California Health Policy Strategies, LLC.

County Touchpoints in Access to MAT for Justice Involved Populations

Discussion Guide for

ADULT COURTS

Introduction

With funding provided by the federal Substance Abuse and Mental Health Services Administration, the California Department of Health Care Services has launched a multi-pronged effort to address the opioid crisis by improving access to treatment, reducing unmet treatment need, and reducing opioid overdose related deaths. A variety of projects across the state are providing prevention, treatment, and recovery activities for opioid use disorder (OUD) with a strong focus on expanding access to Medication Assisted Treatment (MAT). The County Touchpoints in Access to MAT for Justice-Involved Populations project[1] is focused on outreach, education, and training about opioid addiction and treatment in county criminal justice and human service systems. The project is managed by Health Management Associates and California Health Policies Strategies LLC.

The project provides training and technical assistance to leaders, managers, and line staff in six stakeholder groups:

- Probation
- Human Services/Child Welfare
- Juvenile and Dependency Courts
- Adult Courts
- Public Defenders
- District Attorneys

Training for all groups covers the neuroscience of opioid addiction[2], the medications used to treat it, and the case for treating addiction in the criminal justice system. Discussion guides for each stakeholder group accompany the project training session. Each addresses the position of the national professional association and other experts regarding MAT and includes discussion questions, case studies, and other resources particular to the group. This guide is developed for **ADULT COURTS**.

Framing the Problem

In 2014, a Bureau of Justice survey found that 63% of people incarcerated in jails met the criteria for Substance Abuse Disorder (SUD). Of these, one fourth had an OUD. Since then, the opioid crisis has exploded and today many jails report that half or more of their detainees have an OUD.

Overdose deaths following release from prison are 129 times higher than the general population[3], and persons released from jail face exceptionally high overdose death rates as

[1] https://addictionfreeca.org/California-MAT-Expansion-Project/HMA-Projects/County-Touchpoints-in-Access-to-MAT-for-Justice-Involved-Populations

[2] https://www.youtube.com/watch?v=bwZcPwlRRcc

[3] Ingrid A. Binswanger et al., "Release from, Prison – a High Risk of Death for Former Inmates," *New England Journal of Medicine 356, no. 2 (Jan 11, 2007): 157-65, doi:10.1056/NEJMsa064115*

well. Providing access to MAT in the justice system saves lives – after Rhode Island implemented the use of all three medications for opioid addiction in its system of prisons and jails, overdose death rates after release dropped by 61%.

It is essential that people using MAT be supported in maintaining recovery on MAT at every point in criminal justice and human service systems. MAT saves lives, supports recovery, and reduces crime. The criminal justice system is among the largest sources of organizational referrals to addiction treatment, and persons working in the criminal justice system have a unique and valuable role in facilitating and supporting their clients' recovery.

Professional Association Positions on MAT

The following language is found in the 2016 positions statement from the National Association of Drug Court Professionals:

Drug Court professionals have an affirmative obligation to learn about current research findings related to the safety and efficacy of medication assisted treatment (MAT) for addiction.

Drug Court programs should make reasonable efforts to attain reliable expert consultation on the appropriate use of medication assisted treatment for their participants.

Drug courts do not impose blanket prohibitions against the use of MAT for their participants. The decision whether or not to allow the use of MAT is based on a particularized assessment in each case of the needs of the participants and the interests of the public and the administration of justice.

The following language is found in the National Drug Court Institute's August 2016 *Drug Court Practitioner Fact Sheet: Medication-Assisted Treatment for Opioid Use Disorders in Drug Courts:*

Best practice standards require drug courts to permit the use of MAT in appropriate cases. In 2011, the NADCP board of directors issued a unanimous resolution directing drug courts to undertake the following:

- Keep an open mind and learn the facts about MAT.
- Obtain expert medical consultation on MAT when available.
- Make a fact-sensitive inquiry in each case to determine whether MAT is medically indicated or medically necessary for the participant.
- Explain the court's rationale for permitting or disallowing the use of MAT. The resolution also states explicitly that drug courts should not have blanket prohibitions against MAT (NADCP, 2011).

In 2013, NADCP released Volume I of the Adult Drug Court Best Practice Standards. Standard I (Target Population) provides that candidates for drug courts should not be excluded from participation in the program because they have a legally valid prescription for an addiction or psychiatric medication (NADCP, 2013).

