



TRANSLATING DRUG COURT Research into Practice

Seven Program Design Features: Adult Drug Court Principles, Research, and Practice*

In 2011, the Bureau of Justice (BJA) and the National Institute of Justice (NIJ) collaborated to identify evidence-based components of successful drug court programming that may be used by program grant applicants and other stakeholders to design more effective programs.

The research principles are summarized in Seven Program Design Features:

1. Screening and Assessment
2. Target Population
3. Procedural and Distributive Justice
4. Judicial Interaction
5. Monitoring
6. Treatment and Other Services
7. Relapse Prevention, Aftercare and Community Integration

This was motivated by the release of findings from NIJ's Multisite Adult Drug Court Evaluation, an unprecedented process, impact, and cost evaluation involving nearly 1,800 drug court and non-drug-court probationers from 29 jurisdictions across the United States. Through discussions with several leading drug court researchers, and program practice experts including training and technical assistance providers, BJA and NIJ identified the seven program design features.

In 2012, BJA and NIJ produced a webinar on the seven program design features through the Adult Drug Court Research to Practice (R2P) Initiative, a project with the National Center for State Courts, American University, and consultants expert in research and practice. This brief report summarizes the information found in the webinar and associated work products—a review of the principles, research, and practice applications for each design feature, and references to information resources and relevant research studies.¹

The seven program design features are based on the best available research on drug courts and related programs and services. The principles are therefore limited to topics for which rigorous research is available. Also, the practice and policy guidance is limited to subject matter expertise and experience relevant to the research-based principles; the guidance is not intended to address all aspects of drug court practice and policy. Finally, we defer to the drug court teams, participants, and their communities to apply this guidance according to local resources and priorities but hope the information will challenge jurisdictions to consider different options.

¹ This information is current as of January 2012 and references were updated in January 2019 for this and the Spanish language report (<https://www.ncjrs.gov/pdffiles1/nij/246227.pdf>). Please visit BJA's National Drug Court Resource Center (www.ndcrc.org/) and the Information Resources listed at the end of the report.

#1 Screening and Assessment

Screening and Assessment Principles

Concerns include brief legal and behavioral screening for program eligibility, and more intensive clinical and psychosocial assessment of risk, needs, and responsivity.

- Referral sources and other stakeholders should be clear on program eligibility criteria, which must be consistent with targeted population needs and available program resources.
- Screen promptly and systematically for all offenders potentially eligible for the drug court, identify the agency which will conduct this screening, and detail the procedures that will be used for screening.
- Offenders determined to be eligible for the drug court as a result of screening will then be assessed to identify their risk for relapse and recidivism, as well as the nature of treatment and other rehabilitation needs.
- Assessments should be conducted using instruments that have been validated² for the targeted population and updated periodically.
- Treatment and other service assessments should be reviewed and adjusted to gauge offender needs that may change over time.

Screening and Assessment Research

The principles are based on a theoretical framework called the Risk-Need-Responsivity (RNR) Model (Ref 3).

Risk - Match program intensity to offender recidivism risk level; intensive levels of treatment for high-risk offenders and minimal intervention for low-risk offenders.

Need - Target criminogenic needs or those offender needs that are functionally related to criminal behavior.

Responsivity - Provide cognitive-behavioral therapy (CBT) tailored to offender's learning style, motivation and other specific attributes.

² Validated means the instrument has been demonstrated to measure the intended characteristic; e.g., the Beck Depression Inventory has been shown through studies to measure mood and physical symptoms that correlate with depression (which affects drug court participation). Studies should demonstrate validity for offenders of varying age, race, gender, and ethnicity.

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The RNR Model identifies seven major risk/need factors (Ref 3):

1. *Antisocial Personality Pattern* – Impulsive, adventurous pleasure seeking, restlessly aggressive and irritable;
2. *Procriminal Attitudes* – Rationalizations for crime, negative attitudes towards the law;
3. *Social Support for Crime* – Criminal friends, isolation from prosocial others;
4. *Substance Abuse* – Abuse of alcohol and/or drugs;
5. *Family/Marital Relationships* - Inappropriate parental monitoring and disciplining, poor family relationships;
6. *School/Work* – Poor performance, low levels of satisfaction; and,
7. *Prosocial Recreational Activities* – Lack of involvement in prosocial recreation/leisure activities.

