Introduction

The Nebraska Supreme Court Office of Probation Administration started using continuous transdermal alcohol monitoring on approximately 500 offenders in 2007 as a pilot program. In 2008 and 2009, another 500 offenders were assigned to the transdermal alcohol monitoring program. The program continued into 2009 and 2010 (~900 offenders) and currently (February 2011), over 700 offenders are active in the program. The SCRAM device is used exclusively. The Nebraska Supreme Court Office of Probation Administration is located in Lincoln. It is responsible for over 17,000 adult offenders on probation in the State at any given point in time.

Nebraska had a population of 1,826,341 in 2010. The median income is $44,623 annually. The population is mostly White (93%) with close to 5 percent Black, almost 2 percent Asian and 1 percent American Indian or Alaskan Native. Almost 7 percent are of Hispanic ethnicity. The largest cities are Omaha (454,731) and Lincoln (254,001). The judicial system in Nebraska is unified, with the Nebraska Supreme Court having administrative authority over all Nebraska courts. The lowest courts in Nebraska are county courts and above that are 12 district courts containing one or more of the 93 counties in the State. The Court of Appeals hears appeals from the district courts, juvenile courts and the workers’ compensation courts. The Nebraska Supreme Court is the final court of appeal.

History of Program

The transdermal alcohol monitoring program started as a pilot study in February 2007 as a way of introducing the technology and its utilization in connection with substance abuse treatment. Some 500 offenders were put on the device and the pilot test was considered to be successful. Alcohol is viewed by Nebraska officials as one of the most prevalent drugs used by offenders while on probation. There was also concern by officials over the relapse of many methamphetamine addicts that typically starts with an alcohol relapse. While 53 percent of offenders on probation for DWI, many other crimes involve alcohol as a factor. Given that alcohol was such a difficult drug to test for under traditional testing methods (e.g., surprise breath tests), transdermal monitoring was a welcomed technology in the Nebraska probation programs to reduce substance abuse. The monitoring program has continued and grown ever since.

Program Information

Offenders

The following types of offenders are assigned to the transdermal monitoring program:

- Any adult offender as determined by the courts, parole board, or problem-solving court that requires abstinence from alcohol as a condition.
- Offenders engaged in chemical-dependency treatment programs that have demonstrated an inability to refrain from the use of alcohol and as part of a sanction.

The period of transdermal monitoring is specific to the individual defendant and offense. The average period of transdermal monitoring is about 85 days according to AMS statistics. Financial assistance is available to offenders to pay the monitoring costs up to 120 days of monitoring. Any monitoring period beyond 120 days must be paid for by the offender. Any verified drinking events and tampering events are considered as non-compliance with probation. Offenders may serve additional sanctions, but are kept on transdermal monitoring for a longer period of time. Offenders are typically engaged in chemical dependency treatment programs in conjunction with the monitoring.
Equipment
The SCRAM2 device is used exclusively. The TAD is not currently used. Approximately 250 SCRAM2 units are currently in use.

As part of the pilot project in Nebraska, the Office of Probation Administration worked in collaboration with AMS to ensure that the availability of the transdermal monitoring devices would be provided statewide. This scenario remains to date. AMS, in turn, contracts with three local providers to offer the continuous transdermal alcohol monitoring services. Local providers obtain their equipment from AMS. When continuous alcohol monitoring is ordered by the court, a referral is made to the provider. The provider makes arrangements with the offender for installation of the equipment. Local providers monitor the tests and notify the officer in the event of a drinking episode. Officers can also go on-line at any time and examine the status of an offender’s compliance.

Nature of Transdermal Monitoring Implementation
Transdermal monitoring was introduced into Nebraska by the Office of Probation Administration to the Community Corrections Council who works in collaboration with the Probation Administration concerning sentencing alternatives. The objective is to provide a meaningful period of abstinence through the use of technology ordered in conjunction with a substance abuse evaluation and treatment that would promote behavioral change. Another goal is to provide financial assistance toward the use of the transdermal monitoring technology for those offenders who are unable to pay. Offenders in pre-trial status are not eligible for financial assistance.