Standard V (Substance Abuse Treatment) further directs drug courts to offer MAT when it is prescribed and monitored by a physician trained in addiction psychiatry, addiction medicine, or a related medical field.

Standard VI (Complementary Treatment and Social Services), released in Volume II of the Standards, directs drug courts to offer psychiatric medications for co-occurring mental health disorders when prescribed and monitored by a psychiatrist or other duly trained medical practitioner (NADCP, 2015).

Drug courts that ignore these provisions are operating below the recognized standard of care for the profession. These drug courts expose themselves to serious criticism, may find themselves ineligible for certain drug court funds and may be overruled on appeal.

Objectives

A. Explore current practices against the best practices set forth by the profession
B. Explore models from counties in which best practices are realized in the discipline
C. Explore barriers to getting to best practices within the discipline

Case Study

Steven was arrested in 2012 at age 22 and charged for felony possession of heroin for sale and personal use. He has a previous arrest for heroin use and an unsuccessful stint in a diversion program. He was not being considered for adult drug court.

After the initial screening by the court, the public defender and the district attorney, Steven was referred to the probation department to determine his suitability for participation in the drug court program. Within one week, probation reported that Steven had been a heroin addict for several years, starting in high school. His original drugs of choice were alcohol and marijuana at age 14.

Steven was out of custody during probation's assessment and he continued to test positive for THC while waiting for outcome of an admission to the drug court program.

After the probation COMPAS assessment was completed, the team determined that he would be a good candidate for participation in the drug court program. Although he was a long-time heroin addict, medication assisted treatment with methadone was not considered at this time. He was admitted to the drug court and a community-based "drug-free" outpatient program.

Steven was an active participant in groups; he had a pleasant personality; and was well liked by counseling staff, other participants and court personnel. There was no program requirement for family education and/or participation required in the program. He continued to test positive for THC over several months.

Steven was remanded to custody on a no-bail hold for felony violation of probation. He was incarcerated for a week during which time the drug team started looking for a residential program for him. Adjunct methadone treatment was offered, however; Steven was adamant that he did not need any medications for his addiction. He also committed to stop smoking weed and not to consume alcohol.

Again, Steven does remarkably well in a clean and sober program. His urine tests are clean for all substances. He is a positive influence in the program and groups and an uplifting presence in his court review hearings.

After six months in the program and nearing graduation from drug court, the program staff approve an unsupervised weekend pass to attend his sister's wedding.

During the weekend pass, Steven ran into old friends and used the same amount of heroin that he used on a daily basis before beginning treatment. He overdosed and died.

Discussion Questions

Question	Notes
What would happen to this person under the current practice in your county?	
According to our best practices and new standards, what should happen?	

Question	Notes
What are the barriers to getting to best practice?	
What have successful counties done/employed to get to best practice?	
What resources and supports are needed to get to best practice?	
What are the implications of MAT in my professional practice?	

Criminal Justice and Human Services Recommendations for the Use of Medications for Opioid Use Disorders

PROBATION

***Best Practices for Successful Reentry for People Who Have Opioid Addictions*, CS Justice Center, Nov. 2018**
https://csgjusticecenter.org/wp-content/uploads/2018/12/Best-Practices-Successful-Reentry-Opioid-Addictions.pdf, Accessed 18 Aug. 2019.

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Research findings re: Probation and access to MAT 7/19
https://www.ncbi.nlm.nih.gov/pubmed/31139961

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Use of Medication Assisted Treatment for Opioid Use Disorder in the Criminal Justice System (SAMHSA 2019)
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DISTRICT ATTORNEYS AND PUBLIC DEFENDERS

Attorney's Guide to Medication Assisted Treatment and Your Client, Legal Action Center, 2019, https://lac.org/wp-content/uploads/2016/08/Attorney-Guide-Addiction-Medication-and-Your-Client.pdf, Accessed 18 Aug. 2019.

The Opioid Epidemic: A State and Local Prosecutor Response, 12 Oct. 2018, National District Attorneys Association, https://ndaa.org/wp-content/uploads/NDAA-Opioid-White-Paper.pdf, Accessed 18 Aug. 2019.

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Training Materials – Attorneys & The Opioid Epidemic: Asserting Your Clients' Right to Addiction Medication, Legal Action Fund, https://lac.org/defense-attorneys-the-opioid-epidemic-asserting-your-clients-right-to-addiction-medication/, Accessed 18 Aug. 2019.

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TOOLKITS AND OTHER RESOURCES

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