

**MODEL VETERANS TREATMENT COURT ACT  
AND  
MODEL VETERANS TREATMENT COURT RULES**

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT  
IN ALL THE STATES

at its

ANNUAL CONFERENCE  
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-SIXTH YEAR  
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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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**MODEL VETERANS TREATMENT COURT ACT  
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**Prefatory Note**

The purpose of this act/rules is to reflect the best principles and practices of veterans treatment courts around our nation. Several states have enacted statutes for such courts, while others have created such courts by local rules. Recognizing the wide variety of how such courts are created and operated, this act makes no attempt to prescribe the method of creating such courts. Courts are typically created by state statute, statewide court rule, and by local rules. This act/rules sets forth what the drafting committee determined to be the best and most principled policies for such veterans treatment courts.

The Buffalo Veterans Treatment Court in Buffalo, New York is generally credited with establishing the first court for handling veterans cases. This was in 2011. Since that time the recognition of the concept has spread to other jurisdictions. Gradually support for such courts came from the American Bar Association, the U.S. Department of Veterans Affairs, and numerous advocacy groups. The Uniform Law Commission approved a drafting committee for this project in 2015. Professor Stacey-Rae Simcox, of Stetson University College of Law was selected as Reporter for the Act. The Drafting Committee met four times to produce the act. The first reading of the act before the conference of commissioners was in 2016 and the second reading for final approval took place in 2017. Numerous observers were present at the drafting sessions with full privileges for participation in the drafting process.

Several policy issues must be addressed in creating a veterans treatment court. Those issues are:

1. Who is a veteran? The drafting committee selected the broadest possible definition of anyone who served in the armed services. See Section 2, subsections 5 and 8.
2. What type of discharge is required to be eligible for veterans treatment court services? Some states require an honorable discharge, some states require a discharge other than dishonorable, and other states apparently have no requirement. The drafting committee selected the broadest possible definition and the type of discharge does not matter. See Section 2, subsection 8.
3. Must the offense before the veterans treatment court be combat related? No. Early veterans treatment courts required a combat related offense, but that has been generally abandoned. See Section 3.
4. Which veterans are eligible for the veterans treatment court's services? The veteran must suffer from "a mental-health condition, traumatic brain injury, or substance use disorder." See Section 7(a)(1).

5. Who will be the gatekeeper on determining whether the veteran can participate in the veterans treatment court services? The court and the prosecutor must agree to the veteran's participation. See Section 7(a)(3).
6. How does the veteran know what the agreement requires of the veteran and what are the consequences of non-compliance? See Section 8.
7. If the veteran fails to comply with the participation agreement, who determines the punishment? The court makes that determination. See Section 7(a)(3)(ii).
8. Are victims of domestic violence informed of the proceedings and allowed to be heard? Yes. See Section 9.
9. Are the records confidential? Yes. See Section 9.
10. Does the creation of a veterans treatment court in one county of a state entitle a veteran to demand a veterans treatment court in another county? No. See Section 14.

The Model Veterans Treatment Court Act/Rules provides states with a sensible alternative to the usual criminal process and allows a veteran to have a second chance to become a contributing member of our society.

*Legislative Note: The provisions for model veterans treatment courts are presented in two formats for enactment—by legislation or court rules. The substantive provisions of each format are identical with the exception of several standard form clauses typically found in legislation. Each state considering adopting the Model Veterans Treatment Court Act or the Model Veterans Treatment Court Rules should review its practices and precedent to first determine whether the substantive provisions are best adopted by court rule or statute. The decision may vary from state to state depending on the allocation of authority between the legislature and the judiciary over contracts, alternative dispute resolution, and the legal profession. A state may also decide to establish part of the substantive provisions by legislation and part by court rule. A state may need to renumber sections and cross references depending on the chosen method of establishment.*

## **MODEL VETERANS TREATMENT COURT ACT**

**SECTION 1. SHORT TITLE.** This [act] may be cited as the Model Veterans Treatment Court Act.

### **Comment**

The Model Veterans Treatment Court Act was drafted in acknowledgment of the fact that veterans and servicemembers have been recognized as having a shared culture that can aid in the rehabilitation process normally found in a traditional drug or mental health treatment court. Should state legislatures desire to include others who have served their communities in this docket, for example fire fighters and law enforcement personnel, they should feel free to expand the scope of this act to encompass those groups as desired.

Some jurisdictions choose to refer to these courts as veterans courts, while others refer to the court as a veterans treatment court. In recognition of the fact that the overarching concern of these courts is treatment for veteran defendants suffering from mental health conditions, substance use disorders, and traumatic brain injuries, the title for this act was drafted accordingly.

**SECTION 2. DEFINITIONS.** In this [act]:

- (1) “Defendant” means a veteran or servicemember charged with a criminal offense.
- (2) “Domestic violence” means conduct defined in [cite appropriate state statute defining domestic violence].
- (3) “Participant agreement” means the record, required by Section 4(a), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant. The term includes a modification under Section 10.

(4) “Record,” except as otherwise provided in Section (7)(a)(2), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) “Servicemember” means:

(A) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard, of the United States; or

(B) a member of the National Guard of the United States; or

(C) a member of [state defense forces].

(6) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(8) “Veteran” means a former servicemember, regardless of the character of the servicemember’s discharge.

(9) “Veterans treatment court” means a veterans and servicemembers [docket] [calendar] administered under this [act] by a court of this state.

***Legislative Note:*** “Defense forces” in paragraph (5)(B) should be changed to the name used to refer to the enacting state’s defense forces.

### **Comment**

The definition of “defendant” includes both veterans and those servicemembers serving on active duty. While it may be difficult for active duty servicemembers to meet the strict requirements of a veterans treatment court while fulfilling their active duty service

obligations, writing this definition broadly gives courts and defendants latitude to determine the veterans treatment court's helpfulness in each individual case. This broad definition may also allow the court to partner with Department of Defense (DoD) medical and counseling providers when allowing the participation of an active duty servicemember in the veterans treatment court.

