

## SCAO Model Document

Documents: Program Memorandum of Understanding (MOU)

Program Type: Veterans Treatment Courts

This model document is provided by the State Court Administrative Office (SCAO) as a resource is and for informational purposes only to facilitate the operation of problem-solving courts by local units of government and courts in compliance with statutory requirements. SCAO's sharing this model document is not intended (and cannot be construed) as legal advice.

Please customize all sections that are in bold and are highlighted in yellow. Once these are customized remove the brackets, bold, and highlighting.

This is a model document, which means it is generic in nature and should be modified to fit your program. However, it should be noted that portions of the document are required by statute, and are indicated with a footnote referencing the specific statute.

## Memorandum of Understanding<sup>1,2</sup>

**[Name of veterans treatment court]**

### I. Parties

This agreement is made and entered into as of the date set forth below, by and between the following parties whose representatives have signed the agreement:

1. **[Name of veterans treatment court]**
2. **[Name of circuit court]**
3. **[Name of county]** MDOC Probation/Parole department
4. **[Name of district court]**
5. **[Name of district court]** Probation Department
6. **[Name of county]** Prosecutor's Office
7. **[Name of treatment agency on team]**, Treatment Provider
8. **[Name of substance use/abuse treatment agency]**, Substance Abuse Treatment Provider
9. **[Name of law enforcement agency on team]**
10. **[Name of law firm/office, or name of defense attorney on team]**, Defense Attorney
11. U.S. Department of Veterans Affairs<sup>3</sup>
12. **[Name of Veterans Service Organization on team]**

### II. Purpose

The purpose of this Memorandum of Understanding (MOU) is to describe duties and allocate responsibilities for members of the **[name of veterans treatment court]** team. The MOU also establishes team member responsibilities and requirements for maintaining compliance with the Michigan Veterans Court Statute (MCL 600.1200-600.1212).

### III. Terms/Definitions

1. Ex parte communication: Any communication, relevant to a legal proceeding, between a judge and a party to the proceeding or any other person about the case, outside of the presence of the opposing party or the opposing party's attorney, that is not on the record.
2. Participant: Any person referred to the **[name of veterans treatment court]**, currently being screened as a candidate for **[name of veterans treatment court]** (including those who are ultimately denied entry to the program), currently participating in **[name of veterans treatment court]**, or someone who has been discharged from the **[name of veterans treatment court]**.

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<sup>1</sup> Per MCL 600.1201(2) the court may adopt or institute a veterans treatment court if it enters into a MOU.

<sup>2</sup> This model MOU is provided by SCAO as a resource and for informational purposes only to facilitate the operation of problem solving courts by local units of government and courts in compliance with statutory requirements. SCAO's sharing this model agreement is not intended (and cannot be construed) as legal advice - parties to the agreement should consult with their attorneys before entering into any agreement or contract.

<sup>3</sup> Your Veterans Affairs (VA) may prefer to enter into an individual MOU with the program. An individual MOU would meet statutory requirements, and the VA would not need to be included on this MOU.

3. Policies and Procedures Manual: Policy and procedure manuals document policies and procedures designed to influence and determine all major decisions and actions, and all activities that take place within the boundaries set by them. Procedures are the specific methods employed to express policies in action in day-to-day operations of the organization.
4. Staffing meetings: Team meetings where participants' progress is discussed and options for incentives & sanctions, treatment, and phase changes are evaluated.
5. Stakeholders: A person, group or organization that has interest or concern in an organization.
6. Treatment services: Any services provided by a licensed clinician or by an employee of any agency providing therapeutic services for substance use disorder, mental health, or developmental disabilities.

#### **IV. Mission of the [name of veterans treatment court]**

1. We agree that the mission of the [name of veterans treatment court] shall be to successfully stabilize substance using and mentally ill individuals while maintaining public safety.
2. We endorse the goals of the [name of veterans treatment court] in order for participants to eliminate future criminal behavior and improve the quality of their lives. For this program to be successful, cooperation must occur within a network of systems to facilitate and achieve the mission, challenge, and vision of the [name of veterans treatment court].

