



Sobriety Program

Essential Elements and Best Practices

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Contents

FOREWORD.....	1
OVERVIEW OF THE FIRST 24/7 PROGRAM IN SOUTH DAKOTA.....	2
THE NATIONAL 24/7 SOBRIETY ADVISORY COUNCIL.....	3
24/7 SOBRIETY PROGRAM ESSENTIAL ELEMENTS AND BEST PRACTICES.....	4
INTENT OF THIS DOCUMENT.....	4
ORIGINS OF THE 24/7 SOBRIETY PROGRAM.....	4
ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM.....	4
CORE COMPONENTS OF A 24/7 SOBRIETY PROGRAM.....	5
PROGRAM OBJECTIVES.....	5
STAKEHOLDERS.....	5
PARTICIPANTS.....	6
CORE TESTING COMPONENTS.....	6
CONSEQUENCES - CLEARLY DEFINED SANCTIONS AND REWARDS.....	8
COSTS OF AND FUNDING A 24/7 PROGRAM.....	8
EVIDENCE-BASED 24/7 PROGRAMS - DATA COLLECTION AND DISTRIBUTION.....	9
ADAPTATIONS TO THE MODEL PROGRAM.....	9
24/7 PROGRAM AGREEMENTS.....	10
CONCLUSION.....	10

Foreword

The 24/7 Sobriety Program is a seven day a week, three hundred sixty-five day a year monitoring program for offenders who have committed crimes with a nexus to alcohol and/or drugs. Participants submit to scheduled and/or random testing in order to determine the presence of alcohol, heroin, marijuana, or any other controlled substance in their bodies. If a participant fails a test (i.e., the test shows positive for the use of alcohol and/or drugs, or the participant does not appear for testing), the participant is subject to immediate, certain, and moderate sanctions. The details of the 24/7 Program are explained more thoroughly in the accompanying Best Practices document.

After the 24/7 Sobriety Program was created in South Dakota, it expanded to other states in the region and across the country. As of March, 2016, South Dakota, North Dakota, Montana, Washington, Idaho, Wyoming, and Alaska have all authorized statewide 24/7 Programs; Florida, Nebraska, Iowa, and Wisconsin have implemented or authorized 24/7 pilots; and Arizona, Arkansas, Colorado, Delaware, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maine, Minnesota, Nevada, New Mexico, Oklahoma, South Carolina, Tennessee, Texas, Utah, and West Virginia are all considering 24/7 Programs. The 24/7 Sobriety Program should be given serious consideration by state legislators, corrections and jail officials, law enforcement, and the courts as an improvement on the status quo.

In December of 2015, 24/7 Sobriety Programs received a major boost in support and recognition when Congress passed and the President signed the Fixing America's Surface Transportation (FAST) Act. The law provides significant federal financial support for 24/7 Sobriety programs for repeat intoxicated driving offenders. These funds will help states currently without 24/7 Sobriety to start programs, and for states currently running pilots to improve and extend their programs.

Thank you for taking the time to review the 24/7 Sobriety Program Best Practices document. We wish you the best in creating and implementing your 24/7 Sobriety Program.

OVERVIEW OF THE FIRST 24/7 PROGRAM IN SOUTH DAKOTA

By South Dakota Judge Larry Long

The criminal justice system in South Dakota (and most other states) is fueled by alcohol abuse, consumption of illegal drugs, and repeat offenders. From FY1999 through FY2010, 37% of all felony convictions in South Dakota were felony Driving Under the Influence (DUI) offenses. In second place was felony possession of a controlled substance with 23%. In South Dakota felony DUI is a third (or more) DUI conviction within 10 years, or any DUI causing death or serious injury. Since 2005, South Dakota's 24/7 Sobriety Program has reduced DUI recidivism, improved public safety, provided an alternative to incarceration, allowed offenders to remain in the community and maintain employment, and saved tax dollars because the bulk of the program costs are paid by the program participants.

In 2005, South Dakota piloted a new approach to reduce repeat DUI offenses and to slow rising jail populations. The idea was to compel DUI defendants to quit drinking alcohol. DUI defendants with at least one prior DUI conviction within the previous 10 years were court-ordered to abstain from any consumption of alcohol as a condition of pre-trial release; and, to submit to a breath test twice daily (morning and evening) to ensure compliance. Defendants who skipped or failed a test were immediately incarcerated for 24 hours, re-appeared in court, and then were released from custody and placed back into twice per day alcohol testing.

