



COMMONWEALTH of VIRGINIA

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March 3, 2025

To: The Honorable L. Louise Lucas, Chair, Senate Finance & Appropriations Committee
The Honorable Luke E. Torian, Chair, House Appropriations Committee

From: Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services

RE: Item 295.X, 2024 Special Session Appropriations Act

Item 295.X of the 2024 Special Session I Appropriations Act directs the Department of Behavioral Health and Developmental Services (DBHDS) to report on participation in substance use disorder treatment utilizing non-narcotic, long-acting, injectable prescription drug treatment regimens. The language reads:

X. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is provided to support substance use disorder treatment utilizing appropriate, long-acting, injectable prescription drug treatment regimens ("treatment") used in conjunction with specialty dockets. Such treatment may be utilized in approved specialty dockets. In allocating such funding, the department shall consider the rate of fatalities within the locality, whether a specialty docket is available and whether such program utilizes medication-assisted treatment. The specialty dockets utilizing this funding shall use these resources to support provider fees, counseling, monitoring services, medication management, and the cost of medication for participants for whom the costs of treatment services would not otherwise be covered. The Department of Behavioral Health and Developmental Services shall submit a report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1 of each year for the preceding fiscal year that provides information on the number of participants, the number of specialty dockets that utilized the funding and the number of treatments administered. Any adult specialty docket that accesses this funding shall provide all necessary information to the Department of Behavioral Health and Developmental Services to prepare this report

.cc: The Honorable Janet V. Kelly, Secretary of Health and Human Resources



Virginia Department of Behavioral Health
and Developmental Services

Drug Court Treatment Programs Report

(Item 295.X, 2024 Appropriations Act)

December 1, 2024

DBHDS Vision: A Life of Possibilities for All Virginians

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Item 295.X, Drug Treatment Court Programs, FY 2024

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Introduction

§ 18.2-254.1 of the Code of Virginia, also known as the Recovery Court Act, (ARC) outlines goals of the program to include: reducing drug addiction and dependency among offenders; reducing recidivism; reducing drug-related court workloads; increasing personal, familial, and societal accountability among offenders; and promoting effective planning and use of resources among the criminal justice system and community agencies. As of September 2024, there are 52 operational Adult Recovery Courts, three Juvenile Recovery Courts, five Family Recovery Courts, one DUI Recovery Court, and two non-operational Recovery Courts. There are four Veterans Treatment dockets, 16 Behavioral Health dockets, and one Juvenile Domestic Relations (JDR) Behavioral Health docket.

Since 2015, Adult Recovery Courts programs seeking federal funding have signed an attestation stating that individuals will not be denied access to ARC programs due to the individual's use of an FDA-approved medication for the treatment of an Opioid Use Disorder (OUD). Additionally, the attestation requires that the drug courts not require discontinuation of said medication as a criterion for program completion. It is important to note that this attestation only applies to recovery courts receiving funding from the Bureau of Justice Assistance (BJA) or Substance Abuse Mental Health Services (SAMHSA). This is consistent with the National Association of Drug Court Professionals' Best Practice Standards (2013, 2015) and the resolution of its board of directors on Medication Assisted Treatment (MAT) (NADCP, 2011) requiring drug courts to evaluate requests for MAT on a case-by-case basis.

The Americans with Disabilities Act, Title II provides additional protections to qualified individuals with disabilities from discrimination based on disability from services, programs, or activities offered by state and local government entities. A person diagnosed with an Opioid Use Disorder (OUD) may be considered under 28 CFR §35.130 as a "qualified individual with a disability." As such, the court may not issue a blanket refusal of MAT or that could be considered prohibited discrimination. In most cases, a public entity may base a decision to withhold services if an individual is engaged in the current illegal use of drugs (28 CFR §35.131) with prescribed MAT treatment described as legal use.

