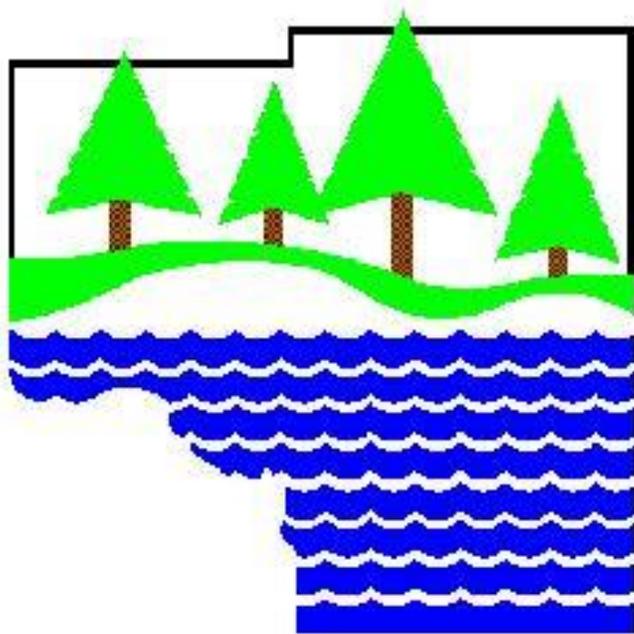


**ITASCA COUNTY
WELLNESS COURT**

Policy & Procedure Manual



February 1, 2013

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MISSION STATEMENT

The Mission of the Itasca County Wellness Court is to unite judiciary, criminal justice entities, substance abuse treatment providers, and the community to support the long term recovery of Wellness Court participants and thereby:

- ★ Restoring participants to law-abiding productivity;
- ★ Reducing drug and alcohol use of non-violent addicted participants;
- ★ Enhancing public safety;
- ★ Reducing the financial impact on society; and
- ★ Changing behaviors.

Itasca County Wellness Court

Wellness Court Origin

The Itasca County Wellness Court program is a collaborative effort involving a number of public agencies. The Court is located in Grand Rapids, Minnesota, and the Wellness Court program's geographic area is Itasca County, or within 20 miles of Grand Rapids. The Wellness Court program began planning operations in November 2005 and attended the week-long federal Drug Court Planning Initiative in August 2006. Additional training was received in March 2009, and the Wellness Court program began accepting DWI offenders, thereby creating a "hybrid" court on August 1, 2009.

Wellness Court Goals and Objectives

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

Objective 1: Reduced incarceration costs by a minimum of \$1830 per participant (\$61 per day x 30 days)

Goal 2: Reduce criminal behavior and recidivism

Objective 1: 70% of participants will graduate from the program within 3 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.

Goal 3: Enhance public safety

Objective 1: 70% of participants will successfully complete treatment within 9 months of entering the Wellness Court.

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

Objective 3: Participants will have lower recidivism rate than non-participants in the historical control group, 1 year after release from Wellness Court or custody.

Goal 4: Enhance the well-being of participants

Objective 1: Participants without a high school diploma will be enrolled and actively pursuing their GED within 5 months of entering Wellness Court, as deemed appropriate by the team.

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

Objective 3: 95% of Wellness Court participants will be actively employed or actively enrolled in an education program within 12 months of entering Wellness Court.

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

General Description

The Court will accept up to 30 individuals for supervision and treatment through Wellness Court. Wellness Court recognizes the direct connection between substance abuse and crime. It also recognizes the importance of providing rapid entry into appropriate levels of treatment for persons charged with felony drug possession, gross misdemeanor and felony DWI, and accompanying offenses.

Wellness Court is held once a week on Friday mornings at 10:00 a.m., and is located in the Itasca County Court House, Grand Rapids, Minnesota, third floor, Courtroom 321. The Wellness Court Team conducts a “pre-court conference” at 8:00 each Friday morning concerning cases scheduled for court.

The Wellness Court team consists of the following: Judge, Coordinator, Law Enforcement, County Attorney, Public Defender, Probation Officer, Licensed Alcohol/Drug Counselor, and a Victim Advocate. Screening for appropriate treatment of each Wellness Court participant will be determined by the Wellness Court team, or an assessor designated by Itasca County Health and Human Services. The level of treatment services will be determined by the designated alcohol/drug treatment counselor.

The Wellness Court team extends an open invitation to persons interested in participating in Wellness Court or other members of the

public to sit in on Wellness Court hearings each Friday at 10:00 a.m. in Courtroom 321 of the Itasca County Courthouse. Persons interested in participating in Wellness Court are strongly encouraged to visit Wellness Court as a spectator before committing to the program. A person is not a Wellness Court participant until that person has signed the Wellness Court Contract.

Criteria for Acceptance into Wellness Court

- I. Drug track
 - A. Any felony possession of controlled substance crime in the 3rd, 4th, or 5th degree involving an adult defendant, who meets other Wellness Court criteria, may be considered by the Wellness Court team for acceptance into Wellness Court. There is a cap on the number of participants of 30, plus warrants. This number includes pretrial clients who are actively participating in Wellness Court.
 - B. Defendants who plead to or are found guilty of a controlled substance crime in the 2nd degree or higher are not eligible for Wellness Court. Defendants charged with controlled substance crimes in the 2nd degree or higher whose charges are subsequently reduced by plea or trial to a lesser offense are eligible for Wellness Court.
- II. DWI track
 - A. Any gross misdemeanor or felony level DWI crime involving an adult defendant, who meets other Wellness Court criteria, may be considered by the Wellness Court team for acceptance into Wellness Court. There is a cap on the number of participants of 30, plus warrants. This number includes pretrial clients who are actively participating in Wellness Court.