The pilot was launched in five South Dakota counties. The initial results were encouraging. Over 1000 participants, each with at least one prior DUI, were tested for an average of 100 days. Over half of the participants were fully compliant, meaning that they showed up for each test on time and passed. Only 6% of participants had more than two violations (either a "hot" test showing an alcohol concentration or a "no show"). During the pilot, some participants, because of employment or travel issues, had difficulty attending the testing. Also, several counties with sparse populations and small sheriff's offices were unable, for personnel reasons, to provide twice per day testing. In response, the pilot adopted an alternative testing option, namely an ankle transdermal bracelet, which measures alcohol concentration from a person's perspiration. Some participants used illegal drugs, so in response drug testing was incorporated into the pilot. Participants financed the pilot by paying a court-ordered daily or per-test fee to cover the cost of the testing. This pilot became the 24/7 Sobriety Program.

In 2007, the South Dakota legislature authorized statewide implementation of the 24/7 Sobriety Program. The legislature expanded the scope of the program, authorizing its use for all criminal offenses in which alcohol and/or drug use was a factor in the commission of the crime. The 24/7 Sobriety Program was also authorized for supervision of probationers and parolees. Moreover, state law was modified to allow judges in abuse or neglect cases to place children's caregivers into regular alcohol and/or drug testing as a condition of returning the children to their home. In 2012, an ignition interlock device was incorporated into the program. This device not only disabled the vehicle if started by an alcohol-impaired driver; it also allowed the participant to use the device for twice a day alcohol testing. The ignition interlock device also delivered real time reporting and video recording of the driver's conduct and blood alcohol content to the testing site, allowing authorities to respond in a timely manner.

From 2005 through January 1, 2016, over 8.2 million breath tests have been administered to over 39,000 24/7 Sobriety participants. Since 2005, over 99 of each 100 tests administered have been compliant -- that is, on a daily basis less than one percent of participants violated. The Program violations were about evenly split between failed tests and "no shows." From November 2006 through January 3, 2016, over 8,000 participants have worn the transdermal ankle bracelet: 76% of those participants were fully compliant. From 2012 until January 1, 2016, 389 participants have used the ignition interlock device. Those participants passed their multiple daily tests at a rate exceeding 99%. Approximately 2,000 participants are tested in South Dakota each day. The 24/7 Sobriety Program, when properly administered, keeps the overwhelming majority of chronic DUI defendants sober.

The 24/7 Sobriety Program has additional long-term benefits. Data analysis collected from participants between 2005 and 2010 showed that during the four-year period after their participation in the program, they were 30% to 50% less likely to be re-arrested for DUI than their non-participating counterparts. In a 2013 study published in the *American Journal of Public Health*, researchers from RAND Corporation analyzed South Dakota's 24/7 Sobriety Program data for 2005 through 2010 and concluded that in participating counties where at least 25% of the offending population was placed on 24/7 Sobriety and 85% of the participants were subject to twice daily breath testing, the 24/7 Sobriety Program led to a 12% reduction in repeat DUI arrests and a 9% reduction in domestic violence arrests. Further RAND research published in *Lancet Psychiatry* in 2016 showed that the implementation of 24/7 Sobriety was followed by a 4.2% decrease in the state's mortality rate, equal to saving the lives of several hundred South Dakotans a year. Finally, from 2000 through 2004 the average annual death toll in South Dakota from alcohol-involved car crashes was 83, and from 2005 through 2014 the average annual death rate from alcohol-involved car crashes has been 54.5. Many factors contribute to these reduced fatality numbers: cars are safer, regular seat belt use has steadily increased, and each day since 2005 the South Dakota 24/7 Sobriety Program has kept over 2000 chronic DUI defendants sober.

THE NATIONAL 24/7 SOBRIETY ADVISORY COUNCIL

The purposes of the National 24/7 Sobriety Advisory Council are:

1. To advise, assist, support, and advocate for evidence-based 24/7 Sobriety Programs;
2. To establish criteria defining the essential principles and practices of a 24/7 Sobriety Program as well as optional elements that may or may not be involved;
3. To create program guidelines for “essentials” or optional “best practices” of a 24/7 Sobriety Program;
4. To create a certification process for all 24/7 Sobriety Programs and thus encourage fidelity to the 24/7 Sobriety Program criteria;
5. To establish data collection criteria by each Program; and
6. To encourage and support studies and evaluation of all 24/7 Sobriety Programs.