The definition of "participant agreement" was drafted with the understanding that often defendants may be admitted to a veterans treatment court based upon plea agreements, court orders, or judgments regarding the disposition of defendant's charges upon successful completion of veterans treatment court. Pursuant to a specific veterans treatment court policies and procedures, these agreements, court orders, or judgments may be included in the participant agreement itself, or may be ancillary to the participant agreement. Because the method of disposing of charges will vary, "participant agreement" is defined in a manner that does not constrain individual jurisdictions regarding disposition.

The definitions of "servicemember" and "veteran" broadly include any person who served in the United States Armed Forces in any of the widely recognized branches of the military or state defense forces. State defense forces are called upon periodically for many different missions within the state including disaster relief, riot control, and the like. These definitions recognize the service of state defense force members, who may encounter the same types of situations as federal military servicemembers and would likely benefit from the veteran mentorship programs typically implemented in veterans treatment courts.

The definition of "veterans treatment court" specifically allows courts to adopt a veterans treatment court as a separate docket, calendar, or similar term used in local practice, of an existing court and avoids requiring jurisdictions to set up separate courts for this purpose.

There is specifically no mention made here of the "character of discharge" a veteran is required to have to be eligible for participation in the veterans treatment court. When a servicemember is discharged from the military, the DoD "characterizes" that member's service in order to describe how that member served his/her nation. DoD currently uses five main types of characterizations of discharge: Honorable, General (under Honorable conditions), Other Than Honorable, Bad Conduct Discharge, and Dishonorable Discharge. There are other types of discharges to include discharges that cannot be characterized because the member has served such a short time.

Characters of Discharge become important in regards to treatment because the Department of Veterans Affairs (VA) has specific character of discharge requirements for determining which veterans will get access to medical care at the VA Medical Centers and benefits. The VA requires that a veteran have an "other than dishonorable" discharge to qualify for benefits and health care at the VA. The VA has interpreted this phrase to mean that veterans with Honorable and General discharges are generally qualified for most benefits including health care and disability benefits. Veterans with an Other Than Honorable discharge are reviewed on a case-by-case basis to determine if their service was "dishonorable." Veterans with Bad Conduct and Dishonorable Discharges are generally disqualified. The Other Than Honorable, Bad

Conduct, and Dishonorable Discharges are often referred to as “bad paper discharges.”

It is well documented in the media, congressional reports and investigations, and current lawsuits that the DoD has separated servicemembers from the military for misconduct that resulted from undiagnosed or untreated mental health conditions or brain injury disabilities caused during a veteran’s service. These separations often result in bad paper discharges that prevent veterans from receiving health care benefits from the VA, often leaving veterans in these situations completely untreated for disabilities related to their service. Many of the veterans who suffer from bad paper discharges commit crimes that, but for the character of their discharge, would allow them entry into a veterans treatment court. In December 2016, Congress recognized the conundrum of bad paper discharges in the passage of Public Law 114-328, Section 535 amending Section 1553(d) of title 10, United States Code. This provision now requires DoD to liberally reconsider bad paper discharges where post-traumatic stress or traumatic brain injury may have led to the misconduct resulting in the discharge in certain instances. This recognition that many bad paper discharges may have been affected by mental health conditions or brain injuries was supported by many of America’s Veterans Service Organizations. In addition, the American Bar Association resolved in 2017 that barriers preventing veterans’ access to treatment and other services should be removed if at all possible.

Some veterans treatment courts have chosen to limit veteran participation in the veterans treatment court to those with good characters of service because the VA will participate in providing treatment for the veterans’ disabilities in those cases. While finding resources that may be provided to the defendant at no cost to the court or defendant is certainly a consideration, it seems prudent to allow courts and judges the latitude to determine whether or not a defendant’s situation and the court’s available treatment resources would make participation in veterans treatment court successful. A blanket prohibition on veterans with bad paper discharges seems unwarranted and unnecessarily binds the court in what may otherwise be a compelling case for entry into the veterans treatment court.

There is no requirement in these definitions that a veteran have combat service in order to be eligible to participate in a veterans treatment court. Allowing all veterans to participate if the court determines that participation is helpful recognizes that some disabilities are not incurred in combat, but may come from other events. For instance, military sexual trauma, which refers to instances of sexual assault or repeated sexual harassment perpetrated upon a servicemember, is now widely recognized and any residual mental health conditions or substance use disorders related to this event could be permitted entry into the veterans treatment court.

### **SECTION 3. AUTHORIZATION.**

- (a) A court with jurisdiction in criminal cases may administer a veterans treatment court.
- (b) A veterans treatment court may adjudicate misdemeanors and felonies.
- (c) A defendant eligible to participate in a veterans treatment court under Section 7(a)

may be admitted to the veterans treatment court at any stage in a criminal proceeding.

### **Comment**

This act allows for a wide variety of approaches through which a veterans treatment court may be implemented by local and court rules. This act also allows states to determine the court in which implementation may be best accomplished. The act allows for the inclusion of felony and misdemeanor offenses in order to give the court the broadest latitude to determine the appropriateness of a defendant's participation in veterans treatment court based upon the other considerations in Section 8 of this act.

### **SECTION 4. RECORD OF POLICIES AND PROCEDURES.**

(a) A veterans treatment court shall create a record of policies and procedures adopted to implement Sections 5 through 12.

(b) A veterans treatment court shall seek input from prosecution and defense counsel and other interested persons in developing and adopting policies and procedures to implement Sections 5 through 12.

### **Comment**

Section 4(b) was drafted in order to reflect what has become a best practices standard for treatment courts when creating policies and procedures. The National Association of Drug Court Professionals Adult Drug Court Best Practice Standards Volume II (2015) suggests that in order to develop fair and effective policies and procedures for the program, interested parties should participate in the creation of a local court's policies and procedures. Interested parties comprise representatives from all partner agencies involved in the implementation of treatment courts including, but not limited to, a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.

