

6. ALCOHOL ASSESSMENT AND TREATMENT

Why Is Mandatory Alcohol Assessment and Treatment For DUI/DWI Offenders Needed?

Many DUI/DWI offenders, including first time offenders, have alcohol abuse problems. It is estimated that 30 percent to 75 percent of these offenders have serious alcohol problems, with most chronic drunk drivers being alcohol dependent. Studies in Maryland and North Carolina revealed that 70 percent of the offenders assessed had an alcohol and/or drug abuse problem. A Georgia study revealed that as many as 95 percent of offenders evaluated, including first time offenders, had an alcohol abuse problem or potential for such a problem. Given the rates of alcohol problems among chronic drunk drivers, treatment and rehabilitation programs should be an integral part of any strategy to combat the drunk driving problem. We can no longer simply address the results or consequences of these problems, which all too often result in tragic deaths and serious injuries. We must also address the underlying problem, which may be associated with the behavior of these chronic drinking drivers. One of the primary goals of any sentencing or sanctioning strategy is reducing recidivism.

Treatment Options for DUI/DWI Offenders

Traditionally, many programs developed for DUI/DWI offenders have been considered treatment. These have included the classroom discussion “DUI School”, participation in self-help groups such as Alcoholics Anonymous (AA), participation in outpatient counseling, and long-term residential treatment programs. These programs have had varying degrees of success on reducing recidivism based on the extent of the alcohol problem of the offender and the components of the particular program.

Educational Programs

Educational or “DUI School” programs consist of classes offering simple, straightforward educational presentations about the medical and legal consequences of drinking and driving (Siegal 1984). In conjunction with lectures and readings, offenders may be shown movies depicting alcohol-related crashes and injuries. For offenders who do not have an alcohol abuse problem, these DUI education programs reduce recidivism by approximately 10 percent when compared with offenders who were only fined and were not required to attend the education program. While educational programs which convey factual information may have some impact on first offenders who are not alcohol dependent and may have light drinking patterns, they have little or no effect on multiple offenders or first offenders who are heavy drinkers.

Alcoholics Anonymous

Alcoholics Anonymous has historically been the main source of recovery for many alcoholics. The individuals who traditionally have participated in these programs have done so voluntarily. They have recognized that they have a problem and have made the decision to seek help on their own. When DUI offenders are ordered to attend AA, it is obvious that they are not one of these volunteers and for most of these offenders; AA may be most effective in hospital or correctional settings in which attendance can be monitored.

Many researchers have questioned the wisdom of requiring all offenders to attend AA and making it their sole treatment program. As with any other form of treatment or rehabilitation, AA works better for some people than for others. One must also question whether it is fair to those members of AA who are there by their own choice to overwhelm their meetings with individuals who are only there because they were ordered to be there and who may be hostile and disruptive.

Treatment Programs

Offenders evaluated as problem drinkers or alcoholics require a more intensive and longer rehabilitation program than educational programs alone. Such rehabilitation programs may be conducted on an outpatient or inpatient basis. The option of inpatient treatment provides the following:

- Incapacitation
- More intense, broader-spectrum treatment than many outpatient programs
- The opportunity to closely monitor the offender's compliance with the treatment program.

Intensive inpatient or outpatient alcoholism treatment can take several approaches. An example is cognitive-behavioral therapy, which provides training in ways to confront or avoid everyday situations that might lead to drinking and works to strengthen behaviors that help maintain long-term sobriety. Available evidence suggest that recidivism may be reduced if DUI/DWI offenders who are problem drinkers are required to participate in an intensive treatment program for at least one year. This conclusion was based in part on a program that included, at a minimum, therapy sessions once a week and an individual interview with either a therapist or probation officer every other week (NHTSA 1986).

Use of Medications

Some treatment programs and some judges as part of the sentence require the offender to take medication aimed at preventing the individual from drinking, such as disulfiram (Antabuse). Research is also being conducted on the use of naltraxon, which is aimed at eliminating the "high" or euphoric effects caused by alcohol consumption. The success of any of these medication programs will be entirely dependent on the close monitoring of medication compliance.