The judge or parole board determines the offender’s need for abstinence and/or monitoring and enter an order for transdermal alcohol monitoring for a specific period of time. In addition, a supervising officer may use transdermal alcohol monitoring as part of a sanction. A referral is made through the supervising officer to the registered transdermal monitoring provider via a referral form. The individual to be placed on transdermal monitoring will contact the local registered transdermal monitoring provider to schedule installation.

The Nebraska agencies work with three providers of transdermal monitoring services: The Counseling Center, Addiction Counseling & Consultation Services and Vigilnet. These providers are under a contractual arrangement with AMS and provide statewide availability for transdermal monitoring using SCRAM. The coverage area is by judicial/probation district and arranged through the parent company, AMS. Vendors have established a working relationship within the probation district to meet the individualized needs and processes of that area and court.

While Probation Administration has oversight of the financial assistance program, transdermal monitoring is also available to Nebraska’s Parole Administration and problem-solving courts. Offenders are ordered to cover the initial costs of installation, monitoring and removal. Abstinence from alcohol through the duration of the monitoring period results in successful program completion. Officials realize that not all offenders remain alcohol-free for the entire period of monitoring. Offenders who experience some adjustment issues usually become and remain alcohol free within the first few weeks of the program. Registered transdermal monitoring providers report any non-compliance (including the detection of alcohol and equipment tampering) to the supervising officer within one business day. The registered providers also submit monthly progress reports to the supervising officer. The Office of Probation Administration provides payments for offenders qualifying for financial assistance and conduct audits to ensure adherence to the SCRAM Provider Agreement. Reports provided may be used by an officer as evidence for a violation of probation or in the case of compliance, early release from the transdermal monitoring.

See Appendix B.2 for the various agreements and forms used.

Tampering
Consequences for tampering with monitoring equipment are case specific. Tampering is considered a violation of probation and is treated differently than a confirmed drinking event.

Officers, by statute, have the authority to impose a wide array of sanctions for tampering, ranging from verbal reprimand, elevated supervision, up to a notice to the county Attorney concerning a violation of probation and request for revocation of probation.

Alcohol Detection
In the event of a confirmed alcohol consumption event, the probation officer warns the offender of the noncompliance. Some offenders with drinking events are required to stay longer on the monitoring program. In some instances, other
sanctions are administered. Statistics provided by AMS report that of the 3,081 offenders in Nebraska who have completed transdermal monitoring to date, 520 (17%) have been noncompliant. Of the 520 noncompliant offenders, 31 had confirmed drinking violations (1%) while 489 (16%) had confirmed tampering violations.

Should an offender test positive for a drinking event, officers by statute have the authority to impose a wide array of sanctions—again ranging from verbal reprimand, elevated supervision, up to a notice to the county attorney concerning a violation of probation and request for revocation of probation.

Absconding
Absconding would be cause for a notice to the county attorney concerning a violation of probation and request for revocation. A small number of offenders have absconded while participating in transdermal monitoring.

Additional Elements

Interlock
The Nebraska Supreme Court estimates that approximately 1,800 DWI offenders are on alcohol ignition interlocks. These offenders are monitored by the Nebraska Department of Motor Vehicles. It is unknown how many offenders are on both transdermal monitoring and interlocks.

Electronic House Arrest/Monitoring
- Electronic house arrest monitoring: On rare occasions an offender may be on electronic monitoring and transdermal alcohol monitoring at the same time. Electronic monitoring is used as a monitoring tool and not a house arrest program.
- GPS tracking/monitoring is not currently used by the Nebraska Probation Administration.
- Electronic home breath testing (e.g., Sobrietor) has been used on rare occasions in limited jurisdictions in Nebraska.

Treatment
The Nebraska Probation Administration believes that treatment is a means of crime control and central element of case management and offender risk reduction. The transdermal monitoring program is specifically used in conjunction with substance abuse treatment in Nebraska. Officials believe treatment will be more effective if the offenders are sober. According to officials, this vantage point allows for an optimum environment for behavior change to occur.