Also relevant are four minor non-criminogenic needs (Ref 3):

1. *Self-Esteem* – Poor feelings of self-esteem, self-worth;
2. *Vague Feelings of Personal Distress* – Anxious, feeling blue;
3. *Major Mental Disorder* – Schizophrenia, manic-depression; and,
4. *Physical Health* – Physical deformity, nutrient deficiency.

Recidivism risk is commonly used to triage cases and allocate resources. Sentencing guidelines divert low-risk nonviolent offenders to alternative dispositions or sanctions based on recidivism risk. Resources are conserved for high-risk offenders who may serve sentences under community corrections or incarceration depending on public safety, rehabilitation, and other concerns. Factors significant in predicting recidivism risk include (Ref 18):

- Offender characteristics and demographics (e.g., young adult);
- Current offense information;
- Prior adult criminal record; and,
- Prior juvenile contact with legal authorities.

Note historical factors like these are static (unchangeable or unlikely to change), whereas others are dynamic (more open to change). Tools that assess dynamic risk factors can be used to compare followup to initial risk measures and gauge offender change (Ref 12). Treatment primarily targets dynamic risk factors (i.e., substance abuse).

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There are several public access and proprietary tools available for screening and assessment purposes. See Information Resources for websites on various screening and assessment tools.

In selecting tools, it is important to consider the following:

Cost - Developers may charge for instrument use or make them public domain.

Training - Staff need to be trained to collect information from records and administer screeners (incl. non-English speaking); to yield reliable information, assessment requires those administering to receive special training.

Format - Complexity, length, and time required to administer instruments vary; paper-based vs. computer automated instruments have pros and cons.

Location - Setting may pose challenges to offenders' disclosing sensitive information (e.g., trauma) and socially undesirable behavior (e.g., injection drug use); facilities may not permit laptops and other electronics.

Scope and Specificity - Instruments vary in areas covered, and some areas need to be examined in-depth to assess needs and responsiveness (e.g., mental illness).

Closed/Open-Ended - Instruments may have yes/no answers or scaled responses (1 = low, 5 = high) (e.g., COMPAS and TCU-DS); others promote open-ended conversations whose results are coded at the end (e.g. LSI-R and ORAS).³

Screening and Assessment Practice

Stakeholder support is critical, and strategies to improve drug court referrals and program support are:

- Address risk concerns of law enforcement, prosecutors, crime victims, and public;
- Review drug court evidence with defense bar, service providers, and stakeholders;
- Begin with small caseload, but expand to meet critical volume demand and justify budget and in-kind support; and,
- Avoid silo building by utilizing variety of problem-solving court resources, and allowing case transfers as offender needs (e.g., comorbidity⁴) identified.

³ Examples are Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), Texas Christian University Drug Screen (TCU-DS), Level of Service Inventory-Revised (LSI-R), and Ohio Risk Assessment System (ORAS).

⁴ Comorbidity means having more than one condition (e.g., mental illness and drug dependence).

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Courts manage cases by triage of drug-involved cases; that entails screening for drug court eligibility, and reserving RNR assessment (and reassessment) for eligible candidates. In other words:

- Systematically identify cases for referral to drug court vs. other dispositions;
- Screen referred offenders on legal and other drug court eligibility criteria without delay (Ref 20);
- Assess eligible offenders—for risk of reoffending, drug dependence, and other needs—to confirm drug court admission and develop individual treatment plans; and,
- Reassess regularly and monitor for changes in condition.

Drug court eligibility screening criteria include initial information on multiple factors:

Legal - Outstanding cases, supervision status (probation level), case status (post-disposition), and sentence (deferred jail or prison term);

Risk - Criminal history length, offense types (sex offenses, drug trafficking) and severity (felony, misdemeanor, other);

Need - History of alcohol and other drug use, positive drug test, mental health issues, and other health service use (medications); and,

Program Resources - Available to support eligible offender monitoring and services.