The National 24/7 Advisory Council members are experts on 24/7 Programs by virtue of their historical knowledge in creating and implementing the Program, studying the Program, and expertise in fields such as alcohol treatment and behavioral sciences. They volunteer their time on the Council. A working draft of the Council’s Best Practices document was distributed at the first national summit on 24/7 Sobriety, which was held in Big Sky, Montana on September 13-15, 2015. The working draft was authored by the founding members of the National 24/7 Sobriety Advisory Council: Attorney General Marty Jackley (South Dakota), Judge Larry Long (South Dakota), 24/7 Program Coordinator Bruce Bjork (Washington), Dr. Keith Humphreys (Stanford University), 24/7 Program Coordinator Mike Reed (Wyoming), Judge Steven Alm (HOPE Program Founder, Hawaii), Dr. Robert DuPont (Institute for Behavior and Health, Inc.), and Bill Mickelson (Mickelson Consulting). In 2016, Bruce Bjork and Bill Mickelson transitioned to ex-officio status and their council seats were filled by Stephen Talpins (Florida) and Arapahoe County Bureau Chief Vince Line, 24/7 Coordinator (Colorado). The Advisory Council plans to issue revised versions of the best practices document in future years as the program evolves and more data emerges on how to implement 24/7 Sobriety.

“The results speak for themselves. The statistics prove that it’s possible to change the culture of drinking and driving...one person at a time.”

- Montana Governor Steve Bullock

24/7 Sobriety Program

Essential Elements and Best Practices

INTENT OF THIS DOCUMENT

The 24/7 Sobriety Program is a seven day a week, three hundred sixty-five day a year testing, monitoring, and sanctioning program for alcohol- and drug-involved offenders. Participants submit to scheduled and/or random testing in order to determine the presence of alcohol, heroin, marijuana, or any controlled substance in their bodies.

The essential and necessary component of the Program is the application of immediate, measured and moderate consequences for a non-compliant event (i.e., test failure, refusal or no-show). Immediate, certain, consequences change behavior more reliably than consequences that are probabilistic and far away in time (e.g., “If you keep doing this, you may end up in prison someday”). Peer-reviewed data generated from some of the early 24/7 Sobriety Programs indicate that these Programs have produced significant reductions in long-term recidivism rates for participants who successfully completed the Program.

24/7 Sobriety Programs should be properly defined, especially if interested parties expect to achieve similar results to those generated by the early 24/7 Programs.

Accordingly, to differentiate the seminal or “Evidence-Based 24/7 Programs” from other alcohol/drug monitoring programs, this document identifies and discusses Essential Program Elements and Program Best Practices, which are a compilation of strategies that have achieved significant results as reflected by independent, peer-reviewed studies of the 24/7 Sobriety Programs implemented in South Dakota, North Dakota and Montana to-date.

The goal is to provide guidance and support to states, local agencies, and public officials in preparing for and implementing an evidence-based 24/7 Sobriety Program.

ORIGINS OF THE 24/7 SOBRIETY PROGRAM

The 24/7 Sobriety Program began as an effort to reduce the number of chronic repeat DUI offenders. The goal was to:

- A. Require the participant to quit drinking while on the Program;
- B. Test the participant each morning and evening to ensure compliance; and
- C. Sanction the participant by immediate incarceration for non-compliance.

If a participant had a non-compliant event, the participant would appear before a judge and either be placed back into the testing program or given an alternate sentence.

The testing administrators soon observed that some participants seemed to be “high” but were passing the breath alcohol tests. Those participants were using drugs (usually marijuana), which does not show up on a breath test. So, drug testing (i.e., urinalysis) was incorporated into the protocol.

ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM

A 24/7 Sobriety Program should contain the following essential elements regardless of whether the participant is placed in the Program by administrative rule, pre-trial, post-conviction, or probation/parole.

1. Identification of candidates who would be a good fit to participate in the 24/7 Sobriety Program (i.e., offenders charged with drinking and driving offenses or other offenses that have a nexus to alcohol or drug misuse);
2. An agreement from the participant to abide by the Program rules;
3. A prohibition against any use of alcohol or drugs for the term of the Program;
4. A requirement of a primary testing methodology for alcohol and/or drugs where an immediate sanction can be applied (for example twice per day breath testing for alcohol and scheduled or random urinalysis for drugs);
5. A measured, moderate sanction that can be applied immediately, or as soon after the non-compliant event as possible;
6. A sustained evaluation of the Program; and
7. A means to ensure Program sustainability, through a predictable funding source.