Diversion or Probation Before Judgment (PBJ) Programs

The law in some states allows DUI/DWI offenders to avoid a conviction on their record if they participate in some type of court ordered treatment program. The offender essentially is

"diverted" around the normal sanctions of the criminal justice system and if they complete the conditions of the diversion or the probation before judgment, they will have no record of conviction on their record. Many of these offenders appear again and again before the court as first offenders. Offenders should not be given these diversion options and should not be able to avoid the normal statutory sanctions that follow a conviction for DUI/DWI. Alcohol assessment and treatment should be mandatory for all these offenders and they should not be allowed to make a deal to avoid any of the sanctions imposed on convicted offenders. State laws that allow for these diversion or PBJ programs should be repealed. A listing of states that allow diversion or probation before judgment follows this section.

Are Treatment Programs Effective in Reducing Recidivism?

Research indicates that education and treatment interventions, on average, reduce DUI/DWI recidivism and alcohol-related crashes 7 percent - 9 percent, which is similar to other strategies used to address drunk driving such as administrative license revocation. Treatment is most effective when combined with other approaches, such as closely monitored supervision, in combination with fines, penalties, and sanctions. Research also indicates that this combination of approaches can improve treatment impact, with reduction in recidivism and related problems exceeding 20 percent. Treatment effectiveness is enhanced if there is cooperation between the courts and treatment facilities with respect to sentencing, tracking, and monitoring of repeat offenders.

Treatments that Work Best

Two generalizations can be made about treatment effectiveness:

- Treatments that combine strategies, such as education in conjunction with therapy and aftercare, appear to be most effective for repeat as well as first-time offenders
- The more severe the alcohol problem, the more intensive should be the treatment

Data is insufficient to determine the most effec-

tive specific treatment strategy for each offender. In general, evidence supports a 7 to 9 percent reduction of DUI/DWI recidivism and crashes averaged across all offender and treatment types.

Evaluation of the Offender: Key to Successful Treatment Programs

The key to the design and success of any treatment program begins with the assessment of the alcohol abuse problem and the evaluation of the offender. An evaluation is a formal assessment to identify the extent of a person's alcohol problem, state of mental health and social adjustment. An evaluation helps to determine which sanctions are most likely to reduce recidivism for the individual offender as well as when and what type of alcohol treatment is most appropriate.

Who should be evaluated?

A qualified professional should evaluate all DUI/DWI offenders. These include first-time offenders as well as repeat offenders. As has previously been shown, many first-time offenders have alcohol abuse problems or exhibit the potential for such problems. In addition, research shows that these so-called 'first-time offenders' have generally driven drunk as many as 200 times before they are arrested the first time.

When should an evaluation be ordered?

An evaluation or assessment should be ordered prior to sentencing. In jurisdictions with high case-loads, this will generally not be possible. In most cases, assessment and treatment can and should be made a condition of probation if not part of the actual sentence imposed.

Who should and is qualified to perform and evaluation/assessment?

A person who is trained, certified, and experienced in alcoholism screening should conduct an evaluation or assessment. This evaluation and assessment is the first step in intervention. The individual evaluator should also have counseling skills.

What are the minimum components of an evaluation?

An evaluation should have at least two components:

1. Assessment of alcohol and other drug use (i.e. frequency and quantity of use, consequences of alcohol and other drug use, and evidence of loss of control over use);
2. Assessment of DUI/DWI recidivism risk based on factors in addition to drinking behavior.

The evaluation usually consists of:

- The administration of standardized assessment test(s); and
- A personal interview by a trained evaluator.

The information obtained should be supplemented with information from:

- The courts, regarding the client's criminal and driving history; and
- Family members, regarding the offender's alcohol and other drug use.

Various standardized alcohol-screening tests are available, including several designed for DUI/DWI offenders. (For descriptions of several tests, see Popkin et al. 1988 and Beirness 1991.) However, it is critical to remember that there is no model or sure-fire screening tool to develop a treatment plan that will serve all offenders. There is no substitute for face-to-face individualized assessment by a trained professional.

What should be considered when ordering an evaluation/assessment?