More intensive and comprehensive RNR assessment (and reassessment) follow; that is,

- Conduct needs and responsivity assessment on issues identified during screening, later as symptoms may mask other needs, and as behavior changes; and,
- Refer offenders to staff trained to:
 - Conduct in-depth clinical assessments using validated instruments,
 - Identify critical recovery issues (e.g., trauma),
 - Render diagnoses (dependence, mental illness), and
 - Prescribe medications and services suitable to subpopulation and drug court setting.

#2 Target Population

Target Population Principles

Concerns include specifying the offender subgroup(s) the program is designed to serve.

- Program resources should be prioritized for offenders who demonstrate both high criminogenic risk and high alcohol and other drug dependence. Serve offenders whose characteristics and risk factors directly relate to a high probability of offending, and who are frequent drug users diagnosed for drug dependence.
- Target offenders who are subject to (or eligible for) legal sanctions that may provide greater leverage in program compliance.

Target Population Research

Research has shown that underestimating or overestimating drug court participant risks and needs will undermine program goals. Net-widening (i.e., expanding the target population to include low-risk or low-need offenders) and applying more intensive supervision or treatment than is needed has negative impacts on outcomes (Ref 19).

This figure shows the suggested sentence ranging from diversion to incarceration according to two factors: recidivism (risk of criminal offending) risk versus alcohol and other drug dependence (treatment need).⁵ The best drug court target population is offenders who are high risk and high need. Defendants who are ineligible for drug court may be referred to diversion programs that minimize criminal justice system contact, for example.

		Alcohol and Other Drug Dependence	
		High	Low
Recidivism Risk	High	Incarceration or Drug Court, Treatment	Incarceration or Intensive Probation, Prevention
	Low	Low Level Probation or Diversion, Treatment	Low Level Probation or Diversion, Prevention

⁵ See pages 2-3 for more information on the Risk-Need-Responsivity (RNR) model.

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Research shows that drug court impact and return on investment is greatest if the eligibility criteria select offenders with the following characteristics (Ref 21):

- High-risk of re-offense (e.g., more serious criminal history);
- More serious drug use at intake;
- More legal exposure on current case (e.g., jail or prison if terminated); and,
- Without co-occurring mental health needs.

Less differential impact is found for variables such as motivation at baseline, age, or gender.

Target Population Practice

Strategies to develop and implement effective screening criteria include:

- Collect information from law enforcement, prosecutors, defense counsel, judges, community corrections, jails, prisons and service providers to refine eligibility criteria;
- Apply case triage to direct high risk/high need target population to drug courts, and others to alternatives based on offender risk/need and program resources;
- Communicate drug court eligibility criteria to referral sources and potential participants, and clarify referral protocol; and,
- Confirm drug court staff and service resources adequately accommodate referrals, and they are consistent with target population.

#3 Procedural and Distributive Justice

Procedural and Distributive Justice/Principles

The basic concerns are fair process and equitable outcomes, and the perception of these.

- Establish and clearly communicate a system of graduated sanctions and incentives that is activated and delivered with certainty in response to offender behavior.
- Information from the drug court team and the offender should be considered in determining noncompliance and the appropriate response.
- Specific program responses should be meaningful to the offenders, understandable, and delivered in a manner that can be perceived as fair and equitable.

Procedural and Distributive Justice Research

There is a solid theoretical foundation behind the concepts of procedural and distributive justice.

First, procedural justice is operationalized on multiple dimensions (Ref 5):

1. Voice - Side is heard, opportunities to speak during status hearings;
2. Respect - Treated with dignity and respect;
3. Neutrality - Decision-making is unbiased and trustworthy;
4. Understanding - Comprehend court language, decisions, responsibilities; and,
5. Helpfulness - Shown interest in individual needs.

Distributive justice is more outcome-oriented (Ref 22); it:

- Concerns whether the outcome itself (i.e., the actual distribution of rewards, punishments, or some resource) is fair; and,
- Informs legitimacy through perceived fairness and equity of the delivery of services, such as across social and demographic groups.