### **SECTION 5. KEY COMPONENTS OF VETERANS TREATMENT COURT.**

(a) A veterans treatment court shall adopt policies and procedures to implement the following key components:

(1) integrating alcohol-treatment, drug-treatment, and mental-health services with justice-system case processing;

(2) using a nonadversarial approach in which prosecution and defense counsel

promote public safety while protecting due-process rights of defendants;

(3) early identification of eligible defendants;

(4) providing access to a continuum of alcohol-treatment, drug-treatment, mental-health treatment, and other related treatment and rehabilitation services;

(5) monitoring defendants for abstinence from alcohol and drugs by frequent testing;

(6) directing a coordinated strategy that responds to each defendant's compliance;

(7) providing ongoing judicial interaction with each defendant;

(8) monitoring and evaluating the achievement of goals;

(9) continuing interdisciplinary education to promote effective veterans treatment court planning, implementation, and operations; and

(10) forging partnerships among the veterans treatment court, the United States Department of Veterans Affairs, the [appropriate state or local agency], public agencies, and community-based organizations to generate local support and enhance the effectiveness of the veterans treatment court.

(b) In adopting policies and procedures under this section, the court shall consult nationally recognized best practices related to the key components.

### **Comment**

In light of the understanding that courts maintain autonomy in the structure of a defendant's participation in order to make the veterans treatment court most effective for all involved, care has been taken to refrain from dictating to courts precisely what a veterans treatment court must include. However, there are some characteristics of veterans treatment court that are widely agreed upon.

Section 5 incorporates the National Association of Drug Court Professionals' Ten Key Components of Drug Courts. These evidence-based, scientifically validated principles are industry best practice standards and they should not be substantively altered.

In 1997, the National Association of Drug Court Professionals published *Defining Drug Courts: The Ten Key Components*. These ten key components quickly became the framework for drug courts and other problem-solving courts. Over the past two decades, research now confirms that drug courts are more likely to accomplish their goals by faithfully adhering to the Ten Key Components. See SHANNON M. CAREY, ET AL., NPC RESEARCH, EXPLORING THE KEY COMPONENTS OF DRUG COURTS: A COMPARATIVE STUDY OF 18 ADULT DRUG COURTS ON PRACTICES, OUTCOMES AND COSTS (2008), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf>.

Many states with drug court legislation directly reference and incorporate verbatim the evidence-based and scientifically validated Ten Key Components. See, e.g., ALA. CODE §12-23A-2; FLA. STAT. § 397.334; 705 ILL. COMP. STAT. 410/10; MICH. COMP. LAWS § 600.1060; NEB. CT. R. § 6-1207; N.H. REV. STAT. § 490-G:2; S.D. COD. LAWS § 16-22-5.1; TENN. CODE ANN. § 16-6-103; W. VA. CODE § 62-15-2. If not explicitly referenced in the enabling laws, all states incorporate the Ten Key Components into their drug court policies, procedures, and guidelines. Numerous courts have expressly relied on the Ten Key Components in developing drug court jurisprudence. See, e.g., *Lawson v. State*, 969 So. 2d 222 (Fla. 2007); *State v. Leukel*, 979 So. 2d 292 (Fla. Ct. App. 2008); *Mullin v. Jenne*, 890 So. 2d 543 (Fla. Ct. App. 2005); *People v. Flick*, 2015 Ill. App. (5<sup>th</sup>) 130903-U (2015); *State v. Plouffe*, 329 P.3d 1255 (Mont. 2014); *State v. Bullplume*, 305 P.3d 753 (Mont. 2013). In *Plouffe*, the court referred to the Ten Key Components as the “premier authority on the goals and practice guidelines of treatment courts...” 329 P.3d at 1261.

Veterans treatment courts are administered with an immediate and highly structured judicial intervention process for substance use disorder, mental health conditions, or other assessed treatment needs of eligible veteran and servicemember defendants in order to provide treatment that may influence a person shortly after a significant triggering event such as arrest, and thus persuade or compel that person to enter and remain in treatment. Veterans treatment courts bring together substance use disorder professionals, mental health professionals, federal and state VA professionals, local social programs, and intensive judicial monitoring in accordance with the nationally recommended key components of drug and veterans treatment courts.

The veterans treatment court may refer to a network of substance use disorder treatment programs representing a continuum of graduated substance use disorder treatment options commensurate with the needs of defendants; these may include programs with the VA, the state, and community-based programs supported and sanctioned by either or both. The veterans treatment court may also, in its discretion, employ additional services or interventions, as it deems necessary on a case by case basis. The veterans treatment court may refer to or collaborate with a network of mental health treatment programs and, if it is a co-occurring mental health and substance use disorder court program, a network of substance use disorder treatment programs representing a continuum of treatment options commensurate with the needs of the defendant and available resources including programs with the VA and the state. The court may, among other appropriate and authorized pre-trial conditions, order the defendant to complete substance use disorder treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program, order the defendant to complete mental health counseling in an inpatient or outpatient

basis, and comply with healthcare providers' recommendations regarding follow up treatment. In some jurisdictions funding may require a court order in order to secure services.

**SECTION 6. SUPPLEMENTAL POLICIES AND PROCEDURES OF  
VETERANS TREATMENT COURT.**

(a) A veterans treatment court may adopt supplemental policies and procedures to:

(1) refer a defendant with a medical or medication need to an appropriate health-care provider;

(2) refer a defendant to other available services, which may include assistance with housing, employment, nutrition, and education;

(3) provide a defendant access to a mentor who is a servicemember or veteran;

(4) integrate intervention, treatment, and counseling, as part of the rehabilitative services offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse, or other trauma;

(5) confer with the victim or alleged victim of the domestic violence offense that serves as the basis for the defendant's participation in the veterans treatment court;

(6) evaluate and assess a defendant charged with a domestic violence offense and integrate specific counseling as part of the total rehabilitative services for the defendant;

(7) monitor a defendant charged with a domestic violence offense to assure compliance with a domestic violence protection order, no-contact order, and prohibition on weapon possession; and

(8) otherwise assist the veterans treatment court.

(b) In adopting policies and procedures under this section, the court shall consult nationally recognized best practices related to these components.