CORE COMPONENTS OF A 24/7 SOBRIETY PROGRAM

The Best Practices of a 24/7 Program should contain the following as core components of the Program:

1. Defined Program objectives
2. Identified Program Champion, participating stakeholders and advisory group to review procedures and recommend changes
3. Defined group of Program participants
4. Core testing components similar to the studied and data-driven 24/7 Sobriety Programs
5. Clearly defined consequences – sanctions and rewards
6. Plan for funding costs of a 24/7 Sobriety Program
7. Evidence-based Program – data collection and dissemination
8. Program adaptations must be carefully considered and studied to understand impacts to the success of the Program
9. Program agreements among participating agencies and participants should be created to ensure consistency in Program application

PROGRAM OBJECTIVES

A 24/7 Sobriety Program's objectives should contain most, if not all of the following goals:

- Reduce short- and long-term recidivism for a variety of offenses that have a nexus to alcohol or drug abuse;
- Improve overall public safety by reducing criminal activity;
- Provide an alternative to incarceration with this community- based supervision program;
- Identify and refer offenders whose addiction will require more intensive supervision and/or treatment than this Program is designed to provide (using 24/7 as a screening device);
- Encourage offenders to live and work soberly in the community;
- Allow persons on 24/7 Programs to have conditional or restricted driving permits or licenses contingent on successful participation in the Program;
- Manage jail and prison populations;
- Enable wide expansion of the Program including in specialty courts and family courts; and
- Ensure that Program participants will participate in judicial proceedings in a timely, sober fashion.

STAKEHOLDERS

PROGRAM CHAMPION

An individual invested in the Program, at either the state or local level, should direct Program implementation. Ideally, this person has the ability to influence the agencies and stakeholders that will participate in the Program. This person becomes the Program Champion. The Champion will convene, educate and lead a group of key stakeholders to develop the 24/7 Program for their jurisdiction. If the 24/7 Program is a statewide Program, Champions often are Attorneys General or Directors of Corrections. Where 24/7 Sobriety is a county program, Sheriffs/Chiefs or Directors of State/Local Probation and Corrections have succeeded in this role. Each jurisdiction is different so there is no specific answer for who the champion should be, but it is necessary that this person have the capacity to lead the efforts to create a successful 24/7 Sobriety Program.

ENGAGE AND INFORM KEY STAKEHOLDERS

In most jurisdictions, there is a need for comprehensive dialogue among personnel from the agencies placing a participant on the Program and stakeholders in other facets of the 24/7 Program, including, but not limited to the testing facility.

Potential Stakeholders should include members from several or all of the following:

- Courts
- Probation
- Pre-Trial Services
- Department of Corrections Parole Services
- Department of Human Services and Treatment Providers
- Local, County, and State Law Enforcement
- Department of Social Services
- Department of Motor Vehicles
- Attorney General's Office and Prosecutors
- Defense Bar, including Public Defenders

Key members representing each stakeholder group and a leader from other partnering disciplines should be engaged to understand and support the goals of the project and designated as liaisons with their peers in their jurisdiction. Stakeholders need to understand and actively embrace the role they play in the day-to-day operations of a 24/7 Program. This is often overlooked even though the success (or failure) of a 24/7 Program in reducing re-offending and recidivism has a major impact on each of their agencies.

In some cases, stakeholders may have a strong interest in maintaining the status quo. By engaging and educating these state and county officials, probation staff, social service system representatives, and members of the community, Program leaders will build broad support for the Program at its infancy and the net benefits will be understood.

CONVENE A MULTIDISCIPLINARY EXECUTIVE STEERING OR ADVISORY COMMITTEE

At the outset of the planning process, each of the respective agency stakeholders should appoint a representative(s) to form and participate on an executive steering/advisory committee. From that group, a 24/7 Program Coordinator should be identified, and this individual should lead the executive steering committee.

The Supervising Agent's (often a Judge's) role and active participation is vital to the 24/7 Sobriety Program's success. The Supervising Agent must be committed to the sobriety of Program participants, understand substance abuse-related behavioral challenges, and possess leadership skills necessary to motivate team members and elicit buy-in from various stakeholders. The selection of a strong and willing Supervising Agent/Judge to be on the executive steering committee is recommended. The executive steering committee should devise clearly understood rules of operation so the Program is consistently applied throughout participating jurisdictions within a state.