During the 2015 Governor's Task Force on Prescription Drug and Heroin Abuse, there were suggestions, recommendations, and possible solutions to explore ways to enhance access and availability of MAT services in the community, as well as jail-based treatment services. It was noted that Recovery Courts (RCs) and jails often serve overlapping populations. As a result, initiatives were implemented to address the intersection of these populations. Please note that the term "Adult Drug Treatment Courts" is no longer used, and the terminology used as of FY 2024 is "Recovery Courts."

The current work continues to focus on improving public safety and public health. The 2018 expansion of Medicaid has had a significant impact on Virginia residents living with a substance use disorder (SUD) and more specifically with an OUD. The Virginia Department of Medical Assistance (DMAS) through the Addiction and Recovery Treatment Services (ARTS) waiver increased access to both behavioral health and medical coverage. Medicaid expansion has subsequently increased the number of providers across the Commonwealth and provided more

opportunities for individuals to access evidence-based treatment services for wellness and recovery.

Preferred Office-Based Addiction Treatment Programs, also called Preferred OBATs, are part of this expansion. Preferred OBATs provide high-quality MAT, for treating people with OUD as well as other primary substance use disorders. As of August 2024, DMAS identified 220 OBAT programs. As of August 2024, there are 50 Opioid Treatment Programs (OTPs), per the DBHDS State Opioid Treatment Authority (SOTA)

Medications for the Treatment of OUD (MOUD)

Naltrexone (Vivitrol, Injectable Naltrexone)

Naltrexone was approved by the FDA in 2006 for alcohol dependence and in 2010 for the prevention of relapse of opioid dependence after detoxification/withdrawal. Though it is available in pill/oral form, the preferred administration is a physician or clinician-administered injectable medication. These medications are covered under a Medicaid pharmacy benefit or medical benefit plan. Naltrexone is not a controlled substance, unlike other forms of available MAT medications. Prescribers do not require any special training or certification other than learning how to appropriately administer the medication to patients. Naltrexone is not allowable as a self-administered injectable. The long-acting injectable, extended-release post-injection potentially allows individuals to gain a period of sobriety or sustained recovery that may have been previously unobtainable. Naltrexone does have some risks and side effects. Individuals using Naltrexone should refrain from the use of other drugs and alcohol that might have a sedating effect as they have the potential in some cases for increased sensitivity. This could place the individual at an increased risk of overdose should they experience a relapse due to returning to the same level of use they experienced before their period of sobriety.

Sublocade (Buprenorphine Extended-Release))

Sublocade, a buprenorphine product, was approved by the FDA in 2017 as a once-monthly injection for the treatment of an OUD. This medication is not recommended for pain relief. Sublocade is an option for individuals who have started OUD treatment with an oral form of buprenorphine (Suboxone or Subutex). Oral buprenorphine, which is placed under the tongue or inside the cheek, is administered at least seven days in a row before the initial injection of Sublocade. Sublocade is available only in certified healthcare settings. This medication is not intended to be self-administered and requires injection by a healthcare provider. The medication is injected under the skin once a month or about every 26 days. Sublocade may reduce the burden of taking daily medication and may hinder the diversion or abuse of oral buprenorphine. Sublocade is often presented as an option as there is no requirement for complete withdrawal management or abstinence before induction.

Status of Implementation, FY 2020 through FY 2024

In 2016, the Office of the Executive Secretary (OES) administered the initial pilot and associated funding with a focus on the use of non-narcotic long-acting injectable prescription drug treatment regimens used in conjunction with ARC programs. The Norfolk and Henrico ARCs

were the initial participating dockets. The Bristol ARC was later added as a pilot participant, but in 2020, Bristol ADTC declined continued participation as a pilot site since Bristol ARC had previously been unable to enroll participants. The locality identified methamphetamine as a primary substance used in their area. At this time, there is no medication approved for the treatment of methamphetamine SUD.

In July 2019, the funding was transferred to DBHDS for administration and data collection. A request for proposal (RFP) was issued in December 2020, and awards were finalized in April 2021, and the award amounts retroactively covered costs for FY 2020. The awards were set up for reimbursement via a Memorandum of Agreement (MOA) for two years (FY 2021 to FY 2022) to enable the development of new programs with new awardees. During this period, eight ARCs participated, with five ARC Administrators managing the MOAs.