## Comment

Section 6 was drafted in order to identify opportunities where a court may find it helpful to add components to its veterans treatment court. In particular, attention was paid to offering treatment in domestic violence situations, whether the defendant was a victim or perpetrator of this type of act.

The provision discussing mentoring services in the veterans treatment court is an acknowledgment that one of the most attractive and unique aspects of this type of court is the mentoring of a defendant by another veteran or servicemember with whom there is a shared culture. These mentors volunteer their time and energy to assist their fellow veterans through engagement, encouragement, and empowerment. In addition to mentors, defendants may be assisted by peers who in addition to being a veteran or servicemember have personally experienced any of the following: substance use disorder; mental health condition; traumatic brain injury; incarceration; or homelessness; and may have received specific training as an adjunct to treatment such as leading a group session.

### **SECTION 7. ELIGIBILITY.**

(a) A defendant is eligible to participate in a veterans treatment court if:

(1) the defendant has a mental-health condition, traumatic brain injury, or substance use disorder;

(2) the defendant agrees on the court record to enter the veterans treatment court voluntarily and adhere to a participant agreement; and

(3) the defendant's participation in the veterans treatment court would be in the interest of justice and of benefit to the defendant and the community, as determined by:

(A) the prosecutor and the court, with regard to pretrial diversion; or

(B) the court, with regard to all other matters.

(b) In making the determination under subsection (a)(3), the prosecutor and the court shall consider:

(1) the nature and circumstances of the offense charged;

(2) special characteristics or circumstances of the defendant;

(3) the defendant's criminal history and whether the defendant previously

participated in a veterans treatment court or a similar program;

(4) whether the defendant's needs exceed treatment resources available to the veterans treatment court;

(5) the impact on the community of the defendant's participation and treatment in the veterans treatment court;

(6) recommendations of any law-enforcement agency involved in investigating or arresting the defendant;

(7) special characteristics or circumstances of the victim or alleged victim;

(8) subject to subsection (c), a recommendation of the victim or alleged victim;

(9) provision for and the likelihood of obtaining restitution from the defendant over the course of participation in the veterans treatment court;

(10) mitigating circumstances; and

(11) other circumstances reasonably related to the defendant's case.

(c) In making the determination under subsections (a) and (b) in a case in which a domestic violence offense serves as the basis for the defendant's participation in the veterans treatment court, the prosecutor and the court shall seek the recommendation of the victim or alleged victim of the offense.

### **Comment**

This act does not require that the mental health condition, substance use disorder, or traumatic brain injury making a defendant eligible for participation in veterans treatment court be directly caused by a defendant's service. This is done in recognition of the fact that many veterans suffering from these conditions would likely be entitled to entry in the other therapeutic courts, but would most directly benefit from participating in the veteran specific mentor programs and focus of a veterans treatment court in order to multiply the probability of success. Placing less requirements on entry to the veterans treatment court allows courts a wide latitude in determining what is best for victims and defendants on a case-by-case basis.

There is also no requirement that the mental health condition, substance use disorder, or traumatic brain injury have actually caused the crime being considered by the court for the reasons discussed above.

Requiring the approval of the prosecutor to allow entry into the veterans treatment court allows the state to ensure that crimes or defendants the state feels are inappropriate for therapeutic diversion are prosecuted in the normal course. Prosecutors and courts in this act are encouraged to determine the recommendations of alleged victims, but are required to solicit this information from a victim of domestic violence before recommending a defendant's participation in the veterans treatment court.

This act uses the term "substance use disorder" to describe a defendant's diagnosed conditions regarding the misuse of or dependence upon substances both legal and illegal, to include alcohol. The term "substance use disorder" has been used for some time by substance use professionals and is the most accurate description endorsed by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment. SAMHSA recognizes that when discussing substance use disorders, words can be powerful by encouraging and supporting or, on the other hand, isolating and shaming. Recognizing this power, SAMHSA proposes that the use of the term "substance use disorder" is helpful because it encompasses a range of severity levels, from problem use to dependence and addiction. This usage of "substance use disorder" in this act reflects this recognition.

In determining if a defendant is eligible for the veterans treatment court, the prosecutor or court may require the defendant to divulge information regarding prior criminal charges; education, work experience, and training; family history, including residence in the community; medical and mental history, including psychiatric or psychological treatment or counseling; and other information reasonably related to the likelihood of success of the treatment program.

**SECTION 8. PARTICIPANT AGREEMENT.** For a defendant to be admitted to a veterans treatment court, the defendant must sign, and the court must approve, a participant agreement. If admission to the veterans treatment court occurs before conviction, the prosecutor also must sign the participant agreement.

**SECTION 9. VICTIM OF DOMESTIC VIOLENCE.**

(a) If a victim or alleged victim of a domestic violence offense that serves as the basis for the defendant's participation in a veterans treatment court can reasonably be located, the victim or alleged victim must be offered:

- (1) referrals to services of domestic violence providers; and

(2) information on how to report an allegation of:

(A) an offense committed by the defendant; or

(B) a violation by the defendant of the participant agreement.

(b) The participation of the defendant in a veterans treatment court does not alter the rights of a victim or alleged victim of domestic violence under law of this state other than this [act].

### **Comment**

Special attention was given in the act to victims of domestic violence in recognition of the fact that for many veterans, the family members are the support network that deal intimately with mental health conditions, substance use disorders, and brain injury conditions. Providing support to these victims may be crucial to maintaining stability in a defendant's life while providing treatment.

This act recognizes that victims of crimes are entitled to rights that vary from state to state. These rights may dictate notice given to the victim regarding a defendant's participation in court programs or treatment, information regarding a defendant's release from incarceration, referral to various agencies and services, and a plethora of other matters. Because it would be impossible to capture all of these rights in this act, the act was written to reinforce that a defendant's participation in a veterans treatment court does not abrogate a victim's rights in any way.

**SECTION 10. MODIFICATION OR TERMINATION.** If a veterans treatment court determines after a hearing that a defendant has not complied with the defendant's participant agreement, the court may modify or terminate the defendant's participation in the veterans treatment court. Modification or termination is subject to the participant agreement.