The following outlines who is disqualified from participation in Wellness Court due to crimes of violence:

- 1. Any person with a prior felony conviction for sale of a controlled substance (including a stay of adjudication) or

felony DWI with a presumptive commit, unless approved unanimously by the Wellness Court Team.

2. Any person deemed to be a “violent offender” under 42 U.S.C. §3797u-2.
3. Any person who is on supervision for possession of controlled substances in the 1st or 2nd degree.
4. A person who has a prior felony conviction (including a stay of adjudication) of any of the following crimes of violence:
 - first degree murder
 - second degree murder
 - third degree murder
 - shooting at a public transit vehicle or facility
 - aiding suicide and aiding attempted suicide
 - assault in the first degree
 - assault in the second degree
 - assault in the third degree
 - assault in the fourth degree
 - assault in the fifth degree
 - domestic assault
 - crimes committed for the benefit of a gang
 - (as defined by Minn. Stat. §609.229)
 - use of drugs to injure or facilitate a crime
 - simple robbery
 - aggravated robbery
 - kidnapping
 - criminal sexual conduct in the first degree
 - manslaughter in the first degree
 - manslaughter in the second degree
 - criminal sexual conduct in the second degree
 - criminal sexual conduct in the third degree
 - criminal sexual conduct in the fourth degree
 - malicious punishment of a child involving the use of force or violence upon or resulting in bodily harm to a child
 - commission of a crime while wearing or possessing a bullet-resistant vest
 - theft of a firearm
 - theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing or the proximity of battle

- theft involving the theft of controlled substances, an explosive or incendiary device
- arson in the first degree
- arson in the second degree
- burglary in the first degree
- burglary in the second degree
- burglary in the third degree
- drive-by shooting
- unlawfully owning, possessing, or operating a machine gun or short-barrel shotgun
- riot
- terroristic threats
- harassment and stalking
- an attempt to commit any of these offenses

The following do not disqualify a defendant from participating in Wellness Court:

- A. A misdemeanor conviction involving threatened or actual use of force or use, possession or carrying of a firearm or another dangerous weapon not resulting in a disqualifying conviction. However the team reserves the right to review such cases.
- B. A prior felony arrest involving threatened or actual use of force or use, possession or carrying of a firearm or another dangerous weapon. However the team reserves the right to review such cases.
- C. Using a legally licensed firearm or dangerous weapon in a legally justifiable way, such as in circumstances of self-defense.
- D. Possessing or carrying an otherwise legally licensed firearm or dangerous weapon.

Other considerations relevant to a defendant's eligibility for Wellness Court include the following:

1. Generally the defendant should have no other pending felony charges at arrest.
2. The defendant may have no holds from any other jurisdictions other than those that can be readily discharged.

3. Those defendants required to register as Predatory Offenders are not eligible for Wellness Court.
4. The defendant must reside within Itasca County or, if a defendant lives outside of Itasca County, within 20 miles of Grand Rapids. Residence can be established through family, job or school ties or by classification as a federal transient per social services drug treatment standards.
5. The defendant shall not have any involvement with ongoing drug investigations.
6. Anyone who faces new charges while an active participant in Wellness Court shall be subject to judicial review regarding continued participation.
7. Clients with a documented serious and persistent mental illness are subject to team review, and may be removed from Wellness Court if they are judged by the team to not have a reasonable chance to succeed or judged to undermine the success of other participants.
8. Only persons assessed to have a high potential for recidivism are eligible for Wellness Court. One of the means of assessing risk that will be used in each case is the LSI_R probation risk assessment tool.
9. Clients must sign all Wellness Court documents before participating in Wellness Court, including but not limited to the Wellness Court Contract, Release of Information, and the Drug/Alcohol Testing Policy.

Participation in the Wellness Court program will not bar prosecution for any other current offenses.

Wellness Court Case Processing/Screening

1. The entry point for all Wellness Court participants will be through the County Attorney for new or pending defendants or through the

State Probation Office for sentenced defendants. If the proposed participant:

- a. meets the eligibility requirements;
- b. expresses, with approval of their attorney, an interest in participation in Wellness Court; and
- c. space is available;

then the issue of that person's admission to Wellness Court will be brought before the Wellness Court team for a determination of the person's fitness for the program.

2. If a person is eligible and approved by the team, consistent with the guidelines for case resolution contained herein, the prosecutor and defender negotiate an agreement and resolve the case. The person will then be required to attend the next scheduled Wellness Court session. Participation in Wellness Court will be ordered as a condition of release pending sentencing and participation and successful completion of Wellness Court will be made a condition of probation.
3. If a person is convicted of a 3rd, 4th, or 5th degree controlled substance crime and a stay of execution, imposition, or adjudication is granted, completion of Wellness Court shall be a condition of probation.
4. If a person enters Wellness Court by way of a probation violation, successful completion of Wellness Court shall be made a condition of probation.