Relevant research not specific to drug courts (e.g., law enforcement, community courts) demonstrates (Refs 1, 5, 7, 9):

- Experience-based assessments of distributive and procedural fairness matter to perceptions of legitimacy and compliance (e.g., among African Americans);
- Perceptions of procedural justice can increase compliance with court orders and reduce illegal behavior;

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- Perceptions of procedural justice exert greater influence than perceptions of distributive justice; and,
- The judge has the greatest influence on overall perceptions.

Findings from NIJ's Multisite Adult Drug Court Evaluation indicate (Ref 21):

- Participants' perceptions of procedural justice, distributive justice, and severity of the sentence to be imposed upon drug court failure predict program compliance, criminal behavior, and drug use;
- Perceptions of procedural justice—and of the judge in particular—are a critical factor explaining why drug courts reduce crime and drug use; and,
- Understanding may be a particularly important dimension (greatest difference between drug court and comparison group).

Procedural and Distributive Justice Practice

To promote procedural and distributive justice in drug court programming, consider the following (Ref 6).

- Did the offender get the decision they wanted, was it deserved, and was it through fair procedures?
- Was this the perception of the offender, and of other drug court participants?
- Collect information from participants and team to refine system of graduated sanctions and incentives to reinforce compliance.
- Document and disseminate drug court requirements and policies in language understandable to participants.
- Identify and acknowledge preconceptions and attitudes toward the criminal justice system, and train staff on cultural competency.
- Use voice, respect, and understanding to promote trust and confidence, because perceived legitimacy leads to compliance.
- Ask participants, staff, and service providers for feedback on how to promote procedural and distributive justice.

#4 Judicial Interaction

Judicial Interaction/Principles

This concerns drug court hearings and communications between the judge and participants.

- Judges should interact directly and regularly with drug court participants during drug court hearings, which should be as frequent as the participant may require.
- As the program leader, the judge will maintain authority by demonstrating support for the program and knowledge of individual offenders.
- Communication between the participant and the judge should be based on a foundation of respect, and judges must maintain an understanding of program resources available to assess and respond to participant behavior.

Judicial Interaction Research

Qualitative research involving observation of drug court judges has clear implications for participant outcomes. Judges appear to elicit better outcomes when (Refs 8, 21):

- Their judicial demeanor seems respectful, fair, attentive, enthusiastic, consistent, caring, and knowledgeable; and,
- They spend three or more minutes per participant per hearing (regardless of participant compliance).

Also, trained and vested drug court judges promote better outcomes; that is, high turnover leads to poorer participant outcomes (Ref 8).

Judicial Interaction Practice

There are many strategies to enhance the influence of the judge and other drug court team members on participant performance:

- Hold frequent judicial status hearings (esp. for high risk participants);
- Recruit and retain judges to lead drug court teams, and plan successions with stakeholders;
- Train on therapeutic jurisprudence – educate on addiction and role of advocating for participant needs related to criminal behavior;
- Approach participants according to individual level of cognitive functioning;

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- Appreciate history of personal failures and address sense of hopelessness that many participants have;
- Promote increased participant accountability while recognizing small achievements; and,
- Manage hearings to educate individual offender and other participants by example.

#5 Monitoring

Monitoring Principles

Concerns include community-based surveillance and supervision to confirm and manage compliance with abstinence and other program requirements.

- Monitor drug court participants using random drug testing and community supervision.
- Disseminate results efficiently to the drug court team.
- Immediately respond to noncompliance with program requirements.

Monitoring Research

The theoretical roots of monitoring trace back to the principles of sentencing which includes deterrence⁶ through:

Celerity - Swiftmess in response to behavior;

Certainty - Likelihood that behavior detected and given a response; and,

Severity - Harshness of response in proportion to behavior.

Monitoring includes contact with the judge and other team members. The research shows that (Refs 4, 11, 19, 21, 24):

- In general, intensive supervision among probationers and parolees leads to higher noncompliance detection and violation rates unless program response is therapeutic;
- Training probation officers on RNR model results in more use of cognitive-behavioral therapies, discussion of offender criminogenic needs, and lower recidivism;
- Drug court participants who had more frequent judicial status hearings and drug testing had better outcomes; and,
- High-risk participants benefit most from frequent judicial status hearings; benefits unclear for low-risk participants.