Norfolk and Henrico Recovery Courts were joined by Charlottesville/Albemarle, Smyth County Recovery, and the Counties of Buchanan, Dickenson, Russell, and Tazewell ARCs, which had an interest in providing access to a long-acting injectable prescribed medication for the treatment of an OUD and have supports already in place to begin or continue enrollments during FY 2021.

The Memorandum of Agreement (MOA) was renewed beginning July 1, 2022, through June 30, 2024, for the following ARCs: Buchanan, Dickenson, Russell, Tazewell, Henrico, and Norfolk. The Charlottesville ARC declined continuation with this funding opportunity and elected to not renew its contract as of June 30, 2022. Additionally, as of September 2023, Buchanan, Dickenson, Russell, and Tazewell ARC declined continuation with this funding opportunity due to the participants receiving Medicaid or Medicare benefits which cover MOUD treatment.

Buchanan, Russell, Tazewell, and Dickenson County ARCs

Cumberland Mountain Community Services Board (CMCSB) serves as the designated treatment provider for the Buchanan, Russell, and Tazewell Counties ARCs. The oversight of these courts is facilitated by three different judges.

The Buchanan ARC program consists of three phases of treatment, with a minimum length of stay of 18 months. The targeted population for this program is offenders with new felony charges and or/probationers who are diagnosed with primary substance use disorders, co-occurring disorders, pregnant/postpartum women, women with dependent/minor children, veterans, and individuals with histories of accidental overdoses. In FY 2023, the program served twenty-five participants. Of these 25 participants, 13 received medication for an opioid use disorder (MOUD) and maintained Medicaid benefits that covered their treatment. Eleven participants were prescribed Suboxone, two were prescribed Sublocade, and one was prescribed Subutex. The participant prescribed Subutex was transitioned to Suboxone upon the delivery of her infant. Zero participants were supported by Item 295.X funding for this reporting period.

Dickenson County ARC implemented the National Drug Court Institute's (NDCI) Five Phase Model Program in June 2019. Participants were expected to complete the program within a minimum of 14 months. The targeted population for this program is offenders with new felony charges and or/probationers who are diagnosed with primary substance use disorders, co-occurring disorders, pregnant/postpartum women, women with dependent/minor children,

veterans, and individuals with histories of accidental overdoses. Dickenson County Behavioral Health Services is the designated treatment provider. The program's capacity is 20 participants. In FY 2023, 21 individuals participated in the program and 14 of the participants received MOUD services. Thirteen of the participants have Medicaid insurance and one participant had a combination of Medicaid and Medicare insurance. A participant who was previously prescribed Subutex during her pregnancy and transitioned to Vivitrol upon delivery of her child. There are no participants supported by Item 295.X funding for this reporting period.

The Russell County ARC team is comprised of the Judge, the Commonwealth Attorney for Russell County, defense attorneys, probation officials, the Sheriff, and the Chief of Police. The program has a 20-participant capacity and consists of four phases of treatment, with a 12-month minimum length of stay. The targeted population for this program is offenders with new felony charges and or/probationers who are diagnosed with a primary SUD, co-occurring disorders, pregnant/postpartum women, women with dependent/minor children, veterans, and individuals with histories of accidental overdoses. As of June 30, 2023, four participants in the program receiving Vivitrol injections as a continuum of their treatment and have Medicaid benefits. Item 295.X appropriations support no participants.

Tazewell County ARC utilizes the National Drug Court Institute's (NDCI) Five Phase model program with completion in a minimum of 20 months. The targeted population for this program is offenders with new felony charges and or/probationers who are diagnosed with a primary SUD, co-occurring disorders, pregnant/postpartum women, women with dependent/minor children, veterans, and individuals with histories of accidental overdoses. In FY 2023, 34 individuals participated in the program and 20 participants received MOUD. The 20 participants in ARC have Medicaid insurance. The following includes the type of MOUD medication that participants were prescribed during the fiscal year: 14 of the participants were prescribed Suboxone, two were prescribed Sublocade, one participant was prescribed Subutex, two were prescribed Methadone, and one participant was prescribed Vivitrol. There are no participants receiving Item 295.X funding.