Case Resolution

1. Generally, a defendant charged with controlled substance crime whose presumptive sentence under the guidelines is stayed, shall enter a plea and shall receive a stay of adjudication under the court's inherent authority and with the consent of the prosecutor. A defendant who successfully completes Wellness Court shall be discharged from probation and shall have his/her charge(s) dismissed upon completion and discharged from the Wellness Court program.

2. Generally, a defendant charged with controlled substance crime whose presumptive sentence under the guidelines is commitment, shall enter a plea and receive a stay of execution of sentence. A conviction for the felony offense will be entered on the record. A defendant will be serving local time as a condition of probation first, ranging from 6 months to one year, depending upon the defendant's record and other factors related to treatment and Wellness Court planning.
3. Any defendant participating in Wellness Court, who is later convicted of sale of a controlled substance, real or simulated, or found in violation of his/her Wellness Court probation for sale of a controlled substance, shall be immediately discharged from Wellness Court, and sentence imposed and/or executed.
4. Any defendant participating in Wellness Court, who is later charged with a new controlled substance offense, or driving under the influence (DUI/DWI) offense will be immediately suspended from Wellness Court, until the time of conviction, dismissal or acquittal. A defendant suspended from Wellness Court must follow the most restrictive release conditions of Wellness Court, and will not receive credit for participating in Wellness Court during that time. A defendant participating in Wellness Court who is charged with a disqualifying offense shall be terminated.
5. Any defendant participating in Wellness Court, who is later convicted of a driving under the influence (DUI/DWI) offense will be immediately terminated from the Itasca County Wellness Court. Following termination, if the defendant is interested in participating in Wellness Court, the defendant must execute their sentence, and may re-apply to the Wellness Court team on the new offense. Cases involving a defendant participating in Wellness Court who is later convicted of a controlled substance offense will be reviewed on a case-by-case basis by the Wellness Court team.

Wellness Court Step Program

The following steps outline what is required in each step of the program:

Step 1- Treatment

- *Step 1 lasts a minimum of 120 days*
- Completion of primary treatment
- Appear in court once a week for review hearings
- Meet with probation officer a minimum of once per week
- Random work and home checks in person or by phone
- Daily call-ins for random Urinalysis (UAs)/Chemical Tests (CTs)
- At least two weekly UAs/CTs and also random UAs/CTs
- Attend two meetings per week after completing primary treatment
- Obtain a sponsor
- Individuals participating in the DWI track may serve a minimum of 90 days on Electronic Home Monitoring (EHM) at their own expense.
- Completion of a Wellness Court survey when requested
- Progression to Step 2 requires no jail or sanctions within 30 days of step change, and payment of at least \$100 of your Wellness Court fee
- Participant must petition the Wellness Court for permission to progress to Step 2

Step 2- Skills

- *Step 2 lasts a minimum of 120 days*
- Completion of Phase II of treatment and be following all treatment recommendations
- Develop and follow individual recovery plan
- Appear in court every other week for review hearings
- Meet with probation officer a minimum of once per week
- Daily call-ins for random UAs/CTs
- At least two weekly UAs/CTs and also random UAs/CTs
- Minimum of 2 home visits with probation officer during Step 2
- Attend two meetings per week after completing primary treatment
- Be actively involved with a sponsor
- If not fully employed, active job search or working on diploma or GED
- If applicable, reinstatement of driver's license, if eligible
- Obtain stable, chemical-free residence
- Completion of a Wellness Court survey when requested
- Progression to Step 3 requires no jail or sanctions within 90 days of step change, and payment of your \$400 Wellness Court fee
- Participant must petition the Wellness Court for permission to progress to Step 3.

Step 3- Growth

- *Step 3 lasts a minimum of 120 days*
- Court appearances a minimum of every other week
- Meet with probation officer a minimum of every other week
- A minimum of one home visit by probation officer
- Develop and follow individual recovery plan
- Attend two meetings per week after completing primary treatment
- Be actively involved with a sponsor
- Random UAs/CTs a minimum of two times per month as directed by probation officer
- Completion of a Wellness Court survey when requested
- Must prepare Community Service Action Plan outlining how the participant will meet the volunteer requirement in Step 4
- All fines and fees must be paid prior to moving to the final step
- Must have a minimum of 180 days of verified sobriety before moving to final step
- Participant must petition the Wellness Court for permission to progress to Step 4.

Step 4- Transition

- *Step 4 lasts a minimum of 180 days*
- Monthly court appearances
- Random UAs/CTs, with a minimum of two UA's during Step 4
- Meet with probation officer a minimum of once every other week
- Develop and follow individual recovery plan
- Attend two meetings per week after completing primary treatment
- Be actively involved with a sponsor
- Completion of a Wellness Court survey when requested
- Participant must meet the volunteer requirement of the Wellness Court, which consists of a 40-hour equivalent of some or all of the following: mentoring; community work service; speaking to probation, treatment, or community service groups; restorative justice; driving other Wellness Court participants to court hearings; or other suitable service
- Must have a minimum of 180 days of verified sobriety before graduating from the program
- Participant must petition the Wellness Court for permission to graduate.

Semi-annual court appearances will be required for felony DWI participants following commencement.