PARTICIPANTS

IDENTIFYING ELIGIBLE PARTICIPANTS - WHO WILL BE TESTED?

An initial assessment tool is recommended to determine if a participant is a candidate for inclusion in a 24/7 Sobriety Program or if the individual is better suited for a different program, treatment or incarceration. Identifying who and how many potential participants the Program will service is one of the most basic questions. It will define how many test sites are needed, what revenue the Program will generate and how much positive impact the Program will have on a community.

Agencies that will place participants in the Program will need to be identified. The characteristics of the individuals overseen by these agencies should be studied to determine who is appropriate for the program and to estimate the likely flow of participants. Participant candidates should be considered for the Program based upon certain prerequisites which will in turn determine the population base from which the Program participants are drawn.

Participants can be placed on the Program for a variety of reasons, including: sanctions associated with administrative rules; pre-trial bond conditions; condition of sentence; or probation and parole. Participants can be eligible for the Program depending on the type of crime committed. Historically, participants had committed the crime of driving under the influence of alcohol or drugs, but most of these early Programs expanded the criteria for participation to include individuals who have committed other crimes with a nexus to alcohol or drug use; such as domestic violence situations, and youth in need of care/child neglect cases.

HOW LONG DO PARTICIPANTS STAY IN THE PROGRAM?

The Program should require the participant to stay clean and sober and without sanction for a period of time before they can graduate. Some Programs require a minimum of three months, others

require six months, and still others mandate 12 months. Studies have shown that there is a positive impact from as short as 30 days on the Program, but the common belief is that at least 90 days is the 'best practice' minimum period a participant should be in 24/7 Sobriety.

CORE TESTING COMPONENTS

Frequent alcohol and drug testing with swift, certain, and modest sanctions is key to a successful Program. Evidence from neurobiology, psychology, and economics suggests that punishment certainty is a stronger deterrent against criminal activity than punishment severity. Research also suggests that individuals value immediate consequences more strongly than delayed consequences, a tendency which is particularly pronounced among alcohol and drug abusing populations.

- A participant's Program will be defined by the testing protocols that are determined by the Supervising Agent's understanding of each participant's propensity to use/abuse a substance.
- Testing agencies should have operating procedures that reflect respect for participants.
- Testing data should be recorded and reported in a fashion supporting assessment of each participant's progress through the Program and of the Program's overall success at meeting goals.
- The Program applies swift and certain consequences for a participant's actions. Those consequences:
 - Should be imposed with certainty – for every infraction. Using discretion to respond on a case by case basis reduces effectiveness;
 - Should be imposed swiftly – as soon after the non-compliant event as is possible;
 - Should include an escalating sequence of meaningful sanctions and a re-evaluation as to whether the 24/7 Program is properly suited for the participant;
 - Should be sufficient to deter future bad conduct, but not so serious that they negatively impact the participant's ability to live in the community;
 - Should be applied with consistency for similar conduct; and
 - Might include simple rewards for compliant behavior; rewards should be provided with certainty and swiftness as well.
- Intensive monitoring of drug and/or alcohol use should employ a technology that:
 - Allows for swift application of consequences;
 - Allows the participant to maintain employment, schooling and/or a family life while presenting themselves for testing;
 - Has been shown, under this or a similar program to produce substantial decreases in substance use, offending and imprisonment.
 - Produces valid and defensible results.
- Participant investment in their sobriety should include:
 - Agreeing to participate in the Program and all that is required;
 - Meeting the agreed upon scheduled testing regimen;

- Paying for the cost of the testing; and
- Agreeing to share the test data with interested parties through waivers and consents.
- Seeking out treatment and mutual help programs (e.g., Alcoholics Anonymous) if there is a need for such support to comply with the abstinence requirement

ALCOHOL TESTING

In the 24/7 Program, the primary alcohol monitoring technology has been twice a day breath testing (proximate to 12 hours apart) at an in-person, central location where National Highway Traffic Safety Administration (NHTSA) approved evidential grade testing devices (usually in the form of preliminary breath tests [PBTs]) are used to provide instantaneous results. The advantage of this method of testing is that it facilitates applying a swift and certain consequence for drinking because the individual is physically present, and indeed is standing in front of a law enforcement officer. As mentioned, swiftness increases the likelihood of changing participant behavior. Other detection technologies, such as bracelets that provide continuous alcohol monitoring, patches that detect alcohol and drug use, and vehicle interlock devices capable of providing breath test results to law enforcement over a geographical distance, can also be used in 24/7 Sobriety if significant enforcement resources are available to rapidly and certainly respond to positive test results. These technologies in themselves can have significant value, but they do not constitute 24/7 Sobriety unless they are backed up with swift and certain consequences. Because by definition, the demand on law enforcement to rapidly locate and arrest offenders rises as the number of individuals being monitored remotely increases, the Advisory Committee recommends that on-site breath testing be the backbone of 24/7 Sobriety programs.