Drug Testing
The Nebraska Probation Administration also has a testing program for drugs other than alcohol. Offenders are subject to random urine testing. The frequency of testing is determined by the risk of the offender and the seriousness of the substance use. Officers can choose between 1-, 2-, 3-, 4-, 5-, and 8-panel drug testing, depending upon the circumstances. Drug testing results are analyzed internally with confirmations conducted by Redwood Labs or Nebraska State Patrol lab as needed and based on the circumstances. In cases where transdermal alcohol monitoring is not ordered, ethyl glucuronide testing technology is available to officers in the event that alcohol use is suspected. Some problem solving courts currently have grant dollars that may offer additional testing options.

Funding
Payment by offenders for the transdermal alcohol monitoring program is determined on a sliding scale. Offenders who pay the full price are charged $25 for installation, $25 for removal and $12 per day for monitoring. If offenders are unable to pay, there is a financial assistance program administered by the Office of Probation Administration. The funds used for the financial assistance program are a result of offender supervision fees collected from offenders under supervision. A portion of these funds have been designated for the use of transdermal monitoring and reviewed on a yearly basis. Local transdermal monitoring providers, along with AMS, agree to adhere to the sliding fee scale and rules established associated with the SCRAM Financial Assistance Program. The financial aid has been institutionalized in the sense that it has been in effect for 4 years and users are aware of the protocol for financial assistance. However, it has not been institutionalized in that allocation of funding for transdermal monitoring is reviewable yearly and subject to discontinuation at any time.
Support for Transdermal Alcohol Monitoring

There is strong judicial support for the transdermal monitoring program statewide. The program has had no negative publicity or political opposition thus far. However, officials believe that the overall cost benefit of the program is in need of evaluation.

Information on Program Benefits

No scientific studies of the effectiveness of the transdermal monitoring program have been conducted thus far, but the University of Nebraska (Omaha) is currently conducting such an evaluation and a cost-benefit analysis.

A judicial survey was conducted at the end of the pilot project that resulted in overwhelming support for the technology. Anecdotally, offenders report transdermal monitoring reduces the peer pressure associated with drinking (offenders can blame the decision not to drink on the bracelet) that helps them to get their lives back on track.

Strengths/Problems/Barriers

Strengths

Program representatives consider the following to be strengths of the transdermal monitoring program as implemented in Nebraska:

• The transdermal monitoring device and reporting system is “probation officer friendly,” i.e., it is easy to use.
• The transdermal monitoring program results in lower staff time and resources for monitoring.
• There is continuous feedback on offender performance (compliance with abstinence).
• The transdermal monitoring program fills a drug testing gap. In the past, it was difficult to detect if offenders were drinking alcohol or not.
• The transdermal monitoring program serves as a strong deterrent to the offender while engaging in treatment.

Problems and Barriers

Program representatives consider the following to be barriers that the transdermal alcohol monitoring program had to overcome to work as effectively as possible in Nebraska:

• In the beginning, there was skepticism over the new technology and the associated cost. Officials needed to be educated and convinced.
• The stability of the funding in the future is always a concern.
• There is a limited population of offenders who are targeted for the alcohol monitoring program. Some officials want that to be expanded.
• The financial assistance does not cover juveniles, so this technology is not being used by juvenile offenders in this arena. However, there is a demand for expansion to juvenile offenders.

Lessons Learned

Nebraska officials offered the following lessons they have learned through the course of using transdermal monitoring:

• The program is often successful with drug offenders who often relapse first with alcohol.
• The period of sobriety provided by the program enhances treatment outcomes.
• While the DUI offender is the most prominent offender using transdermal alcohol monitoring, there are a wide variety of offenses (both felony and misdemeanor) where alcohol is a contributor to the offense. Transdermal alcohol monitoring should also be used on these offenders.

• Any entity considering the use of transdermal alcohol monitoring is encouraged to remember that, like any other tool, transdermal alcohol monitoring is just a tool. True behavior changes and risk reduction occurs when precipitating behaviors are addressed through targeted treatment. Transdermal alcohol monitoring is an excellent tool to assist in the facilitation of that process.