Rules and Regulations

The Rules and Regulations of Wellness Court include, but are not limited to the following:

Participants must:

1. Report to probation as directed by Probation Officer
2. Report to treatment and follow all aftercare recommendations as directed by the Court, treatment staff, and/or Probation Officer. This includes attending weekly AA meetings or equivalent program meetings as approved by the Wellness Court team. Failure to attend treatment (failure is defined as an absence unexcused by a treatment staff member) results in sanctions by the Court. Treatment and aftercare must be completed to the satisfaction of treatment staff.
3. Report for random and scheduled Urinalysis (UA) and Chemical Tests (CT) whenever directed to do so by Probation Officer or the Court. Any delay in reporting, missed tests, dilute samples, or tampering with test samples or results count as a missed UA/CT and will result in sanctions by the Court. (See Wellness Court Testing Policy.)
4. Complete all assignments and/or sanctions ordered to be completed by the Judge in a timely fashion.
5. Abstain from the use and/or possession of all drugs of abuse and alcohol, unless drugs are prescribed by a treating physician. Not be in the presence of others using drugs or alcohol. All prescribed drugs and drugs of abuse must be fully disclosed prior to UA/CT. You may not use drugs of abuse. In the event a doctor prescribes a drug of abuse, you must ask about alternatives and contact your probation officer, treatment provider or the Wellness Court Coordinator for additional information. The use of drugs of abuse will likely render you ineligible for continuation in Wellness Court.

6. Not possess, carry, or transport any firearm as defined by Minnesota statutes.
7. Obey all laws. If a participant engages in a criminal act, he or she can be prosecuted for the new offense(s) and can be discharged from the Wellness Court Program.

Sanctions and Rewards

Possible sanctions for violating Four Step Program and/or Wellness Court may include, but are not limited to the following:

1. Written assignments
2. Detention or Jail Time
3. volunteer work
4. Increased UAs/CTs
5. Increased Court Appearances
6. Increased Reporting to Probation
7. Increased Support Group Meetings
8. Implementation of curfew
9. Electronic Monitoring
10. Step Regression
11. Detox
12. Termination from Wellness Court
13. Imposition or Execution of Sentence

Possible rewards for compliance with the Four Step Program and/or Wellness Court include, but are not limited to, the following:

1. Verbal praise and applause
2. Gift cards or gift certificates for local businesses and basic needs
3. Decreased court visits
4. Decreased UAs/CTs
5. Decreased contacts with probation officer
6. Fewer restrictions
7. Treatment medallions
8. Step advancement
9. Certificates of accomplishment
10. Graduation from the program

Court Appearances

Court appearances are conducted for maximum effectiveness and practical efficiency. In-custody participants may be seated in the jury box for security reasons.

The Court will use both positive reinforcements and negative consequences. There is a constant reassessment by the Court of what is or may be the most appropriate approach with the particular participant at the time. The Wellness Court team will meet weekly prior to court for ongoing evaluations and will advise the Wellness Court Judge of the progress and status of each offender. Decisions about sanctions are almost always made after consideration of the recommendation of the team. Short-term detention sanctions are utilized in accordance with the Wellness Court Step Program. They are imposed in different ways depending on what message the Court wishes to communicate to the recipient. The Court is always mindful of the treatment and motivational goals with this population. Encouragement of “responsibility” is often as important as the sanction involved.

Payment of Program Fees

The Court will impose a **\$400 fee** as a condition of participation in Wellness Court. Payments of at least \$5.00 per week are expected. The payments will be collected at each Wellness Court session. ***The Court may impose sanctions for non-payment.***

Case Tracking

Itasca County’s Court system is under State jurisdiction. The Wellness Court Independent Evaluator and the Wellness Court Coordinator shall be responsible for evaluating and maintaining current and accurate information tracking. The Coordinator and Evaluator shall also provide timely information as requested by the Wellness Court team.

Interns and Volunteers

The Coordinator shall be charged with management of persons who are engaged on behalf of the Wellness Court as a volunteer, or Intern. Volunteers may be graduates from the Wellness Court program.

Termination from Wellness Court

The Wellness Court team reserves the discretion to determine which violations of the Wellness Court rules and regulations or conditions of probation will result in termination. In addition, termination may occur when a participant commits a new offense or for other actions that compromise public safety. Falsifying or tampering with a urinalysis or chemical test will result in immediate termination from the program.

Commencement from Wellness Court

A participant is eligible to graduate from the Wellness Court program upon completion of the following minimum requirements:

1. Participation in the Wellness Court program for minimum of eighteen months;
2. Completion of the Wellness Court four step program;
3. Demonstrate to the team an understanding of personal problems with addiction, criminal behavior, and relapse prevention.
4. Clean UAs/CTs, for a minimum of 180 days, which includes no missed UAs/CTs, no diluted UAs/CTS, and no UA/CT tampering;
5. Payment of **\$400** to the Wellness Court;
6. Gainfully employed or pursuing education
7. Safe and stable living environment
8. Definitive after care plan
9. Completion of the volunteer requirement

Upon commencement, all drug track, and DWI track participants with a 3rd degree DWI will no longer be on probation. DWI track participants with a 2nd degree DWI will be on probation a minimum of six months following commencement. Felony DWI participants will be on probation up to seven years following commencement, however, may petition for early discharge upon approval of the Wellness Court team.