DRUG TESTING

Drug tests may be employed on suspicion (e.g., an offender appears impaired on something other than alcohol when presenting for testing) and may also in some cases become a standard part of monitoring for some offenders. Drug tests that use urine, oral fluid (saliva), sweat or an acceptable medium should provide timely, accurate results that are defensible. A testing medium should be used that will provide ease of application and a detection window that corresponds with the testing rates, such that use would likely be detected. For instance, urine analysis has broader windows of detection than does oral fluid testing. If using oral fluid, testing at a higher random rate would be preferable as compared to the testing rate when using urine analysis. Drug test panels used for testing should address the likely use patterns and drugs of choice of the participant(s).

Access to the laboratory analysis confirming the presence of illegal drugs should be made available to participants who screen positive for drug use but do not accept the results. Confirmatory testing may be at the expense of the participant. Some jurisdictions will assume the costs of negative confirmatory tests.

NO SHOWS

If a 24/7 Sobriety program participant does not show up for testing, swift, certain and fair sanctions should be applied. 24/7 Sobriety programs should consider adopting the practice of the HOPE program in which the penalty for not showing up for a test is more severe than the penalty for showing up and testing positive. If this approach is adopted, it should be communicated clearly to participants at the outset of the program.

WHERE WILL TESTS BE PERFORMED?

Once it is determined who and where the participants are coming from, the locations for testing sites can be more easily established. The number of candidates for participation in the Program will also help determine how many testing sites are needed.

Nearly every state revokes or suspends a person's driving license upon conviction for an impaired driving offense. The loss of driving privileges poses a significant issue for those individuals involved in a 24/7 Program. In many cases, the participant will continue to drive anyway, taking a chance that he or she will not be caught. With this knowledge, the court must caution the participant against taking such chances in the future and to alter their attitude about driving without a license.

Although most states have a mandatory revocation period for DUI/OWI, some states have passed laws allowing restricted driver license reinstatements after a suspension or revocation if the participant is successfully enrolled and testing in a 24/7 Program.

- Use grant money to buy the computer, printer and/or license to data management software.

CONSEQUENCES – CLEARLY DEFINED SANCTIONS AND REWARDS

A key component of a 24/7 Program is a coordinated strategy to respond to participants' compliance and noncompliance. Some existing 24/7 Programs leave the sanctioning up to a Judge or Supervising Agent, while others utilize a graduated sanction approach to respond to non-compliant events. It is conceivable that a reward system could be created as well to respond to successful compliance.

In any event, sanctions should be predictable and certain for Program participants, and they must be applied swiftly. Using discretion, for example responding to violations on a case by case basis in a way that is not transparent and predictable to offenders, lowers the effectiveness of the program. The more promptly a sanction is applied, the more impact it will have on the participant's behavior.

It should be the intent of all Programs to provide sanctions swiftly and fairly—the goal is to impose the sanctions as soon as possible after the drug or alcohol test is deemed positive or there is a no show event. Operating procedures should establish who will provide the sanction and in what timeframe.

Examples of sanctions include:

- Community service
- Extended monitoring term
- More strict and intensive testing methodology
- Jail time
- Counseling
- Loss of restricted driving privileges
- Loss of visitation in youth in need of care/child neglect cases

COSTS OF AND FUNDING A 24/7 PROGRAM

WHAT ARE THE COSTS?

The following categories are used to summarize the costs a jurisdiction might expect to incur when implementing a 24/7 Program.

Labor – The labor necessary to run the tests is an important consideration. If the site is testing only a few participants, existing full time employees can oftentimes perform this task. If, however, the site has a substantial number of assigned participants, third party providers, part/full-time employees or volunteers will need to be put in place to fulfill the need.

Housing/Overhead – Again, depending upon the volume of participants, existing locations may be capable of handling the testing, but once the Program gets to a certain volume, a testing site may need to be in its own space. Parking and proximity of public transit should be considerations for these testing sites.