In most cases, the court does not have the option of designating who will be conducting the alcohol assessment or treatment program once it is ordered by the judge. However, judges should play a role in providing input to the legislature or state agency responsible for creating or administering these programs since the success or failure of the sanctions imposed by the court to reduce recidivism may well depend on who will be conducting the assessment and treatment. In choosing or designating the individuals or agencies that will be responsible for these programs, the following

characteristics should be considered:

- Qualified staff that is trained, certified and experienced in alcoholism screening and counseling;
- Ability to track clients and monitor compliance with treatment recommendations and requirements;
- Willingness of the agency and the individuals to coordinate with the court to ensure the offender is complying with the court ordered assessment and treatment and to provide ongoing reports to the court on the progress of the offender;
- Avoiding conflict of interest (i.e. the agency doing the assessment should not be providing the treatment);
- Capability of evaluating and working with offenders who are illiterate or non-English speaking, when needed.

What Should a Good Alcohol Assessment and Treatment Program Include?

As has previously been shown, treatment programs for DUI/DWI offenders range from brief educational interventions, to participation in Alcoholics Anonymous, to outpatient counseling, to long-term inpatient programs. Chronic drunk drivers with serious alcohol problems require combinations of approaches over a longer period of time and of a greater intensity. Although there is currently no single treatment approach that is clearly the most effective with chronic drunk drivers, there are some general treatment characteristics associated with successful outcomes. Treatment research indicates that the treatment plan:

- should have specific measurable goals for the offender;
- should provide for family involvement;
- should provide for aftercare;
- should have a mechanism for status reports back to the court to help enforce compliance with the court ordered assessment and treatment;
- should have medical backup to ensure safe detoxification and healthcare, if required;

- should be sensitive to ethnic, gender, cultural and other differences that might affect treatment effectiveness;
- should be based on a personalized assessment process to accurately evaluate an individual's alcohol problem. This assessment should be conducted separately from those conducted by the courts to decrease the likelihood of offenders distorting information for their potential benefit;
- should be individualized to meet the needs of each offender;
- should be based on a combination of strategies. Treatments which combine strategies are most effective for chronic drunk drivers;
- should be provided over a sufficient period of time for meaningful behavior change to occur and be monitored. A minimum of twelve months may be required when follow-up or monitoring is included as part of the treatment package; and
- should not be used as a substitute for other sanctions, especially license suspensions. Treatment programs are most effective in reducing recidivism when treatment is combined with sanctions, such as license suspensions and ignition interlock requirements. (See Vehicle Sanctions section)

Sanctioning Options for Non-Compliance with Mandatory Assessment and Treatment

Offenders who fail to comply with sentencing or other court ordered alcohol assessment and treatment provisions continue to be a threat on the highways and are likely to be re-arrested for drunk driving. Therefore, compliance enforcement and monitoring are essential components of this sanction. It is critical that treatment service providers report all non-compliance to the court or the probation department. This reporting requirement should be mandatory and immediate in order for the court to respond quickly by instituting other available sanctioning options. The court on the other hand bears the responsibility of holding the service providers and the probation department accountable for complying with the reporting requirements. The court must likewise be prepared

to take the offender's non-compliance seriously and respond accordingly. If the assessment and treatment sanction is a condition of probation, the judge should not hesitate to revoke all or part of the offender's probation for non-compliance.

The results and progress of the offender's treatment should also be reported to the court. Repeat offenders who are allowed to regain their driving privileges without evidence that they have effectively managed their drinking problem have a much higher probability of being involved in a serious crash than does the average driver.

Model Programs

There is no single model treatment program; however, there are a number of programs across the country that have shown promising results. The great majority of treatment programs for chronic drunk drivers are outpatient programs, which meet once a week for a period ranging from three months to one year. A California program designed for second DWI offenders requires the completion of an 18-month program, which includes 52 hours of group counseling, 12 hours of alcohol education, brief, bi-weekly interviews, and six hours of community re-entry sessions. Evaluations of this program in combination with license suspension indicate significant reductions in DWI recidivism.

Minimum Security Detention Facilities

MADD has long supported the use of minimum-security detention facilities for DUI/DWI offenders who were not involved in a crash resulting in death or serious injury. These facilities are generally geared for incarceration of multiple DUI/DWI offenders. These facilities can help ease overcrowding at traditional correctional facilities. They should provide confinement in combination with supervised treatment services. While there is limited research to evaluate the effectiveness of these centers in reducing recidivism, there is suggestive evidence that these facilities can decrease DUI/DWI recidivism and that they can be financially self-supporting.