**SECTION 11. COMPLETION OF THE PARTICIPANT AGREEMENT.** If the veterans treatment court determines that a defendant has completed the requirements of the defendant's participant agreement, the court shall dispose of the charge that served as the basis of participation in the veterans treatment court in accordance with the defendant's participant agreement and any applicable plea agreement, court order, or judgment.

## **SECTION 12. ACCESS TO RECORDS.**

(a) A statement made or record submitted by a defendant in a veterans treatment court may be subject to 42 U.S.C. Section 290dd-2[, as amended] and 42 C.F.R. Part 2[, as amended,] regarding confidentiality.

(b) Any individually-identifiable health information or record pertaining to a defendant in a veterans treatment court undergoing alcohol or drug treatment may be subject to the privacy regulations promulgated under the Health Insurance Portability and Accountability Act, 42 U.S.C. Section 1320d-6[,as amended] and 45 C.F.R. Parts 160, 162, and 164 [, as amended] [, and state law that applies].

*Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes or regulations are incorporated into state law, the phrase should be deleted in this section.*

### **Comment**

42 U.S.C. Section 290dd-2 and 42 Code of Federal Regulations, Part 2 regulate disclosure of and access to information regarding patients who have applied for or received any alcohol or drug use-related services, including assessment, diagnosis, counseling, group counseling, treatment, or referral for treatment, from a covered program.

**SECTION 13. LIBERAL CONSTRUCTION.** This [act] must be liberally construed.

**SECTION 14. NO RIGHT TO PARTICIPATE.** This [act] does not create a right to participation in a veterans treatment court.

**SECTION 15. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**[SECTION 16. SEVERABILITY.** If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

*Legislative Note: Include this section only if the jurisdiction lacks a general severability statute or a decision by the highest court of the jurisdiction stating a general rule of severability.*

**SECTION 17. REPEALS; CONFORMING AMENDMENTS.**

(a) ....

(b) ....

(c) ....

**SECTION 18. EFFECTIVE DATE.** This [act] takes effect....

## MODEL VETERANS TREATMENT COURT RULES

**RULE 1. SHORT TITLE.** These [rules] may be cited as the Model Veterans Treatment Court Rules.

### Comment

The Model Veterans Treatment Court Act was drafted in acknowledgment of the fact that veterans and servicemembers have been recognized as having a shared culture that can aid in the rehabilitation process normally found in a traditional drug or mental health treatment court. Should state legislatures desire to include others who have served their communities in this docket, for example fire fighters and law enforcement personnel, they should feel free to expand the scope of this act to encompass those groups as desired.

Some jurisdictions choose to refer to these courts as veterans courts, while others refer to the court as a veterans treatment court. In recognition of the fact that the overarching concern of these courts is treatment for veteran defendants suffering from mental health conditions, substance use disorders, and traumatic brain injuries, the title for this act was drafted accordingly.

**RULE 2. DEFINITIONS.** In these [rules]:

- (1) “Defendant” means a veteran or servicemember charged with a criminal offense.
- (2) “Domestic violence” means conduct defined in [cite appropriate state statute defining domestic violence].
- (3) “Participant agreement” means the record, required by Rule 4(a), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant. The term includes a modification under Rule 10.
- (4) “Record,” except as otherwise provided in Rule (7)(a)(2), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (5) “Servicemember” means:
  - (A) a member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States; or

(B) a member of the National Guard of the United States; or

(C) a member of [state defense forces].

(6) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic

symbol, sound, or process.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(8) “Veteran” means a former servicemember, regardless of the character of the servicemember’s discharge.

(9) “Veterans treatment court” means a veterans and servicemembers [docket] [calendar] administered under this [act] by a court of this state.

***Legislative Note:*** “*Defense forces*” in paragraph (5)(B) should be changed to the name used to refer to the enacting state’s defense forces.

### **Comment**

The definition of “defendant” includes both veterans and those servicemembers serving on active duty. While it may be difficult for active duty servicemembers to meet the strict requirements of a veterans treatment court while fulfilling their active duty service obligations, writing this definition broadly gives courts and defendants latitude to determine the veterans treatment court’s helpfulness in each individual case. This broad definition may also allow the court to partner with Department of Defense (DoD) medical and counseling providers when allowing the participation of an active duty servicemember in the veterans treatment court.

The definition of “participant agreement” was drafted with the understanding that often defendants may be admitted to a veterans treatment court based upon plea agreements, court orders, or judgments regarding the disposition of defendant’s charges upon successful completion of veterans treatment court. Pursuant to a specific veterans treatment court policies and procedures, these agreements, court orders, or judgments may be included in the participant agreement itself, or may be ancillary to the participant agreement. Because the

method of disposing of charges will vary, “participant agreement” is defined in a manner that does not constrain individual jurisdictions regarding disposition.

The definitions of “servicemember” and “veteran” broadly include any person who served in the United States Armed Forces in any of the widely recognized branches of the military or state defense forces. State defense forces are called upon periodically for many different missions within the state including disaster relief, riot control, and the like. These definitions recognize the service of state defense force members, who may encounter the same types of situations as federal military servicemembers and would likely benefit from the veteran mentorship programs typically implemented in veterans treatment courts.

The definition of “veterans treatment court” specifically allows courts to adopt a veterans treatment court as a separate docket, calendar, or similar term used in local practice, of an existing court and avoids requiring jurisdictions to set up separate courts for this purpose.

There is specifically no mention made here of the “character of discharge” a veteran is required to have to be eligible for participation in the veterans treatment court. When a servicemember is discharged from the military, the DoD “characterizes” that member’s service in order to describe how that member served his/her nation. DoD currently uses five main types of characterizations of discharge: Honorable, General (under Honorable conditions), Other Than Honorable, Bad Conduct Discharge, and Dishonorable Discharge. There are other types of discharges to include discharges that cannot be characterized because the member has served such a short time.