Wellness Court Policies

(1) **Urinalysis.** Urinalysis (UAs) and other Chemical Tests (CTs) will be used as frequently as deemed necessary by the Probation Officer and Wellness Court treatment experts. Generally, UAs/CTs will be both scheduled and random. Sometimes a full tox screen will be used; sometimes the UA/CT will only test for the “drug(s) of choice”. The Wellness Court participant will not know which type of test will be performed. If the Wellness Court participant delays appearance for the UA/CT, misses the UA/CT, tampers or attempts to dilute the UA/CT, this will be considered a failed UA/CT and appropriate sanctions will be imposed. The Wellness Court will also administer preliminary breath tests (PBTs) as deemed necessary.

(2) **Confidential Reliable Informants.** Wellness Court participants will not serve as CRIs during their participation in Wellness Court. This would not preclude participants from voluntarily sharing information with law enforcement.

(3) **Use of Participant’s admission to offense given at time of admission into Wellness Court and use of test results.** The State is not prohibited from using, in any way allowed by the law and rules of evidence, any statement(s) made by a participant prior to his first appearance in Wellness Court or any statement (s) which is unrelated in any way to the offense which resulted in participant’s admission to Wellness Court.

All statements not addressed above, other than pleas of guilt or statements made at termination hearings, shall be admissible against participants as follows: (a) in any prosecution other than in Wellness Court proceedings; (b) to prove a violation of Wellness Court rules or to establish grounds for termination of a defendant from the Wellness Court program; (c) or to prove a violation of another probation based upon termination of a defendant from the Wellness Court program.

Evidence which is discovered either routinely in the course of a criminal investigation, such as a participant’s criminal history, or information gathered from witnesses on the participant’s case, shall not be inadmissible because such evidence is also disclosed or discovered during pretrial interviews, assessment, treatment, or Wellness Court proceedings.

(4) Report of Admission of Participant Required under the Mandatory Reporter Law(s). Certain members of the Wellness Court team (e.g. treatment providers, chemical dependency assessors, probation officers) are mandatory reporters. If, during participation in Wellness Court, a participant makes an admission that by law must be reported by the mandatory reporter (e.g. an admission of physical or sexual abuse of a child), that mandatory report will be made. The defense lawyer and Wellness Court judge will inform the defendant of this requirement of the law, but failure of the defense lawyer and/or judge to do so will not eliminate the duty to make the mandatory report. There may be additional circumstances that may require release of information without a signed release. Those circumstances may include, but are not limited to: (a) the disclosure is required/allowed by court order; (b) the disclosure is made to medical personnel in a medical emergency, or to qualified personnel for audit or program evaluation; (c) the client commits, or threatens to commit a crime, either at the program or against any staff person or client of the program; (d) the client is suspected of child abuse or elder abuse, (e) the client is threatening homicide or threatens specific harm to others; (f) the client is believed to be in danger of committing suicide.

(5) Prosecution for offenses unrelated to Wellness Court offense. Should the defendant admit to a new offense, unrelated to the offense that resulted in participant's participation in Wellness Court, the State is free to prosecute that offense. The State may also use any statement Defendant may make regarding that new offense even should the statements be made during defendant's participation in Wellness Court. The use of the statement shall be any use currently allowed by applicable law.

(6) Search of participant's residence, person, and/or motor vehicles during participation in Wellness Court. It is agreed that any search (and resulting seizure) of participant's person, property, residence, and/or motor vehicle during participant's participation in Wellness Court shall be as deemed necessary by probation but shall, at all times, be consistent with current, applicable search and seizure law as well as laws pertaining to the rights and responsibilities of Probation Officers in the course of their duties.

CONFIDENTIALITY ISSUES PERTAINING TO WELLNESS COURT

Any program that specializes, in whole or in part, in providing treatment counseling, or assessment and referral services for offenders with AOD (Alcohol or Drug) problems must comply with the Federal confidentiality regulations (42 C.F.R.s2.12(e)). The Federal regulations apply to programs that receive Federal funding.

Two Federal laws and a set of regulations guarantee the strict confidentiality of information about persons -including offenders- receiving alcohol and drug abuse assessment and treatment services. The legal citation for these laws and regulations is 42 U.S. C. §§ 290dd-3 and ee-3 and 42 C.F.R. Part 2.

These laws and regulations are designed to protect patients' privacy rights in order to attract people into treatment. The regulations restrict communications more tightly in many instances than, for example, either the doctor-patient or the attorney-client privilege. Violation of the regulations is punishable by a fine of up to \$500 for a first offense or up to \$5,000 for each subsequent offense.

The General Rule

Federal confidentiality laws and regulations protect any information about an offender if the offender has applied for or received any AOD-related services from a program that is covered under the law. Services applied for or received can include assessment, diagnosis, individual counseling, group counseling, treatment or referral for treatment. The restrictions on disclosure apply to any information that would identify the offender as an alcoholic or other drug abuser, either directly or by implication. The general rule applies from the time the offender makes an appointment. It applies to offenders who are mandated into treatment as well as those who enter treatment voluntarily. It also applies to former clients or patients. The rule applies whether or not the person making an inquiry already has the information, has other ways of getting it, has some form of official status, is authorized by State law, or comes armed with a subpoena or search warrant.