Costs of Treatment: Who Will Pay the Bill?

The costs of alcohol assessment and treatment are dependent on how comprehensive the program is and the length of the program. Long-term outpatient or in-patient treatment programs can be very expensive but in the case of the hardcore drinking driver with a serious alcohol abuse problem, these programs are best suited for these offenders. The first question that arises when supporters of alcohol assessment and treatment programs advocate that these programs should be mandatory for all DUI/DWI offenders is, "Who is going to pay the bill?" Should taxpayers bear the brunt of the financial costs incurred by those who have an alcohol abuse problem?

Offender-funded programs

MADD and other highway safety advocates have long taken the position that those individuals who create or contribute to the drunken driving problem should bear the financial responsibility associated with their behavior. Drunken driving prevention, enforcement and treatment programs should be self-sufficient and offender-funded, when possible. The revenue derived from DUI/DWI fees, fines and assessments should be returned to the local law enforcement agency and local court system to help defray the costs of enforcement, adjudication and treatment. The state of New York has one of the most self-sufficient DWI programs in the country. The program is based on mandatory minimum fines that are redistributed to the counties to pay for their DWI programs. Over the past decade, New York State's STOP DWI Program has generated an average of more than \$22 million annually for distribution to the counties for their programs to combat drunk driving. No tax dollars have been spent on these programs since 1981.

Alcohol taxes

Another potential source of revenue to pay for alcohol assessment and treatment is by increasing taxes on alcoholic beverages with these funds earmarked for anti-drunk driving programs including treatment. While approximately two-thirds of the people in the United States consume alcohol on some occasions, it is estimated that 10 percent of

those who do drink consume 50 percent of the alcohol consumed. These are the individuals who are abusing alcohol and have the highest risk of alcohol problems. The impact of an increase on alcoholic beverages would justifiably fall most heavily on this group.

Medical insurance

If those offenders with alcohol abuse problems have medical insurance, most of these accident and sickness policies exclude coverage for injuries sustained by the insured person when intoxicated or under the influence of narcotics. This exclusion also applies to alcohol intervention, assessment and treatment. These exclusions were under study by the National Association of Insurance Commissioners (NAIC) to determine if they should be permitted. The NAIC voted unanimously to adopt an amendment to the Uniform Accident and

Sickness Policy Provision Law making it illegal for insurers to deny reimbursement for medical expenditures resulting from alcohol-related trauma. The National Conference of Insurance Legislators (NCOIL) voted on this recommendation in June 2001. Their recommendation is that laws excluding coverage be repealed. In many cases, medical personnel are the first to come into contact with individuals who have an alcohol abuse problem. This initial contact may result from their treatment for alcohol-related illness or injuries unrelated to drinking and driving or injuries resulting from a drinking and driving crash. Proponents of eliminating this exclusion in these policies argue that providing coverage for this alcohol intervention would be cost effective as a result of the reduction in alcohol-related incidents and the costs associated with alcohol-related fatal and injury crashes.

MADD'S POSITION STATEMENT

ALCOHOL ASSESSMENT AND TREATMENT

MADD supports mandatory alcohol assessment of all DUI/DWI offenders with mandatory alcohol treatment for all repeat DUI/DWI offenders for a period of at least one year with close supervision and monitoring to ensure compliance with the treatment program.

MADD supports the development and use of special minimum-security facilities for incarceration of convicted DUI/DWI offenders with alcohol assessment and treatment programs required as part of the incarceration.

MADD supports efforts to provide funds for impaired driving programs including adequate DUI/DWI prevention, deterrence programs, education, law enforcement, substance abuse treatment and victim assistance through the use of offender-generated fees and fines as well as other assessments including alcohol beverage taxes to ensure a reliable source of funding for effective programs and to place the burden of these programs where it belongs; on the drunk driver.

MADD supports a prevention component to health care reform and supports a substantial increase in taxation on alcoholic beverages as a means of covering the costs to society caused by the misuse of alcohol and as a means of supporting prevention programs including countermeasures to alcohol-impaired driving.

MADD supports an increase in excise taxes on wine and beer to alcoholic equivalent to taxes on distilled spirits and indexation of tax rates applicable to alcoholic beverages as a means of covering costs to society caused by misuse of alcohol and as a means of supporting prevention programs including countermeasures to alcohol-impaired driving.