Characters of Discharge become important in regards to treatment because the Department of Veterans Affairs (VA) has specific character of discharge requirements for determining which veterans will get access to medical care at the VA Medical Centers and benefits. The VA requires that a veteran have an “other than dishonorable” discharge to qualify for benefits and health care at the VA. The VA has interpreted this phrase to mean that veterans with Honorable and General discharges are generally qualified for most benefits including health care and disability benefits. Veterans with an Other Than Honorable discharge are reviewed on a case-by-case basis to determine if their service was “dishonorable.” Veterans with Bad Conduct and Dishonorable Discharges are generally disqualified. The Other Than Honorable, Bad Conduct, and Dishonorable Discharges are often referred to as “bad paper discharges.”

It is well documented in the media, congressional reports and investigations, and current lawsuits that the DoD has separated servicemembers from the military for misconduct that resulted from undiagnosed or untreated mental health conditions or brain injury disabilities caused during a veteran’s service. These separations often result in bad paper discharges that prevent veterans from receiving health care benefits from the VA, often leaving veterans in these situations completely untreated for disabilities related to their service. Many of the veterans who suffer from bad paper discharges commit crimes that, but for the character of their discharge, would allow them entry into a veterans treatment court. In December 2016, Congress recognized the conundrum of bad paper discharges in the passage of Public Law 114-328, Section 535 amending Section 1553(d) of title 10, United States Code. This provision now requires DoD to

liberally reconsider bad paper discharges where post-traumatic stress or traumatic brain injury may have led to the misconduct resulting in the discharge in certain instances. This recognition that many bad paper discharges may have been affected by mental health conditions or brain injuries was supported by many of America's Veterans Service Organizations. In addition, the American Bar Association resolved in 2017 that barriers preventing veterans' access to treatment and other services should be removed if at all possible.

Some veterans treatment courts have chosen to limit veteran participation in the veterans treatment court to those with good characters of service because the VA will participate in providing treatment for the veterans' disabilities in those cases. While finding resources that may be provided to the defendant at no cost to the court or defendant is certainly a consideration, it seems prudent to allow courts and judges the latitude to determine whether or not a defendant's situation and the court's available treatment resources would make participation in veterans treatment court successful. A blanket prohibition on veterans with bad paper discharges seems unwarranted and unnecessarily binds the court in what may otherwise be a compelling case for entry into the veterans treatment court.

There is no requirement in these definitions that a veteran have combat service in order to be eligible to participate in a veterans treatment court. Allowing all veterans to participate if the court determines that participation is helpful recognizes that some disabilities are not incurred in combat, but may come from other events. For instance, military sexual trauma, which refers to instances of sexual assault or repeated sexual harassment perpetrated upon a servicemember, is now widely recognized and any residual mental health conditions or substance use disorders related to this event could be permitted entry into the veterans treatment court.

### **RULE 3. AUTHORIZATION.**

(a) A court with jurisdiction in a criminal case may administer a veterans treatment court.

(b) A veterans treatment court may adjudicate misdemeanors and felonies.

(c) A defendant eligible to participate in a veterans treatment court under Rule 7(a) may be admitted to the veterans treatment court at any stage in a criminal proceeding.

### **Comment**

This act allows for a wide variety of approaches through which a veterans treatment court may be implemented by local and court rules. This act also allows states to determine the court in which implementation may be best accomplished. The act allows for the inclusion of felony and misdemeanor offenses in order to give the court the broadest latitude to determine the appropriateness of a defendant's participation in veterans treatment court based upon the other considerations in Rule 8 of these rules.

**RULE 4. RECORD OF POLICIES AND PROCEDURES.**

(a) A veterans treatment court shall create a record of policies and procedures adopted to implement Rules 5 through 12].

(b) A veterans treatment court shall seek input from prosecution and defense counsel and other interested persons in developing and adopting policies and procedures to implement Rules 5 through 12.

**Comment**

Rule 4(b) was drafted in order to reflect what has become a best practices standard for treatment courts when creating policies and procedures. The National Association of Drug Court Professionals Adult Drug Court Best Practice Standards Volume II (2015) suggests that in order to develop fair and effective policies and procedures for the program, interested parties should participate in the creation of a local court’s policies and procedures. Interested parties comprise representatives from all partner agencies involved in the implementation of treatment courts including, but not limited to, a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.

**RULE 5. KEY COMPONENTS OF VETERANS TREATMENT COURT.**

(a) A veterans treatment court shall adopt policies and procedures to implement the following key components:

(1) integrating alcohol-treatment drug-treatment, and mental-health services with justice-system case processing;

(2) using a nonadversarial approach in which prosecution and defense counsel promote public safety while protecting due-process rights of defendants;

(3) early identification of eligible defendant;

(4) providing access to a continuum of alcohol-treatment, drug-treatment, mental-health treatment, and other related treatment and rehabilitation services;

(5) monitoring defendants for abstinence from alcohol and drugs by frequent

testing;

(6) directing a coordinated strategy that responds to each defendant's compliance;

(7) providing ongoing judicial interaction with each defendant;

(8) monitoring and evaluating the achievement of goals;

(9) continuing interdisciplinary education to promote effective veterans treatment

court planning, implementation, and operations; and

(10) forging partnerships among the veterans treatment court, the United States

Department of Veterans Affairs, the [appropriate state or local agency], public agencies, and

community-based organizations to generate local support and enhance the effectiveness of the

veterans treatment court.

(b) In adopting policies and procedures under this rule, the court shall consult nationally recognized best practices related to the key components.

### **Comment**

In light of the understanding that courts maintain autonomy in the structure of a defendant's participation in order to make the veterans treatment court most effective for all involved, care has been taken to refrain from dictating to courts precisely what a veterans treatment court must include. However, there are some characteristics of veterans treatment court that are widely agreed upon.

Rule 5 incorporates the National Association of Drug Court Professionals' Ten Key Components of Drug Courts. These evidence-based, scientifically validated principles are industry best practice standards and they should not be substantively altered.

In 1997, the National Association of Drug Court Professionals published *Defining Drug Courts: The Ten Key Components*. These ten key components quickly became the framework for drug courts and other problem-solving courts. Over the past two decades, research now confirms that drug courts are more likely to accomplish their goals by faithfully adhering to the Ten Key Components. See SHANNON M. CAREY, ET AL., NPC RESEARCH, EXPLORING THE KEY COMPONENTS OF DRUG COURTS: A COMPARATIVE STUDY OF 18 ADULT DRUG COURTS ON PRACTICES, OUTCOMES AND COSTS (2008), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf>.