Buchanan ARC, Dickenson ARC, Russell County ARC, and Tazewell ARC, all indicated that the programs have attained full operational status since the COVID-19 State of Emergency ended. Due to the participants having Medicaid or Medicare insurance, the four courts have not utilized the funds during the dates of April 19, 2021, until September 28, 2023, and have declined to participate in this funding opportunity for FY 2024.

The Current Landscape

The language for Item 295.X states that the allocation of funding is allowable for substance use disorder treatment utilizing appropriate, long-acting injectable prescription drugs for approved specialty dockets. As of August 21, 2024, there are currently 52 Adult Recovery Courts, three Juvenile Recovery Courts, five Family Recovery Courts, and one DUI Recovery Court. Additionally, there are five Veterans Treatment Dockets (VTDs), 16 Behavioral Health Dockets (BHDs), and one Juvenile and Domestic Relations Behavioral Health Docket. In March 2024, the Specialty Docket Coordinator, the Department of Justice Services, OES, and the DBHDS, Office of Substance Use Services Director offered this funding opportunity to the specialty dockets. Two ARCs expressed an interest in the funding opportunity but decided to decline.

Specialty Dockets

During the reporting 2023 reporting period, six of the ADTCs renewed the memorandum of agreement (MOA)/contract to receive funding for the timeframe of July 1, 2022, to June 30, 2024. Four of these ADTCs are in Southwest Virginia and the remaining participating ADTCs are in Henrico and Norfolk.

Henrico ADTC

The Henrico Adult Drug Treatment Court continues to collaborate with Henrico County Mental Health. Henrico County Mental Health medical staff assesses and prescribes MOUD services to participants in the ADTC program. During the reporting period, Henrico Adult Drug Treatment Court served 36 ADTC participants. Of the 36 participants, 21 of them received MOUD services. The following includes the type of MOUD medication that participants were prescribed during the fiscal year: two were prescribed Vivitrol, thirteen were prescribed Suboxone, five were prescribed Sublocade, and one was prescribed oral Naltrexone. The participant whose Vivitrol services were covered by this funding received one injection and subsequently qualified for Medicaid insurance.

Twenty-six of the participants had Medicaid insurance and two had Medicaid and Medicare insurance. The ADTC Administrator reported that this funding opportunity has benefited individuals receiving MOUD services until they qualify for Medicaid insurance. As of September 2023, some participants have lost their benefits due to the conclusion of the Department of Medical Assistance (DMAS), Families First Coronavirus Response Act (FFCRA) Henrico ADTC submitted one invoice in 2023 for the sum of \$3,823.40 and has a remaining balance of \$16,176.00 as of December 6, 2023.

Norfolk ADTC

The Norfolk ADTC program is administered by the Norfolk Circuit Court. This is a cooperative effort between Norfolk Community Services Board, Community Attorney, Public Defender, Sheriff's Department, and Police Department. This program utilizes several community resources combined with treatment, probation, counseling, and case management to assist participants with substance use disorders to maintain their sobriety. The program consists of a five-phase system with a minimum of 18 months in length. Norfolk Community Services Board provides the following services to participants: outpatient substance use and mental health disorders, individual, group, and family counseling, health education, and trauma counseling. The Norfolk ADTC docket continues to use its funds to enhance its CSB's Opioid Treatment Program (OTP) with Naltrexone. The Norfolk ADTC can serve 50 participants and served 44 individuals in FY 2023. As of September 2023, the Norfolk ADTC Administrator stated that 295.X funding is beneficial in assisting individuals with accessing MOUD services until they qualify for Medicaid insurance. Two participants' injectable Vivitrol was funded utilizing the 295.X funding for a total of nine doses. Norfolk ADTC utilized \$13,318.42 and has a balance of \$36,681.58. One of the participants receiving this funding absconded from the program and the medication was discontinued. During this reporting period, Medicaid insurance benefits covered Vivitrol services for 12 ADTC participants and one participant had private insurance. Insurance funded a total of 67 doses of Vivitrol.