⁶ Deterrence may be specific to the offender or general to the community; the other sentencing principles are rehabilitation, incapacitation, retribution, and optionally restorative justice.

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Monitoring Practice

Following are strategies to balance therapeutic jurisprudence with public safety concerns.

- Engage law enforcement and community corrections in monitoring (curfew checks, travel restrictions, home visits).
- Educate drug court team (incl. community corrections) on therapeutic jurisprudence, observe participant as frequently as indicated by risk and needs assessment, and address noncompliance with responses other than probation violation.
- Test for alcohol and variety of drug types, not just ‘drug of choice.’
- Apply random testing schedule, or test so frequently that any alcohol or drug use is detected.
- Train staff on drug testing protocols (observation, chain of custody, confirmation, etc.).
- Maintain a system that reliably records and disseminates test results (incl. no-show and no sample) and behavior (program compliance).
- Explain purpose and temporary nature of alcohol and other drug testing —training wheels to be removed.
- Regularly review team and service provider reports, test results, behavior patterns, and program requirements with participant in hearings.
- Use monitoring results to adjust services and supervision requirements for participants as appropriate.

#6 Treatment and Other Services

Treatment and Other Services Principles

Concerns include alcohol and other drug treatment, as well as rehabilitation services to address employment, education, physical and mental health, and other needs.

- Maintain program resources that address drug court participant needs identified over time.
- Accommodate the range of treatment and other rehabilitation services required.
- Apply case management beyond initial referral to confirm that providers appropriately deliver ongoing assessment and services.

Treatment and Other Services Research

The American Society of Addiction Medicine, the National Institute on Drug Abuse, the Substance Abuse and Mental Health Services Administration (SAMHSA), and drug treatment researchers have documented the following (see SAMHSA's Treatment Improvement Protocols and Refs 2, 10, 17).

- Addiction is a primary, chronic disease of brain reward, motivation, memory and related circuitry; circuit dysfunction leads to biological, psychological, social and spiritual manifestations, reflected in pathologically pursuing reward and/or relief by substance use and other behaviors.
- Medication-assisted treatment may reduce alcohol and opiate relapse by addressing increased tolerance and withdrawal symptoms, with counseling and monitoring to avoid diversion and misuse that may cause overdose.
- Addressing participants' multiple criminogenic needs through treatment-related services leads to reduced relapse and recidivism.
- Drug courts that follow RNR principles produce greater recidivism reductions than drug courts that do not; but many drug courts do not appear to follow any RNR principles, and most follow one at most.

SAMHSA developed a searchable clearinghouse, the National Registry of Evidence-based Programs and Practices, that offers objective reviews of manualized treatment protocols. One approach is cognitive behavior therapies (CBTs) that focus on maladaptive beliefs and patterns

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of thinking, and build skills including self-monitoring, problem-solving, and rational decision-making. We've learned the following about CBT from the research (Refs 13, 16).

- Complement to medication-assisted and other treatment for alcohol and other drug dependence, mental illness, etc.
- Can be adapted to different diagnoses, needs, and learning styles (e.g., female offenders, young adult, and other subgroups).
- May reduce reoffending by addressing 'criminal thinking' need—i.e., negative views of the law and authority, distorted perceptions of victimization and disadvantage, external locus of control, lack of empathy and sensitivity to others, neutralization techniques, blaming the victim, minimization of harm.
- Meta-analysis of juvenile and adult offender studies showed an average 25% recidivism reduction relative to comparison group (e.g., 40% to 30%); greatest impact was among high risk offenders, and when fidelity of CBT approach was ensured with training and quality assurance.

Treatment and Other Services Practice

Drug courts can improve treatment and other service potential through the following strategies.

- Use case management to gauge criminogenic needs (incl. trauma among male and female offenders) and identify service resources.
- Confirm appropriate services (e.g., medication, sober housing) are accessible.
- Maintain access to continuum of community-based assessment, treatment, and other providers, and assure service quality:
 - Staff are trained and certified,
 - Curricula are manualized—written lesson plans for standard and effective service delivery, and,
 - Services are evidence-based,⁷ specific to diagnosis, and validated for population;
- In addition to detoxification, inpatient rehabilitation, and medication modalities, consider treatment approaches and associated costs.