#### **V. Guiding Principles of the [name of veterans treatment court]**

1. Veterans treatment court programs promote positive legal outcomes by well-defined terms of participation that facilitate engagement in treatment that corresponds to the level of risk to the community.
2. Veterans treatment court offers an opportunity for veterans, whose mental illness or substance use disorder is related to their service and contributed to their crime, a program that integrates alcohol, drug treatment, and mental health services with justice system case processing.
3. Treatment intervention should occur early on upon entry to the criminal justice system to achieve maximum treatment outcomes.
4. Thorough assessment and evaluation is a critical component of the veterans treatment court program.
5. Participants with mental illness or substance use disorders cannot maximize their treatment potential without appropriate treatment intervention that includes their families when appropriate.
6. Participant accountability is foremost in the program, with written program agreements and court monitoring of behavior on a regular basis. Court monitoring will include sanctioning or treatment adjustment for negative behaviors and positive rewards for improved behaviors.
7. Veterans treatment court programs are established with written protocols, which are well-defined and documented through the policies and procedures manual. The program

manual will be updated annually, to respond to the changes in the needs of the programs, participants, families, agencies, and community.

8. Participant entry into the veterans treatment court program shall be governed by written eligibility criteria as established by the veterans treatment court team.
9. Information about participant progress, participant family progress, and the functioning of the veterans treatment court program shall be made available to all team members, in compliance with federal and state confidentiality laws.
10. Effective evaluation of the veterans treatment court program shall be sought with appropriate responses being made relative to these evaluations.
11. Forging of partnerships among veterans treatment court, veterans administration, public agencies, and community-based organizations generates local support and enhances veteran treatment court effectiveness.

## **VI. Roles of the Parties of the [name of veterans treatment court]<sup>4</sup>**

1. All parties shall:
  - i. Participate as a team member, operating in a non-adversarial manner.
  - ii. On an annual basis, attend current training events on legal and constitutional issues in veterans treatment courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and/or community supervision.
  - iii. Help to identify potential and eligible veterans treatment court participants.
  - iv. Provide feedback, suggestions, and ideas on the operation of the veterans treatment court.
  - v. Attend staffing meetings, and provide input on incentives and sanctions for participants.
  - vi. Share information as necessary, and in compliance with federal confidentiality laws, to appraise participants' progress in, and compliance with, the conditions of veterans treatment court.
  - vii. The parties, including each party's employees and other agents, shall maintain the confidentiality of all records generated during the term of this MOU in accordance with all applicable state and federal laws and regulations, including, but not limited to, 42 CFR Part 2.
2. Veterans treatment court judge shall:
  - i. Serve as the leader of the team.
  - ii. Preside over status review hearings.
  - iii. Engage the community to generate local support for the veterans treatment court.
  - iv. Communicate with the participants in a positive manner and make final decisions regarding incentives and sanctions and program continuation.
  - v. Consider the perspective of all team members before making final decisions that affect participants' welfare or liberty interests, and explain the rationale for such decisions to team members and participants.
  - vi. Rely on the expert input of duly trained treatment professionals when imposing treatment related conditions on the participants.

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<sup>4</sup> Per MCL 600.1201(2) "The memorandum of understanding shall describe the role of each party..."

- vii. Provide program oversight and ensure communication and partnership with treatment.
  - viii. Shall consider whether to terminate a participant's participation in the veterans treatment court program if that participant is accused of a new crime. If a participant is convicted of a felony for an offense that occurred after being admitted to veterans treatment court, the judge must terminate the participant from the program.<sup>5</sup>
3. Prosecuting attorney shall:
- i. Provide legal screening of eligible participants.
  - ii. Attend review hearings.
  - iii. Represent the interests of the prosecutor and law enforcement.
  - iv. Advocate for public safety.
  - v. Advocate for victim interest.
  - vi. Hold participants accountable for meeting their obligations.
  - vii. If a plea agreement is made based on completion of the program, complete appropriate court documents for resultant modification(s) upon participant's successful completion of the program (reduced charge, nolle prosequi, etc.).
  - viii. May help resolve other pending legal cases that impact participants' legal status or eligibility.
4. Program coordinator shall:
- i. Arrange for additional screenings of persons aside from the prosecutor's legal screening.
  - ii. Attend review hearings.
  - iii. Answer inquiries from defense attorneys on possible eligibility.
  - iv. Enter data into DCCMIS system.
  - v. Liaison with non-treatment agencies that are providing services to the participants.
  - vi. Ensure that new team members are provided with a formal training within three months of joining the team on the topics of confidentiality, and his or her role on the team, ensure that the new team member is provided with copies of all program policy and procedure manuals, the participant handbook, and a copy of all current memoranda of understanding.
5. Probation officer and court case manager shall:
- i. Administer a validated criminogenic risk/needs assessment tool to participants during the referral process to ensure the veterans treatment court is serving the appropriate target population.
  - ii. Attend review hearings
  - iii. Work with the program coordinator in supervising and monitoring the individuals in the program.
  - iv. Prepare presentence reports, and perform alcohol and drug tests as needed.

