most common are:

1. Preliminary Breath Test (PBT)
2. Saliva Tests
3. Urine Tests

All Wellness Court clients are informed about testing policies and procedures upon entry into the program and sign an agreement to comply with testing requirements.

Therapeutic and/or punitive responses to continued use of alcohol and drugs are determined by the Wellness Court Judges on the basis of their discretion and recommendations from the Wellness Court Team. Random breathalyzers are conducted and can occur during any contact with the Wellness Court agent, including during field visits, during Court sessions and as determined by any other Wellness Court Team member. Clients choosing to enter the Wellness Court program must agree to cease the use of all mood-altering substances that would test positive during a drug test including, but not limited to, narcotics, tranquilizers, sedatives, stimulants, opiates, opiate-based medications. If during the course of participation it becomes necessary for a participant to take prescription medication, prior approval must be sought by the Judges and Wellness Court Team with appropriate medical documentation provided. The use of the medication may be approved on a conditional, time-limited basis based on the established facts. Any use of doctor-monitored prescription drugs is determined on a case-by-case basis by the Judges and Wellness Court Team.

### ***Dilute UA's***

If a participant produces a urine sample that is observed to be dilute by the collecting agent or treatment provider, the participant will be advised to provide another sample in two hours. It is the participant's responsibility to arrange for another UA in two hours. Failure to do so will result in the initial test to be considered positive and will be sanctioned accordingly.

### ***In the event of substance use***

Whether by positive testing results or admission of use, the participant's treatment counselor shall be notified. If the participant has either completed treatment, or has not yet begun treatment, the chemical dependency assessor shall be notified.

If a participant has a positive PBT, he/she shall be taken into custody. If a participant's field test comes back positive for use, and the participant denies use, the sample shall be sent to the lab for further testing. If a participant's failed test comes back positive, a jail sanction will be imposed in accordance with the sanctions schedule. Participants that deny use, will pay for UA's with positive results.

### ***Urine testing and incidental drug and alcohol exposure***

Recent advances in the science of alcohol detection in urine have greatly increased the ability to detect even trace amounts of alcohol consumption. In addition, these tests are capable of detecting alcohol ingestion for significantly longer periods of time after a

drinking episode. Because these tests are sensitive, in rare circumstances exposure to non-beverage alcohol sources can result in detectable levels of alcohol. In order to preserve the integrity of the Wellness Court testing program, it has become necessary to restrict and/or advise Wellness Court participants regarding the use of certain alcohol containing products.

It is the responsibility of the participant to limit his/her exposure to the products and substances detailed below that contain ethyl alcohol. (This information is contained in the handbook and will be verbally explained to each client upon entrance into the court). It is the responsibility of the participant to read product labels, to know what is contained in the products that he/she uses and consumes, and to stop and inspect these products BEFORE he/she uses them. *Use of the products detailed below, or any other labeled to contain alcohol, will NOT be allowed as an excuse for a positive test result.*

**Cough Syrups and Other Liquid Medications:** DWI Court participants are prohibited from using alcohol containing cough/cold Syrups, such as Nyquil. You are required to read product labels carefully to determine if they contain ethyl alcohol (ethanol). All prescription and over-the-counter medications should be reviewed with your probation officer before use. Information on the composition of prescription medications should be available from your pharmacist. Non-alcohol containing cough and cold remedies are readily available at most pharmacies and retail stores.

**Non-Alcoholic Beer and Wine:** Although legally considered non-alcoholic, NA beers do contain a residual amount of alcohol that may result in a positive test. Wellness Court participants are NOT permitted to ingest NA beer or wine.

**Food and Other Ingestible Products:** There are numerous other consumable products that could result in a positive test. Flavoring extracts, such as vanilla and almond extract, and liquid herbal extracts such as Ginko Biloba, could result in a positive screen for alcohol. Communion wine, food cooked with wine, and flambé dishes (cherries jubilee or baked Alaska) MUST be avoided. Read carefully the labels on any liquid herbal or homeopathic remedy. In addition, foods containing poppy seeds must not be consumed.