⁷ Evidence-based means integrating the best available research findings, practitioner expertise, and other resources with the needs, values and preferences of those affected.

#7 Relapse Prevention, Aftercare, and Community Integration

Relapse Prevention, Aftercare, and Community Integration Principles

The final program design feature concerns identifying triggers and supports to prevent relapse during and after program participation.

- Begin planning at the first program phase.
- Implement culturally sensitive planning and other programming.
- Support relapse prevention, community integration, and aftercare/continuing care services.

Relapse Prevention, Aftercare, and Community Integration Research

Research specific to drug courts is lacking in this area; generally, aftercare refers to the continuing care approach to recovery, whereby the impact of inpatient rehabilitation is boosted if followed by community-based outpatient treatment (Ref 15). Relapse prevention therapy is a CBT that focuses on the individual recovery process and coping strategies, and has been shown to reduce offender relapse and recidivism (Refs 14, 23). Applying both aftercare and relapse prevention to drug courts means case planning for the transition from program to community-based resources, and social reintegration to reduce recovery and offender stigma with support from family, community, employment and service providers.

Relapse Prevention, Aftercare, and Community Integration Practice

This may be one of the least studied aspects of programming, but several strategies are suggested.

- Community reintegration strategies may include family, religious and other organizations that support alternatives to alcohol and drug use.
- Graduations and other drug court events are opportunities to promote the program and educate law enforcement, local government, community-based organizations, and family on recovery.
- If family and other relationships threaten sobriety, suggest ways to cope with triggers or find other sources of support.
- Recognize relapse norms, and teach relapse prevention skills to avoid behavior that would sabotage graduation.

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- Begin post-graduation planning early, and confirm transition plans prior to successful drug court termination.
- Mentoring and alumni groups can be opportunity for graduates to serve community as part of their recovery.

Information Resources

Risk Assessment Instruments

Public Safety Risk Assessment Clearinghouse

<https://psrac.bja.ojp.gov/selection/tool-selector>

Descriptions of assessment instruments relative to: violent, sexual, and general recidivism, pretrial misconduct, and other behaviors.

BJA-NIJ Adult Drug Court Research to Practice (R2P) Initiative

<https://www.nij.gov/topics/courts/drug-courts/Pages/research2practice.aspx>

Website archive of webinars and other information on topics including appropriate target population, the role of medication, effective substance abuse treatment, performance measurement and program evaluation for drug courts, and the seven program design features.

Drug Court Research

National Institute of Justice

<https://www.nij.gov/topics/courts/drug-courts/welcome.htm>

Webpages on drug court research and evaluation, including program logic model components, performance measures, and evaluation types (process, outcome, impact, and cost efficiency).

National Registry of Evidence-based Programs and Practices

Substance Abuse and Mental Health Services Administration

<https://www.samhsa.gov/nrepp>

Searchable online registry of mental health and substance abuse interventions that have been reviewed and rated by independent experts.

Offender Assessment Utilizing the Risk-Need-Responsivity Model

Churchill (2011) Residential Substance Abuse Treatment Training and Technical Assistance

<http://www.rsat-tta.com/Webinars/Archived-Webinars>

Brief history of offender assessment; review of the Risk-Need-Responsivity (RNR) Model; role of the RNR Model in the development of offender assessment instruments; connection between offender assessment, treatment planning and provision of services; overview of several fourth generation RNR assessment instruments.

Treatment Improvement Protocols

Substance Abuse and Mental Health Services Administration

<http://www.ncbi.nlm.nih.gov/books/NBK82999/>

- Clinical Guidelines for the Use of Buprenorphine in the Treatment of Opioid Addiction: A Treatment Improvement Protocol TIP 40;

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- Medication-Assisted Treatment for Opioid Addiction in Opioid Treatment Programs: A Treatment Improvement Protocol TIP 43;
- Substance Abuse Treatment for Adults in the Criminal Justice System: A Treatment Improvement Protocol TIP 44; and,
- Incorporating Alcohol Pharmacotherapies into Medical Practice: A Treatment Improvement Protocol TIP 49.
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*Disclaimer:

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