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<sup>5</sup> Per MCL 600.1208 "The veterans treatment court shall be notified if the veterans treatment court participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the veterans treatment court program in conformity with the memorandum of understanding..."

- v. Schedule probation violations or show cause hearings for participants who have violated the program rules and are subject to termination from the program or if a liberty interest is at stake.
  - vi. Enter data into the DCCMIS system.
6. Defense counsel representative shall:
- i. Ensure that a defense counsel representative is present at all staffing meetings to avoid ex parte communication.
  - ii. Attend review hearings.
  - iii. Ensure that defendants' procedural and due process rights are followed.
  - iv. Ensure that the participant is treated fairly and that the veterans treatment court team follows its own rules.
  - v. When appropriate, and without breaching attorney-client privilege, encourage clients to be forthcoming and honest regarding their recovery process.
7. Veterans justice outreach specialist shall:
- i. Arrange for clinical assessments to determine program eligibility, appropriate treatment services, and progress in treatment.
  - ii. Ensure that a treatment representative is present at all staffing meetings to ensure therapeutic input regarding any sanctions being considered.
  - iii. Liaison with any Veterans Affairs (VA) treatment providers that are providing services to the participants, and keep the team updated on treatment attendance and progress.
  - iv. Attend review hearings.
  - v. Manage delivery of treatment services.
  - vi. Administer, or ensure administration of, behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes.
  - vii. Offer insights and suggestions on the treatment plans of individuals in the program.
  - viii. Connect veterans to VA treatment services and homeless programs.
  - ix. Enter data into the DCCMIS system.
8. Treatment provider shall:
- i. Attend review hearings.
  - ii. Liaison with any non-VA treatment providers and/or treatment agencies that are providing services to the participants, and keep the team updated on treatment attendance and progress.
  - iii. Offer insights and suggestions on the treatment plans of individuals in the program.
  - iv. Enter data into the DCCMIS system.
9. Veterans Service Organization shall:
- i. Meet with participants to discuss available veterans benefit programs for which they may qualify.
  - ii. Facilitate a mentor pool.

- iii. Coordinate veteran events with mentors and participants.
10. Law enforcement agency shall:
- i. Provide officers to assist with home checks for participants (limited).

**VII. Deferrals, Delays, and Deviation from Sentencing Guidelines<sup>6</sup>**

Under MCL 600.1205(2), the prosecutor must approve an individual’s admission into the **[name of veterans treatment court]** if the individual will be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines.<sup>7</sup>

**VIII. Program Fee<sup>8</sup>**

The program charges a fee of **[amount of fee]** to each participant, to be paid in **[specify due date or payment parameters]**. In accordance with MCL 600.1206(4) the clerk of the veterans treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month. The fee must be reasonable and calculated based on costs reasonably related to administering the program that are not covered by other funding such as insurance, block grants, PA 511, or another agency. These costs include **[list cost of program personnel, treatment, drug testing, supplies, travel costs, training, and any other costs incurred by the veterans treatment court to administer the program]**.

**IX. Term of Agreement<sup>9</sup>**

This agreement is effective for one year upon the date of the final signature and shall renew automatically for subsequent one-year terms unless otherwise modified. Any signatory to this agreement may terminate participation upon thirty days’ notice to all other signatories.

**X. Agency Representatives**

This MOU will be administered by the **[name of veterans treatment court]** local team, which consists of the following stakeholder agency representation:

- A. **[Name of veterans treatment court]**, Veterans Court Program Coordinator, **[name of coordinator]**
- B. **[Name of veterans treatment court]**, Veterans Court Judge, **[name of judge]**

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<sup>6</sup> Per MCL 600.1205(2) “An individual who may be eligible for discharge and dismissal of an offense, delayed sentence, deferred entry of judgment, or deviation from the sentencing guidelines shall not be admitted to a veterans treatment court unless the prosecutor first approves the admission of the individual into the veterans treatment court in conformity with the memorandum of understanding under section 1201(2).”