**Mouthwash and Breath Strips:** Most mouth washes (Listermint, Cepacol, etc.) and other breath cleansing products contain ethyl alcohol. The use of mouthwashes containing ethyl alcohol can produce a positive test. DWI Court participants are not permitted to use mouthwashes and breath strips that contain ethyl alcohol. Non-alcohol mouthwashes are readily available.

**Hand Sanitizers:** Hand sanitizers and other antiseptic gels and foams used to disinfect hands contain up to 70% ethyl alcohol. Excessive, unnecessary, or repeated use of these products could result in a positive test. Hand washing with soap and water is just as effective.

**Cosmetics and Tanning Lotions, Enhancers, Sunscreens and Self-Tanners:** Some cosmetics and tanning lotions contain hemp or THC. Use of these products could result in a positive test.

Preliminary positives: The 500 ng/mL is the standard cutoff for all Minnesota Drug Courts and is the nationally accepted cutoff for EtG testing. If we do receive a preliminary positive on at EtG test, the following procedures will be implemented.

- The participant will be confronted with the preliminary positive result;
- If the participant admits to alcohol use or the use of the products he/she has been warned about, the team will proceed with the standard sanctions;
- If the participant denies, the team will consider interventions in order to ensure abstinence until results come back.

### **Prescription Drug Policy**

Participants must agree to cease the use of all mood-altering substances that would result in a positive drug test (including, but not limited to narcotics, tranquilizers, sedatives, stimulants, opiates, opiate-based medications). If during the course of participation it becomes necessary for a participant to take prescription medication, prior approval must be sought by the DWI Court Team with appropriate medical documentation provided. The use of the medication may be approved on a conditional, time-limited basis based on established facts. Any use of doctor monitored prescription drugs is determined on a case-by-case basis by the Wellness Court Team. The following are the procedures that must be followed for all participants who are placed on prescription medications:

- Wellness Court participants will be asked to sign a contract regarding his/her prescription drug use. Participants will be required to identify one primary health care provider (PHCP) to coordinate all healthcare needs and sign the appropriate releases for the Wellness Court Team. The PHCP will

be responsible for managing all the prescription medications with the exception of those participants who do see a psychiatrist.

- Participants will be asked to notify the Wellness Court Team if he/she is prescribed or administered a mood altering or controlled substance. He/she will also be required to provide a copy of the prescription by his/her next scheduled court date and keep the medication in its original prescription container.
- In addition, the participant will be expected to maintain a medication log showing when and how much medication he/she has taken every day. The participant will be asked to bring this log into court during every Wellness Court appearance. The Wellness Court Treatment Team member may review the medication log with the individual during these court appearances or during one on one or treatment sessions. Pill counts will be done weekly.
- Participants will be required to fill all of his/her prescriptions at one pharmacy. A monthly printout documenting new prescriptions and/or refills from that pharmacy must be provided to the Wellness Court Team.
- Failure to comply with the prescription drug policy may result in a sanction or termination from the program.

### ***Case Information Management***

All client data will be entered into and maintained in the 9<sup>th</sup> Judicial District Web-based MNCIS/Odyssey and the Court Services Tracking System (CSTS).

### ***Evaluation***

An evaluation must be tailored to the political and organizational context of the program to be evaluated. It typically involves assessment of one or more of five program domains: (1) program need; (2) program design; (3) program implementation and service delivery; (4) program impact or outcomes; and (5) program efficiency. An evaluation requires an accurate description of the program performance or characteristics at issue and assessment of them against relevant standards and criteria.

NPC Research conducted an evaluation of all Minnesota DWI Court programs. The reviews include:

- Programs and best practices
- Program data
- Other available data

The three main areas of evaluation are:

- Process (program improvement)
- Outcome (impact)
- Cost (cost-benefit)

Our current funding did not allow for an individual evaluation of our program, but rather a statewide evaluation of DWI Courts in the state of Minnesota. The Wellness Court will comply with all requests from the state evaluation team. A copy of this evaluation is available upon request from the Wellness Court Coordinator.