Outcomes

Information collected from the participating courts includes the total number of individuals served by this program during the reporting period, the number of monthly doses of Naltrexone administered during the same period, information on insurance eligibility, and if the individuals involved in the program applied for/were approved for insurance, outcomes of those participating, and demographic information for participants.

The outcomes reported are for the period beginning July 1, 2022, and ending June 30, 2023. During the period of the contract, the six courts reported serving a total of 160 individuals and 70 of these individuals received MAT services. Three individuals were prescribed injectable Vivitrol supported by Item 295.X funding for a total of ten injections.

The six ADTCs participating in this funding report that the participants qualify for Medicaid benefits which accounts for not utilizing the 295.X funds for MAT services. Norfolk and Henrico ADTCs report that the 295.X funds the medication until participants receive Medicaid benefits, which normally take 30 days. It is important to note that the 2017 DMAS expansion and Addiction and Recovery Treatment Services (ARTS) provide coverage for MOUD medical and behavioral health services such as medication, therapy, case management, and transportation to treatment appointments.

With the expansion of Medicaid, an increasing number of ADTC participants apply and qualify for services upon entering the programs. In March 2023, DMAS Medicaid (unwinding) returned to normal enrollment processes including redetermination of benefits due to the conclusion of the Federal Public Health Emergency. Henrico ADTC reports that some of the participants have Medicaid lost coverage due to the unwinding.

Findings and Conclusion

DBHDS continues to consult with the Office of the Executive Secretary (OES) Drug Treatment Court Coordinators, Alkermes, and participating courts to evaluate and provide technical assistance.

An expectation of increased enrollment was pursued through a focus on enhanced support, technical assistance, and increased accessibility to long-acting injectable prescribed medications within the ADTC programs. Communications to ADTC coordinators were provided to educate and alert ADTCs of the opportunity to request participation in Item 295.X funding.

The July 2021 change in appropriation language was emphasized and DBHDS staff outreach to DUI courts was initiated, and interested inquiries were received from the ADTC, as well as the Family DTC and the DUI court. However, no applications were submitted.

The expectation is to continue to provide an opportunity for ADTCs to participate in education and training related to the medications as well as the implementation of the treatment regime. The benefits of Naltrexone as a treatment option for individuals with an alcohol use disorder (AUD) will be promoted as part of outreach efforts.

As there is a continued effort to recruit and support ADTCs in providing appropriate long-acting injectable medications for the treatment of an OUD or an AUD there is a concern that this funding may be better utilized for an expanded population. Additional programs are selected to participate in the funding opportunity in FY 2025 all ADTC, Family, and DUI dockets will be held to the same standards as the other Courts listed above that have previously participated.

In conclusion, there has been an influx of funding to address treatment services for individuals with an OUD; however, substance use trends vary. Item 295.X funds provide a safety net as the availability of other funding streams changes and the growth of ADTCs, Recovery Courts, and Specialty Dockets continues in the state of Virginia. With the expansion of Medicaid benefits, the opportunity for individuals to access Naltrexone by way of this appropriation is limited. Other mitigating factors may create a barrier for utilizing these funds, including physicians' reservations about treating patients with opioid addiction using long-acting Naltrexone since Naltrexone requires patients to be opioid-free before starting treatment, which can be a challenge. When patients cannot fully commit to abstinence and are given Naltrexone, it can lead to relapse and potentially dangerous situations. Patients who are dependent on opioids may experience withdrawal symptoms if naltrexone is administered too soon after their last use, making the transition difficult. Also, individuals participating in drug court programs have a dropout rate of up to 50 percent, thus the issue of adherence and compliance to treatment may become a concern for doctors. These factors contribute to a cautious approach among some healthcare providers when considering long-acting naltrexone for opioid addiction treatment.