Sharing Confidential Information

Information that is protected by Federal confidentiality regulations may always be disclosed after the offender has signed a proper consent form. The regulations also permit disclosure without the offender's consent in several situations, including medical emergencies, program evaluations and communications among program staff. Offenders who refuse to sign consent forms permitting essential communications can be excluded from treatment or provided treatment temporarily in the hope that resistance to signing the consent forms will evaporate as treatment proceeds.

Most disclosures are permissible if an offender has signed a valid consent form that has not expired or has not been revoked (s2.31). A proper consent form must be in writing and must contain each of the items contained in s2.31, including:

- 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 signature of the client; and
- The date the consent is signed.

A general medical release form, or any consent form that does not contain all of the elements listed above and herein, is not acceptable.

Procedure – Confidentiality and Wellness Court

Background 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.

The Itasca County Wellness Court has implemented several safeguards to protect this confidential information. These procedures will address those safeguards.

Consent for Disclosure All participants entering the Adult Wellness Court programs will be required to sign a form entitled Itasca County Wellness Court Release of Information. The original shall be retained by the Wellness Court Coordinator in the Wellness Court file.

Treatment Information vs. Court Files Typically, Wellness Court files are maintained in a separate location from the traditional “file bank” of cases. Reasons to keep them separate range from convenience for the courtroom clerk to providing an additional step to minimize indiscriminant dissemination of information to the public. Treatment information and progress reports are kept separate from court files, by one or more of the methods described below:

- Placed in Confidential envelope enclosed in the court file;
- Maintained in a separate treatment file, located at Probation Officer’s, Treatment Provider’s, or Coordinator’s office;
- Discarded/shredded after team meetings and/or Wellness Court sessions;
- Maintained in locked cabinets, separate from the court files.

All court orders, including orders regarding treatment and sanctions, must be entered in the court minutes.

Visitors and Guests The Wellness Court session is open to the public. The team meetings or staffings, however, are closed to the public. Occasionally, guests may be permitted to attend team meetings/staffings for training purposes or orientation to the Wellness Court process. Guests will be required to sign a confidentiality agreement and to maintain the confidentiality of information disclosed in the team meetings/staffings.

Itasca County Wellness Court

Itasca County District Court
Itasca County Court House
123 NE 4th Street
Grand Rapids, Minnesota 55744

WELLNESS COURT CONTRACT

FULL NAME: _____ CASE FILE #: _____

1. I will participate in alcohol and/or other drug treatment as directed by the court, including my treatment plan and I agree to be supervised by the Wellness Court supervising agent or other person designated by Wellness Court. I will obey all rules of the treatment program and pay all treatment program fees. I will take chemical tests when requested. I will obey all laws and be of good conduct.
2. I will attend all treatment meetings, court dates and other scheduled appointments and I will be on time.
3. I will fully participate in treatment and in all other programs to which I am referred by the court or the services supervisor to help maintain my sobriety and obtain a law-abiding lifestyle.
4. I will pay any fees or fines as directed by the court. The fee for Wellness Court is \$400.00. I understand that I will be required to make payments towards the balance of this fee while in Wellness Court. I understand that I cannot successfully complete Wellness Court until the full fee has been paid.
5. I understand that failure to fully participate, failure to appear, positive chemical tests and other program failures will result in sanctions being imposed against me which may include being in custody pending a program termination hearing or sanctions hearing with possible reinstatement back on the program.
6. I understand that I will be required to submit to frequent and random chemical testing on short notice. I agree to call the Itasca County Wellness Court Hotline on a daily basis and to report for chemical testing as requested. Chemical testing will generally be conducted at the Itasca County Sheriff's Office. I understand that the Wellness Court supervising agent and other persons designated by the Wellness Court may also demand and administer chemical testing. I realize that it is my responsibility to arrange transportation to the testing facility.
7. Before submitting to any chemical test I will notify the person administering the test if I have consumed any prescription or over the counter medications in the past 24 hours.
8. I agree that the court may generally rely on a presumptive chemical test result. I may request a further confirming test but if I test positive, I will not only bear the cost of the test but may be terminated from the program based on my failure to be candid with the court about my chemical use.
9. I understand that any attempt to falsify a chemical test is grounds for immediate termination of my program and a formal sentencing of the charge(s) against me. I understand that a missed test will be considered a test which is positive for chemicals and will be subject to the same sanctions as a test which actually tested positive for chemicals. I understand that a diluted or otherwise tampered-with sample may be considered a positive test.
10. I will sign a consent or release form waiving confidentiality of any medical, other treatment, or social service records. Upon request of the Wellness Court I will, within 24 hours of the request, sign and execute any other releases of medical information that may be required by individual service providers. If I withdraw consent or fail to execute a consent or release as requested, I understand that I will be terminated from this program.
11. I understand that a failure to appear for a court date or any other breach of this agreement will result in an immediate Bench Warrant/Apprehension Order.
12. I agree to keep the court, treatment provider and the services coordinator informed of my current address and telephone number(s), including any cell phone number, and to report any changes within two calendar days.