<sup>7</sup> Per MCL 600.1209(4) “...the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1201(2), may discharge and dismiss the proceedings against an individual who meets...” the criteria of MCL 600.1209(4) (a) through 600.1209(4)(e).

<sup>8</sup> Per MCL 600.1206(4) “The veterans treatment court may require an individual admitted into the court to pay a veterans treatment court fee that is reasonably related to the cost to the court for administering the veterans treatment court program as provided in the memorandum of understanding under section 1201(2).”

<sup>9</sup> Per MCL 600.1201(2) “The memorandum of understanding shall describe the role of each party, and the conditions for which the memorandum of understanding must be renewed and amended.”

- C. [Number of circuit court] Circuit Court, [title], [name of circuit court representative]
- D. [Name of county] MDOC, Probation/Parole Agent, [name of agent]
- E. [Number of district court] District Court, [title], [name of district court representative]
- F. [Number of district court] District Court Probation Department, Probation Officer, [name of probation officer]
- G. [Name of county] Prosecuting Attorney, [name of prosecutor representative]
- H. [Name of treatment agency on team], Treatment Provider, [name of treatment provider]
- I. [Name of law enforcement agency on team], [title], [name of law enforcement representative]
- J. [Name of law firm/office], Defense Attorney, [name of attorney]
- K. U.S. Department of Veterans Affairs<sup>10</sup>, [title], [name of representative]
- L. [Name of Veterans Service Organization], [title], [name of representative]

**XI. Modification of Agreement<sup>11</sup>**

Modification of this agreement shall be made by formal consent of all parties, pursuant to the issuance of a written amendment, signed and dated by the parties, prior to any changes.

**XII. Other Interagency Agreements**

This agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement, nor does it supplant any existing agreement between such parties.

**XIII. Signatures of Parties to this Agreement<sup>12</sup>**

The parties have entered into this agreement as evidenced by their signatures below. A certified copy of the agreement shall be provided to each signatory to the agreement. The original agreement shall be filed with the clerk of [court number] [court type] Court.

Honorable [name], Chief Judge, [court number and type] Court

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

<sup>10</sup> Your VA may prefer to enter into an individual MOU with the program. That would meet statutory requirements.

<sup>11</sup> Per MCL 600.1201(2) “The memorandum of understanding shall describe the role of each party, and the conditions for which the memorandum of understanding must be renewed and amended.”

<sup>12</sup> Per MCL 600.1201(2) The court may adopt or institute a veterans treatment court if it enters into a memorandum of understanding with “...a representative of the criminal defense bar, a representative or representatives of community treatment providers, a representative or representatives of veterans service organizations in the circuit or district court district, and a representative or representatives of the United States department of veterans affairs.” The memorandum of understanding must also include the prosecuting attorney “...if the veterans treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, a delayed sentence, deferred entry of judgment, or a sentence involving deviation from the sentencing guidelines.”

Honorable **[name]**, **[name of veterans treatment court]** Judge, **[court number and type]**  
Court

\_\_\_\_\_  
Signature Date

**[Name]**, Chief Prosecuting Attorney, **[name of county]** County Prosecutor's Office

\_\_\_\_\_  
Signature Date

**[Name]**, **[title]**, U.S. Department of Veterans Affairs

\_\_\_\_\_  
Signature Date

**[Name and title]**, **[agency name]**, provider of **[type of treatment services]** treatment services

\_\_\_\_\_  
Signature Date

**[Name and title]**, **[agency name]**, provider of substance abuse treatment services

\_\_\_\_\_  
Signature Date

**[Name and title]**, **[name of veterans service organization in the circuit/district]**, provider of veterans services

\_\_\_\_\_  
Signature Date

**[Name]**, **[title]**, **[name of law enforcement agency]**

\_\_\_\_\_  
Signature Date

**[Name]**, **[title]**, Michigan Department of Corrections, **[name of county]** County

\_\_\_\_\_  
Signature Date

**[Name]**, Defense Attorney, **[name of firm/agency]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**[Name]**, **[title]**, **[court number]** Circuit Court

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**[Name]**, **[title]**, **[court number]** District Court

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**[Name]**, Program Coordinator, **[name of veterans treatment court]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**[Name and title]**, **[title]**, **[court number]** District Court Probation Department

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

#### **XIV. Attachments<sup>13</sup>**

Attachment 1:

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<sup>13</sup> Insert here a list of forms or other pertinent documents referenced in the MOU or needed to implement the MOU. Delete this section if there are no attachments.