Many states with drug court legislation directly reference and incorporate verbatim the evidence-based and scientifically validated Ten Key Components. *See, e.g.*, ALA. CODE §12-23A-2; FLA. STAT. § 397.334; 705 ILL. COMP. STAT. 410/10; MICH. COMP. LAWS § 600.1060; NEB. CT. R. § 6-1207; N.H. REV. STAT. § 490-G:2; S.D. COD. LAWS § 16-22-5.1; TENN. CODE ANN. § 16-6-103; W. VA. CODE § 62-15-2. If not explicitly referenced in the enabling laws, all states incorporate the Ten Key Components into their drug court policies, procedures, and guidelines. Numerous courts have expressly relied on the Ten Key Components in developing drug court jurisprudence. *See, e.g.*, *Lawson v. State*, 969 So. 2d 222 (Fla. 2007); *State v. Leukel*, 979 So. 2d 292 (Fla. Ct. App. 2008); *Mullin v. Jenne*, 890 So. 2d 543 (Fla. Ct. App. 2005); *People v. Flick*, 2015 Ill. App. (5<sup>th</sup>) 130903-U (2015); *State v. Plouffe*, 329 P.3d 1255 (Mont. 2014); *State v. Bullplume*, 305 P.3d 753 (Mont. 2013). In *Plouffe*, the court referred to the Ten Key Components as the “premier authority on the goals and practice guidelines of treatment courts...” 329 P.3d at 1261.

Veterans treatment courts are administered with an immediate and highly structured judicial intervention process for substance use disorder, mental health conditions, or other assessed treatment needs of eligible veteran and servicemember defendants in order to provide treatment that may influence a person shortly after a significant triggering event such as arrest, and thus persuade or compel that person to enter and remain in treatment. Veterans treatment courts bring together substance use disorder professionals, mental health professionals, federal and state VA professionals, local social programs, and intensive judicial monitoring in accordance with the nationally recommended key components of drug and veterans treatment courts.

The veterans treatment court may refer to a network of substance use disorder treatment programs representing a continuum of graduated substance use disorder treatment options commensurate with the needs of defendants; these may include programs with the VA, the state, and community-based programs supported and sanctioned by either or both. The veterans treatment court may also, in its discretion, employ additional services or interventions, as it deems necessary on a case by case basis. The veterans treatment court may refer to or collaborate with a network of mental health treatment programs and, if it is a co-occurring mental health and substance use disorder court program, a network of substance use disorder treatment programs representing a continuum of treatment options commensurate with the needs of the defendant and available resources including programs with the VA and the state. The court may, among other appropriate and authorized pre-trial conditions, order the defendant to complete substance use disorder treatment in an outpatient, inpatient, residential, or jail-based custodial treatment program, order the defendant to complete mental health counseling in an inpatient or outpatient basis, and comply with healthcare providers’ recommendations regarding follow up treatment. In some jurisdictions funding may require a court order in order to secure services.

## **RULE 6. SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS TREATMENT COURT.**

(a) A veterans treatment court may adopt supplemental policies and procedures to:

(1) refer a defendant with a medical or medication need to an appropriate health-care provider;

(2) refer a defendant to other available services, which may include assistance with housing, employment, nutrition, and education;

(3) provide a defendant access to mentor who is a servicemember or veteran;

(4) integrate intervention, treatment, and counseling, as part of the rehabilitative services offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse, or other trauma;

(5) confer with the victim or alleged victim of the domestic violence offense that serves as the basis for the defendant's participation in the veterans treatment court;

(6) evaluate and assess a defendant charged with a domestic violence offense and integrate specific counseling as part of the rehabilitative services for the defendant;

(7) monitor a defendant charged with a domestic violence offense to assure compliance with a domestic violence protection order, no-contact order, and prohibition on weapon possession; and

(8) otherwise assist the veterans treatment court.

(b) In adopting policies and procedures under this rule, the court shall consult nationally recognized best practices related to these components.

### **Comment**

Rule 6 was drafted in order to identify opportunities where a court may find it helpful to add components to its veterans treatment court. In particular, attention was paid to offering treatment in domestic violence situations, whether the defendant was a victim or perpetrator of this type of act.

The provision discussing mentoring services in the veterans treatment court is an acknowledgment that one of the most attractive and unique aspects of this type of court is the mentoring of a defendant by another veteran or servicemember with whom there is a shared

culture. These mentors volunteer their time and energy to assist their fellow veterans through engagement, encouragement, and empowerment. In addition to mentors, defendants may be assisted by peers who in addition to being a veteran or servicemember have personally experienced any of the following: substance use disorder; mental health condition; traumatic brain injury; incarceration; or homelessness; and may have received specific training as an adjunct to treatment such as leading a group session.

**RULE 7. ELIGIBILITY.**

(a) A defendant is eligible to participate in a veterans treatment court if:

(1) the defendant has a mental-health condition, traumatic brain injury, or substance use disorder;

(2) the defendant agrees on the court record to enter the veterans treatment court voluntarily and adhere to a participant agreement;

(3) the defendant's participation in the veterans treatment court would be in the interests of justice and of benefit to the defendant and the community, as determined by:

(A) the prosecutor and the court, with regard to pretrial diversion; or

(B) the court, with regard to all other matters.

(b) In making the determination under subsection (a)(3), the prosecutor and the court shall consider:

(1) the nature and circumstances of the offense charged;

(2) special characteristics or circumstances of the defendant;

(3) the defendant's criminal history and whether the defendant previously has participated in a veterans treatment court or a similar program;

(4) whether the defendant's needs exceed treatment resources available to the veterans treatment court;

(5) the impact on the community of the defendant's participation and treatment in the veterans treatment court;

(6) recommendations of any law-enforcement agency involved in investigating or arresting the defendant;

(7) special characteristics or circumstances of the victim or alleged victim;

(8) subject to subsection (c), a recommendation of the victim or alleged victim;

(9) provision for and the likelihood of obtaining restitution from the defendant over the course of participation in the veterans treatment court;

(10) mitigating circumstances; and

(11) other circumstances reasonably related to the defendant's case.