13. I agree that I will not use, possess any controlled substance or illegal drug such as marijuana, heroin, cocaine (powder, base or "crack"), methamphetamine, PCP, LSD, or any other drugs of abuse. I will not use or possess alcohol. I will not associate with persons who use or possess alcohol or controlled substances. I will not use or possess any other drug without a prescription, and follow prescription as directed. I will not eat foods containing poppy seeds, glucuronic acid, or take over-the-counter medications prohibited by the court which may result in a false positive chemical test.
14. I understand that if I am convicted of a DWI offense while participating in the Itasca County Wellness Court I will be terminated from the program and my case will return to Criminal Court and be processed accordingly.
15. I will notify the supervising agent within 24 hours of obtaining a doctor's prescription for any medication. I realize that if I am prescribed a narcotic medication I may become ineligible for Wellness Court.
16. I will notify my supervising agent immediately if I receive a failed test on my ignition interlock device.
17. I understand that sanctions for violating Wellness Court rules and conditions are an important part of the process and are designed to be a reasonable and appropriate in response violations. I hereby waive any right to a hearing prior to the imposition of sanctions for violations of Wellness Court rules and conditions.
18. I understand that certain members of the Wellness Court team are mandatory reporters and that if I make an admission that by law must be reported (such as the physical or sexual abuse of a child), a report will be made.
19. I further agree to abide by the other conditions of release or of my probation, including the following:
 - a. Obey all State and Federal laws and local ordinances.
 - b. Report to supervising agent, as directed.
 - c. Advise supervising agent prior to making any changes in employment and/or residence.
 - d. Obtain permission from supervising agent before leaving the state.
 - e. By the next business day, notify supervising agent if arrested or issued a summons.
 - f. When ordered by supervising agent, submit to search of your personal residence or any other property under your control.
 - g. Abstain from the illegal use or possession of controlled substances, or any drugs of abuse, and submit to testing to verify compliance.
 - h. Shall not own, use or possess a firearm, with the exception of misdemeanor DWI, unless otherwise prohibited.
 - i. Cooperate and be truthful with supervising agent in all matters.

DATE: _____

Signature of Defendant

Witness

Itasca County Wellness Court

Itasca County District Court
Itasca County Court House
123 NE 4th Street
Grand Rapids, Minnesota 55744

WELLNESS COURT CONTRACT (DWI TRACK)

FULL NAME: _____ CASE FILE NO.: _____

20. I will participate in alcohol and/or other drug treatment as directed by the court, including my treatment plan and I agree to be supervised by the Wellness Court supervising agent or other person designated by the Wellness Court. I will obey all rules of the treatment program and pay all treatment program fees. I will take chemical tests when requested. I will obey all laws and be of good conduct.
21. I will attend all treatment meetings, court dates and other scheduled appointments and I will be on time.
22. I will fully participate in treatment and in all other programs to which I am referred by the court or the services supervisor to help maintain my sobriety and obtain a law-abiding lifestyle.
23. I will pay any fees or fines as directed by the court. The fee for Wellness Court is \$400.00. I understand that I will be required to make payments towards the balance of this fee while in Wellness Court. I understand that I cannot successfully complete Wellness Court until the full fee has been paid.
24. I understand that failure to fully participate, failure to appear, positive chemical tests and other program failures will result in sanctions being imposed against me which may include being in custody pending a program termination hearing or sanctions hearing with possible reinstatement back on the program.
25. I understand that I will be required to submit to frequent and random chemical testing on short notice. I agree to call the Wellness Court Testing Line on a daily basis and to report for chemical testing as requested. Chemical testing will generally be conducted at the Itasca County Sheriff's Office. I understand that the Wellness Court supervising agent and other persons designated by the Wellness Court may also demand and administer chemical testing. I realize that it is my responsibility to arrange transportation to the testing facility.
26. I agree to submit to random chemical testing at any time by law enforcement and/or Probation. Refusal to submit to a chemical test will be classified as a positive test, and I could be booked into the jail.
27. Before submitting to any chemical test I will notify the person administering the test if I have consumed any prescription or over the counter medications in the past 24 hours.
28. I agree that the court may generally rely on a presumptive chemical test result. I may request a further confirming test but if I test positive, I will not only bear the cost of the test but may be terminated from the program based on my failure to be candid with the court about my chemical use.
29. I understand that any attempt to falsify a chemical test is grounds for immediate termination of my program and a formal sentencing of the charge(s) against me. I understand that a missed test will be considered a test which is positive for chemicals and will be subject to the same sanctions as a test which actually tested positive for chemicals. I understand that a diluted or otherwise tampered-with sample may be considered a positive test.
30. I will sign a consent or release form waiving confidentiality of any medical, other treatment, or social service records. Upon request of the Wellness Court I will, within 24 hours of the request, sign and execute any other releases of medical information that may be required by individual service providers. If I withdraw consent or fail to execute a consent or release as requested, I understand that I will be terminated from this program.
31. I understand that a failure to appear for a court date or any other breach of this agreement will result in an immediate Bench Warrant/Apprehension Order.