Computer, Internet Access and Data Management Software – A printer, computer, and internet connectivity to access and run the web-based 24/7 application are needed. Jurisdictions have historically found the following ways to fund the hardware and software needs:

- Use existing equipment and connectivity; or
- Use offender pay model to fund the licensing of the data management system

Testing Equipment – This is a preference decision at the jurisdiction level as to what company's devices/equipment/kits/laboratory is being used for the testing modalities. Make certain that the web application for data management is compatible with alcohol testing device manufacturers and drug kit providers that the program employs. Selected testing methodologies should be supported by the governing body.

FUNDING SOURCES

Offender Pay Model:

The "offender pay" model has been used in Programs that have been studied and analyzed to date. There is some question as to whether a participant's investment in the Program, due to the necessity to pay for it, plays some role in the change in their behavior. The most prudent implementer of a 24/7 Program would start with an offender pay model or at least would pay special attention to the outcomes in a model that entirely pays for the cost of the Program is utilized.

The "offender pay" model subscribes to the notion that the Program participant who committed the alleged criminal act is either solely or primarily responsible for paying for their enrollment and testing fees while on the 24/7 Program.

Program fees are usually charged as a per-test charge or a fixed fee over a defined period of time. Some Programs charge a one-time only enrollment or participation fee. Certain testing modalities require installation or activation/deactivation fees in addition to a test event or daily use fee.

Program fees for participants should be uniform across testing sites in a jurisdiction and reasonable for the participant. It is also important that the Program fees should only be used to support costs associated with operating the Program.

Offender paid fees can be split into different funding accounts available to the test sites and Program managers. These funds can be used to pay for staff (24/7 Program Coordinator), software costs, equipment costs, indigent needs or other Program costs.

Indigence has not proven to be an issue with the currently operational 24/7 Programs, not least because it costs less to participate in the Program than it does to drink alcohol. But in the event that exceptions to offender pay are deemed necessary, the Program leaders should define clear rules regarding what constitutes an indigent person and how proof of indigence can be readily proved.

Public Subsidized Model:

Several states, or agencies within states, have elected to partially or fully subsidize the Program using funds from the state or jurisdiction's budget. These funds have been used to fund labor associated with managing the Program, purchasing equipment, paying annual software licensing fees or lowering the cost of the Program to participants.

A fully functional 24/7 Program should be capable of generating

revenues to offset all the Program costs, but care needs to be taken to ensure that a revenue source is made available to fund all aspects of the program.

Grant Funding:

The Fixing America's Surface Transportation (FAST) Act was signed into law on December 4, 2015. The law provides federal grants to initiate and sustain a 24/7 Sobriety Program. Where federal resources are not sufficient for long-term support, offender and state funds can help make up the difference.

EVIDENCE-BASED 24/7 PROGRAMS – DATA COLLECTION AND DISTRIBUTION

EVIDENCE-BASED PROGRAM

To illustrate and convince stakeholders of the power and efficacy of 24/7 Sobriety Programs, Program planners must design a 24/7 Program evaluation model capable of documenting behavioral change and linking that change to the Program's existence.

A credible evaluation is the only mechanism for measuring a Program's success or failure. To prove whether a Program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over all relevant variables that can systematically contribute to behavioral change, and a commitment from the 24/7 Program leadership to rigorously abide by the rules of the evaluation design.

DATA COLLECTION

With regard to the basic data collection requirements of drug and alcohol monitoring, when a product is evaluated and selected for use, make certain that the out-of-the-box data management solution supports the basic data and testing protocols that are required for the 24/7 Sobriety Program.

Depending upon the goals of each Program, the data that need to be collected may vary. Establish what metrics will be used to measure the success or failure of the Program and make certain that the appropriate data is collected to achieve those ends. This may require some level of customization to the data management solution that is selected. Make certain that the vendor is willing to provide this level of support.

DATA DISSEMINATION

If a 24/7 Program only has one testing site and one stakeholder putting participants on the Program and requesting access to the test results, data can be collected by hand or recorded in a simple Excel-type spreadsheet. Once multiple test sites are used and multiple stakeholders are enrolling participants, having convenient access to the data is critical and utilization of a web-based data management solution will become increasingly important.