MADD opposes the use of diversionary, Probation Before Judgment or similar programs which would enable offenders charged with DUI/DWI offenses to avoid statutory sanctions that would otherwise be imposed upon arrest and/or conviction and record of conviction and license sanctions.

INSURANCE INDUSTRY BARRIERS

MADD believes that medical benefits coverage in health insurance policies should permit hospital personnel to screen trauma patients (including blood alcohol testing) for alcohol treatment as necessary. In order to achieve this hospital intervention, MADD supports the removal of exclusionary coverage provisions which provide any barrier to medical or drug and alcohol treatment in health insurance policies and the elimination of sections of state laws and regulatory policies that allow such exclusions.

TALKING POINTS

ALCOHOL ASSESSMENT & TREATMENT

- It is estimated that 30 to 75 percent of offenders have serious alcohol problems.
- Studies in Maryland and North Carolina revealed that 70 percent of DWI offenders assessed had an alcohol and/or drug abuse problem.
- So-called ‘first-time’ offenders have generally driven drunk as many as 200 times before they are arrested the first time for drunk driving, according to research.
- We can no longer simply address the results or consequences of these problems, which all too often result in tragic death and serious injuries. We must also address the underlying problem.
- Currently, 29 states have mandatory alcohol assessment and treatment programs.
- Research indicates education and treatment interventions reduce drunk driving recidivism and alcohol-related crashes by seven to nine percent.
- A California program designed for second-time DWI offenders showed a significant reduction in drunk driving recidivism when combined with a license suspension. Among the requirements of the 18-month program offenders are required to complete are 52 hours of group counseling, 12 hours of alcohol education, and brief interviews.
- Treatment for alcohol problems does not replace punishment for the drunk driving crime. In fact, treatment is most effective when combined with other approaches, such as closely monitored supervision in combination with fines, penalties and sanctions.
- Increased fines from drunk driving offenses would fund alcohol assessment and treatment programs.
- Crime and punishment go hand in hand. In the case of alcohol-impaired driving, assessment and treatment should be part of the equation, as well.
- Given the statistics on drunk driving deaths and injuries, and the rate of alcohol problems among offenders, it is clear that treatment and rehabilitation should be an integral part of our strategy to combat drunk driving.
- Alcohol assessment and treatment programs can help identify those with alcohol dependency. These individuals need a more comprehensive approach to keep them from drinking and driving and threatening public safety again.

MODEL LAW
ASSESSMENT AND TREATMENT
NEW MEXICO STATUTE

I. Except as provided in paragraph II, all gross revenue derived by the commission from the sale of liquor, or from license fees, shall be deposited into the general funds of the state. The expenses of administration and all other expenditures provided for in this title shall be paid by the state treasurer on warrants of the governor with the advice and consent of council. II. Fifty percent of the amount by which the current year gross profits exceed fiscal year 2001 actual gross profit, but not more than 5 percent of the current year gross profits derived by the commission from the sale of liquor and other revenues, shall be deposited into the alcohol abuse prevention and treatment fund established by RSA 176-A:1.

_____ New Chapter; Alcohol Abuse Prevention and Treatment Fund.

Amend _____ by inserting after chapter _____ the following new chapter.

ALCOHOL ABUSE PREVENTION AND TREATMENT FUND

Alcohol Abuse Prevention and Treatment Fund.

I. There is hereby established an alcohol abuse prevention and treatment fund to fund alcohol education and abuse prevention and treatment programs.

II. The fund shall be nonlapsing and continually appropriated for the purposes of funding alcohol education and abuse prevention and treatment programs. The state treasurer shall invest the moneys deposited in the fund as provided by law. Interest earned on moneys deposited in the fund shall be deposited into the fund.

III. Moneys shall be disbursed from the fund upon the authorization of the governor's commission on alcohol and drug abuse prevention, intervention, and treatment established pursuant to _____. At least 1/2 of the money disbursed from the fund shall be used primarily for alcohol education and abuse prevention activities.

V. Authorize the disbursement of moneys from the alcohol abuse prevention and treatment fund, pursuant to _____.

328:5 Effective Date. This act shall take effect _____.

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