32. I agree to keep the court, treatment provider and the services coordinator informed of my current address and telephone number(s), including any cell phone number, and to report any changes within two calendar days.
33. I agree that I will not use or possess any controlled substance or illegal drug such as marijuana, heroin, cocaine (powder, base or "crack"), methamphetamine, PCP, LSD, or any other drugs of abuse. I will not use or possess alcohol. I will not associate with persons who use or possess alcohol or controlled substances. I will not use or possess any other drug without a prescription, and follow prescription as directed. I will not eat foods containing poppy seeds, glucuronic acid, or take over-the-counter medications prohibited by the court which may result in a false positive chemical test.
34. I understand that if I am convicted of a DWI offense while participating in the Itasca County Wellness Court I will be terminated from the program and my case will return to Criminal Court and be processed accordingly.
35. I will notify the supervising agent within 24 hours of obtaining a doctor's prescription for any medication. I realize that if I am prescribed a narcotic medication I may become ineligible for Wellness Court.
36. I will notify my supervising agent immediately if I receive a failed test on my ignition interlock device.
37. I understand that sanctions for violating Wellness Court rules and conditions are an important part of the process and are designed to be a reasonable and appropriate in response violations. I hereby waive any right to a hearing prior to the imposition of sanctions for violations of Wellness Court rules and conditions.
38. I further agree to abide by the other conditions of release or of my probation, including the following:
 - a. Obey all State and Federal laws and local ordinances.
 - b. Report to supervising agent, as directed.
 - c. Advise supervising agent prior to making any changes in employment and/or residence.
 - d. Obtain permission from supervising agent before leaving the State.
 - e. By the next business day, notify supervising agent if arrested or issued a summons.
 - f. When ordered by supervising agent, submit to search of your person, residence or any other property under your control.
 - g. Abstain from the illegal use or possession of controlled substances, or any drugs of abuse, and submit to testing to verify compliance.
 - h. It is your responsibility to know your firearm privileges. If you have questions or concerns, please contact the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) at 1-800-800-3855 for more information. If you are convicted of a felony DWI, you shall not own, use or possess a firearm.
 - i. Cooperate and be truthful with supervising agent in all matters.

DATE: _____

 Signature of Defendant

 Witness

Itasca County Wellness Court Release of Information

Consent to Release Confidential Information for the Criminal Justice System and Related Agencies

I, _____, hereby consent to and authorize communication between the Law Enforcement Agencies in Itasca County, Itasca County Wellness Court Program, the Wellness Court Judge, the Itasca County Attorney's Office, the Ninth Judicial District Public Defender's Office (or private attorney _____), Itasca County Health and Human Services, Leech Lake Band of Ojibwe, Minnesota Department of Corrections, Rapids Counseling, (or other treatment agency _____), the Recovery Specialist Program, and District Court Administration, the following information related to my attendance and participation in the Itasca County Wellness Court Program. The nature of and need for the disclosure is to inform the Wellness Court, treatment providers and Human Services Agencies listed above of attendance and progress in treatment. The information is needed to develop and implement an assessment, diagnosis, and treatment plan; to provide continuity of care through interagency communication and referral; and to assist in the case management of my progress. Information will be gathered from the above agencies and shared between representatives of these agencies. The extent of information to be disclosed is the recommendation of my chemical use assessment, my attendance or lack of attendance at treatment sessions, drug testing results, my cooperation with the treatment program, completion of program, and assessment information required for local, state, and national research.

Disclosure of the confidential information may be made only as necessary for, and pertinent to, hearings, and/or reports concerning the Itasca County Wellness Court. I understand that this information may be discussed in open court.

I understand that this consent will remain in effect until I have revoked the consent, until there has been a formal and effective termination of my involvement with the Wellness Court Program or upon my successful completion of the Wellness Court requirements or upon sentencing for violating the terms of my Wellness Court involvement. I understand that if I revoke the consent while enrolled in Wellness Court it will result in my termination from Wellness Court.

Federal regulations regarding the confidentiality of alcohol, and drug abuse client records precludes anyone from making further disclosure of this information without specific written consent of the client (statue 42 CFR, Part 2)b

Signature: _____ Date: _____
Client

Signature: _____ Date: _____
Witness

5/17/07

Itasca County Wellness Court Drug Testing Policy

A failure to appear for drug/alcohol testing without reasonable excuse or justification will count as a positive test. Tampering with the test sample will constitute a positive drug test.

The following procedure will apply regarding urinalysis/chemical testing: Law Enforcement, the Itasca County Jail, Itasca County Probation, or Department of Corrections employees will perform an immediate screening process upon the urine sample. The participant must await the results of this preliminary screening process. If the results of this preliminary screening process are positive, the Wellness Court participant will be told immediately of the positive result. The participant will be asked if he/she admits the result is accurate (i.e. if the participant admits use). If the participant admits usage, that admission will be final and the participant will be booked into the jail. If the participant denies usage the participant will be booked into the jail and the urine sample will be sent to a laboratory for confirmation testing.

If the confirmation testing shows any presence of drugs or alcohol in the sample, that will be considered a positive result. The positive confirmatory test will be considered a final determination of the presence of drugs or alcohol; no additional hearings will be afforded the participant. Sanctions will be imposed by the Court at the next Wellness Court session. Also, the participant will be required to pay for the cost (\$15.00 per test) of the confirmatory testing. If confirmation testing shows no drugs present in the sample, that result is final and no sanctions are imposed.

Effective: July 27, 2007

Acknowledgement: I admit I have read and understood this Drug/Alcohol Testing Policy. I have had an opportunity to discuss it with my attorney.

Signature: _____ Date: _____
Wellness Court Participant