### ***Monetary Procedures***

The Wellness Court Coordinator and Agent will utilize standard operating procedures for collection of cost of supervision and Wellness Court fee payments. Wellness Court fee payments will be processed through the Ninth Judicial District Administrator's Office.

### ***Case Reviews***

Case reviews will be conducted by the Wellness Court Team on a bi-weekly basis. Cases will again be reviewed by the Wellness Court Team thirty (30) days prior to termination. The Wellness Court Agent will prepare a status report on each Wellness Court client bi-weekly for review by the Wellness Court Team. If the Wellness Court Agent is not able to attend a staffing, that Agent will relay information to the probation designee who will provide status reports to the Wellness Court Team.

### ***Termination / Discharge***

The Wellness Court client shall be terminated from the program should he or she be convicted of a new crime at the felony or gross misdemeanor level if the crime involves possession of or use of alcohol or controlled substances as one of the elements of the charge. Conviction of any other gross misdemeanor or felony level crime may be grounds for termination. Conviction on a new driving while impaired or drug charge at any level by a participant of this program shall result in termination from this program. Conviction of any other level of crime could also be grounds for termination as well. A new criminal charge alone could result in conditional dismissal from the program during any time period from the date of the charge to the final resolution – if no conviction results, the client may be reinstated. “Crime” means any misdemeanor level charge or above. “Conviction” means entry of judgment of guilt or any stay of execution of sentence, stay of imposition of sentence, or stay of adjudication of sentence for the purposes of this program.

The Wellness Court client shall be terminated from the program should he or she be on warrant status for a period of 30 days or longer. The participant does not need to be present to be terminated from the program. Upon apprehension or voluntarily reporting to the jail, the participant will be given the opportunity to petition the Court for re-entry into the program. The petition will be staffed by the core Team for approval or denial.

The Wellness Court client may be terminated from the program should he or she not apply reasonable efforts to be successful in this program. A client should receive at least one warning from the presiding Judge as to the item or items to which it is believed reasonable efforts are not being applied.

Each situation referenced above will be staffed by the core Team on a case-by-case basis. If a client is up for termination, written notice shall be given to each core Team member by the Coordinator as to the specific date that the termination issue will be up for consideration. Notice must be written and may be by email, mail, or personal delivery. If a member cannot be present at the selected staffing, he or she shall be allowed to provide their input by email. Email input should be received by the Coordinator no later than 3:00 p.m. the day prior to the termination staffing. Input by the members then present at the slated termination staffing could result in a termination recommendation to the presiding Judge(s), who would then be free to adopt it and terminate the client.

### ***Confidentiality Statement***

Any program that specializes, in whole or in part, in providing treatment counseling or assessment and referral services for clients with alcohol or drug problems must comply with the Minnesota state and federal confidentiality regulations.

The Wellness Court Team must adhere to the Minnesota Government Data Practices Act and other applicable laws and policies relating to their respective departments. The Wellness Court clients must be informed of privacy rights in writing and are required to sign releases upon entering the program and be provided a copy. Information that is protected federal confidentiality regulations may always be disclosed after the client has signed a proper consent form. Said forms are signed upon admission to Wellness Court and treatment providers to facilitate information sharing.

A proper consent form must be in writing and must include all of the following:

- the name or general description of the program(s) making the disclosure;
- the name or title of the individual or organization that will receive the disclosures;
- the name of the client who is the subject of the disclosure;
- the purpose or need for the disclosure;
- how much and what kind of information will be disclosed;
- a statement that the client may revoke the consent at any time, except to the extent that the program has already acted upon it;
- the date, event, or condition upon which the consent expires if not previously revoked;
- the date and signature of the client.