(c) In making the determination under subsection (a) and (b) in a case in which a domestic violence offense serves as the basis for the defendant's participation in the veterans treatment court, the prosecutor and the court shall seek the recommendation of the victim or alleged victim of the offense.

### **Comment**

This act does not require that the mental health condition, substance use disorder, or traumatic brain injury making a defendant eligible for participation in veterans treatment court be directly caused by a defendant's service. This is done in recognition of the fact that many veterans suffering from these conditions would likely be entitled to entry in the other therapeutic courts, but would most directly benefit from participating in the veteran specific mentor programs and focus of a veterans treatment court in order to multiply the probability of success. Placing less requirements on entry to the veterans treatment court allows courts a wide latitude in determining what is best for victims and defendants on a case-by-case basis. Consider discussing alcohol as a substance as a part of this comment.

There is also no requirement that the mental health condition, substance use disorder, or traumatic brain injury have actually caused the crime being considered by the court for the reasons discussed above.

Requiring the approval of the prosecutor to allow entry into the veterans treatment court allows the state to ensure that crimes or defendants the state feels are inappropriate for therapeutic diversion are prosecuted in the normal course. Prosecutors and courts in this act are encouraged to determine the recommendations of alleged victims, but are required to solicit this information from a victim of domestic violence before recommending a defendant's participation in the veterans treatment court.

This act uses the term “substance use disorder” to describe a defendant’s diagnosed conditions regarding the misuse of or dependence upon substances both legal and illegal, to include alcohol. The term “substance use disorder” has been used for some time by substance use professionals and is the most accurate description endorsed by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration’s (SAMHSA) Center for Substance Abuse Treatment. SAMHSA recognizes that when discussing substance use disorders, words can be powerful by encouraging and supporting or, on the other hand, isolating and shaming. Recognizing this power, SAMHSA proposes that the use of the term “substance use disorder” is helpful because it encompasses a range of severity levels, from problem use to dependence and addiction. This use of “substance use disorder” in this act reflects this recognition.

In determining if a defendant is eligible for the veterans treatment court, the prosecutor or court may require the defendant to divulge information regarding prior criminal charges; education, work experience, and training; family history, including residence in the community; medical and mental history, including psychiatric or psychological treatment or counseling; and other information reasonably related to the likelihood of success of the treatment program.

**RULE 8. PARTICIPANT AGREEMENT.** For a defendant to be admitted to a veterans treatment court, the defendant must sign, and the court must approve, a participant agreement. If admission to the veterans treatment court occurs before conviction, the prosecutor must also sign the participant agreement.

**RULE 9. VICTIM OF DOMESTIC VIOLENCE.**

(a) If a victim or alleged victim of a domestic violence offense that serves as the basis for the defendant’s participation in a veterans treatment court can reasonably be located, the victim or alleged victim must be offered:

- (1) referrals to services of domestic violence providers; and
- (2) information on how to report an allegation of:
  - (A) an offense committed by the defendant; or
  - (B) a violation by the defendant of the participant agreement.

(b) The participation of the defendant in a veterans treatment court does not alter the rights of a victim or alleged victim of domestic violence under law of this state other than this [act].

### **Comment**

Special attention was given in the act to victims of domestic violence in recognition of the fact that for many veterans, the family members are the support network that deal intimately with mental health conditions, substance use disorders, and brain injury conditions. Providing support to these victims may be crucial to maintaining stability in a defendant's life while providing treatment.

This act recognizes that victims of crimes are entitled to rights that vary from state to state. These rights may dictate notice given to the victim regarding a defendant's participation in court programs or treatment, information regarding a defendant's release from incarceration, referral to various agencies and services, and a plethora of other matters. Because it would be impossible to capture all of these rights in this act, the act was written to reinforce that a defendant's participation in a veterans treatment court does not abrogate a victim's rights in any way.

**RULE 10. MODIFICATION OR TERMINATION.** If a veterans treatment court determines after a hearing that a defendant has not complied with the defendant's participant agreement, the court may modify or terminate the defendant's participation in the veterans treatment court. Modification or termination is subject to the participant agreement.

**RULE 11. COMPLETION OF THE PARTICIPANT AGREEMENT.** If the veterans treatment court determines that a defendant has completed the requirements of the defendant's participant agreement, the court shall dispose of the charge that served as the basis of participation in the veterans treatment court in accordance with the defendant's participant agreement and any applicable plea agreement, court order, or judgment.

**RULE 12. ACCESS TO RECORDS.**

(a) A statement made or record submitted by a defendant in a veterans treatment court may be subject to 42 U.S.C. Section 290dd-2, and 42 C.F.R. Part 2[, as amended,] regarding

confidentiality.

(b) Any individually-identifiable health information or record pertaining to a defendant in a veterans treatment court undergoing alcohol or drug treatment may be subject to the privacy regulations promulgated under the Health Insurance Portability and Accountability Act, 42 U.S.C. Section 1320d-6[, as amended] and 45 C.F.R. Parts 160, 162, and 164[, as amended][, and state law that applies].

*Legislative Note: In states in which the constitution, or other law, does not permit the phrase “as amended” when federal statutes or regulations are incorporated into state law, the phrase should be deleted in this section.*

#### **Comment**

42 U.S.C. Section 290dd-2 and 42 Code of Federal Regulations, Part 2 regulate disclosure of and access to information regarding patients who have applied for or received any alcohol or drug use-related services, including assessment, diagnosis, counseling, group counseling, treatment, or referral for treatment, from a covered program.

**RULE 13. LIBERAL CONSTRUCTION.** These rules must be liberally construed.

**RULE 14. NO RIGHT TO PARTICIPATE.** [These rules] do not create a right to participate in a veterans treatment court.

**RULE 15. EFFECTIVE DATE.** These rules take effect . . . .