A software program specifically designed for managing 24/7 Programs is recommended. A properly designed web application allows participants to be enrolled, enter test results, record all accounting procedures necessary to collect fees, track account balances, and test at different sites within the system. In addition, the software provides a work flow when noncompliance occurs or other protocols need to be

implemented. An access control system that allows credentialed stakeholders to see only the data on participants for whom they have been provided authority to access, and an advanced reporting capability to create reports and schedule automated reports for delivery to one or many interested parties should be used.

ADAPTATIONS TO THE MODEL PROGRAM

The term "adaptation" is used to describe any changes or departures from the methodology enlisted in the original implementation of the Program or strategy. Assessing Program fidelity is essential to understanding its impact. A careful account of how a Program was modified is essential in guiding future attempts at successful implementation.

When first implementing a Program in which a goal is to determine whether it will provide results similar to those reported in the peer-reviewed literature, it is recommended that the core components contained herein should be adhered to. This will allow a Program to generate data that can be compared to the data published in the literature, and will provide a baseline to evaluate any adaptations made to the Program.

Attention to both Program fidelity and adaptation during the Program implementation is critical to successful, sustained implementation of effective evidence-based substance abuse prevention programs. Experts suggest that if the following adaptations are exercised, program fidelity is challenged:

- Reducing the immediacy or transparency of sanctions
- Reducing the number or length of sessions or how long participants are involved
- Lowering the level of participant engagement
- Changing the theoretical approach
- Using staff or volunteers who are not adequately trained or qualified
- Using fewer staff members than required to manage the number of participants being tested
- Data collection and performance measures are not uniform nor is the application
- Waiving Program fees

An example of a potential adaptation to the original 24/7 Program that is currently being considered is the use of ignition interlock devices for twice a day testing in hardship cases. Ignition interlock devices and a new technology called remote breath alcohol testing devices both require that a participant provides samples into a portable breath alcohol test device with an on-board camera and cellular capability. The test result, picture and other pertinent data are forwarded to the appropriate interested parties who can, in the event of a non-compliant event, take action. Although this technology does not offer immediate sanctioning, it may prove to be

useful in hardship cases as the technology produces results that can be distributed relatively quickly and sanctions can be applied in a timely manner.

Pilot programs using this technology are being considered to collect data, analyze the data and compare it to data from Programs using the more widely employed technologies. This should provide information necessary to determine whether or not the technology should be considered for use within the framework of the evidence-based 24/7 Sobriety Program.

It is critical to the integrity of any 24/7 Program that the testing devices used are defensible – it is preferable to use devices that meet or exceed NHTSA requirements for Evidential Breath Test Measurement Devices or have been vetted by the courts through Frye and/or Daubert hearings. Additionally, it should be required that the instruments are maintained in accordance with the manufacturer's recommendations and proper documentation be kept in the event that the results are questioned.

24/7 PROGRAM AGREEMENTS

INTER-AGENCY AGREEMENTS

A Memorandum of Understanding (MOU) between the test site and either the policing or coordinating agency to clearly outline duties and responsibilities of the parties is recommended.

PARTICIPANT-PROGRAM STANDARD WORKING FORMS AND DOCUMENTS

Participation Agreement – This is a critical agreement that outlines the participant's obligations under the Program. It is a key document that is covered and signed during the Program orientation. In some cases, this document outlines the sanctions for non-compliant events. This agreement is important so the participant is fully aware of what is expected of them and clearly understands the consequences of Program noncompliance.

Consent, Waiver and Release of Information Form – This is a document that requires the participant's signature to be part of the 24/7 Program. It is intended to allow the communication of test data and test compliance information amongst the interested parties.

Violation Form – This is a form that is used by the tester to document a Program violation and what action was taken to address the issue. This information is also stored within the data management solution, but the form may be used in certain situations where a hard copy is required.

Conclusion

To achieve the positive results that have been demonstrated by the 24/7 Programs in South Dakota and other early adopters, it is strongly recommended that 24/7 Programs be created incorporating these Best Practices, that results are tracked, and the evidence generated from the 24/7 Program be utilized in ongoing policy decisions to further improve the Program.

If evidence-based practices are followed, the Program will have a greater chance of producing the intended results. Tracking the effectiveness of a 24/7 Program is generally obtained through one or more outcome evaluations. Documenting a relationship between a sanction and its intended outcome will provide information about the basic Program and any adaptations that have been introduced into the Program.

Meeting the intended goals will be a function of utilizing existing knowledge and applying it and any required customization to your Program's unique needs, while monitoring and adjusting your Program to produce optimal results. 24/7 Programs are a process that can continue to evolve and improve even after your initial goals have been met.