

Best Practices and Protocols

▶ WASHINGTON 24/7 SOBRIETY SUMMIT
2019

A Recipe for a successful
24/7 Program

OVERVIEW

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▶ The National 24/7 Advisory Council

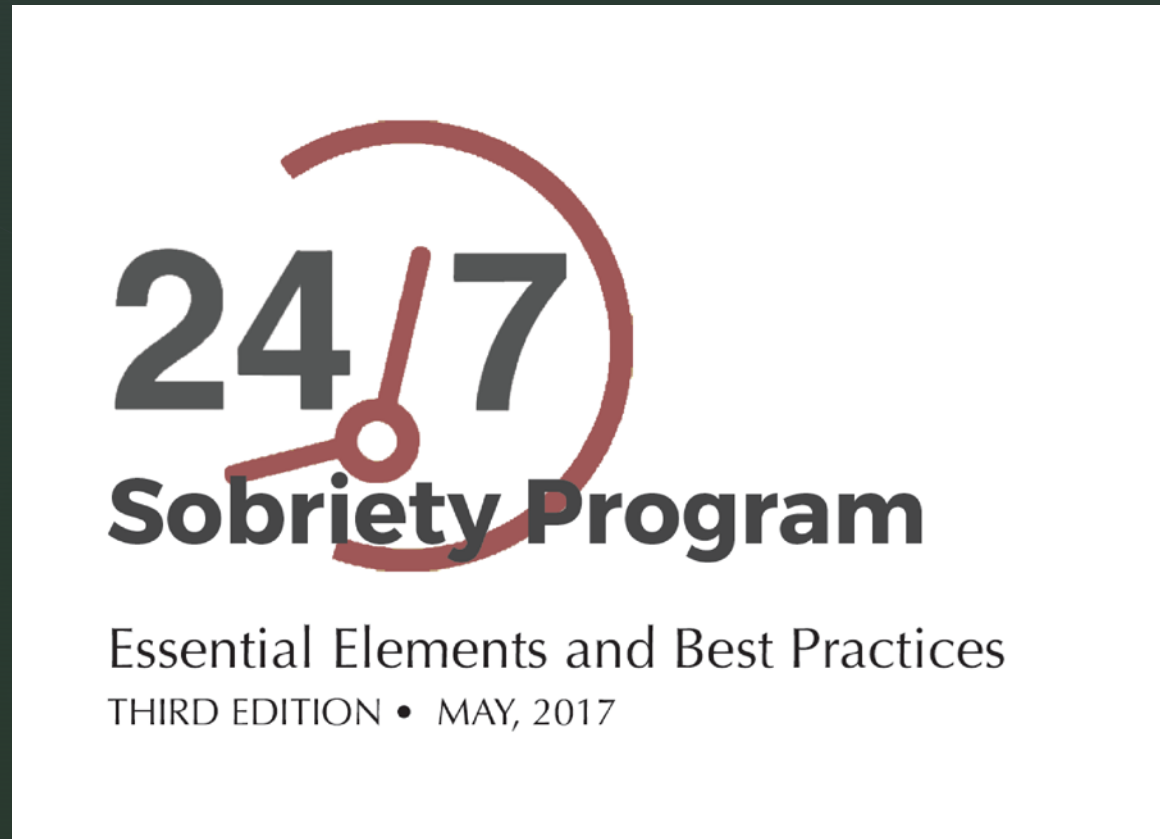
The National 24/7 Advisory Council is organized exclusively for educational purposes within the context of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The purposes of the Council are:

- To advise, assist, support, and advocate for evidence based 24/7 Sobriety Programs;
- 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;
- To create “essentials” or optional “best practices” for a 24/7 Sobriety Program;
- To establish best practice protocols for testing methods used in evidence based 24/7 Sobriety programs;
- To establish data collection criteria by each program; and
- To encourage and support studies and evaluation of all 24/7 Sobriety Programs.

The National 24/7 Advisory Council

- The National 24/7 Advisory Council includes members who have historical and working knowledge about the creation and implementation of 24/7 Sobriety Programs, study and evaluate the program, and/or have expertise in fields such as law, alcohol treatment and behavioral sciences. They all volunteer their time on the Council and serve a two (2) year term.
- Current Council members are Bruce Bjork, Council Chair (Washington), Bill Mickelson, Secretary Treasurer (Arizona), Retired Judge Larry Long (South Dakota), Dr. Keith Humphreys (Stanford University California), Director of Corrections Mike Myers (Douglas County, Nebraska), Judge Heidi Linngren (South Dakota), State 24/7 Program Director Bryon Nogelmeier (South Dakota), LE Liaison Office of Highway Safety Scott Swain (Nevada), Deputy Chief Stacy Denham (Washington), 24/7 Program Coordinator Sergeant Lacie Wickum (Montana Highway Patrol), former Prosecutor Steve Talpins (Florida), and Mark Stodola Corrections and Parole (Arizona).

3rd Edition of Essential Elements and
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ORIGINS OF THE 24/7 SOBRIETY PROGRAM

- The 24/7 Sobriety Program began in South Dakota as an effort to reduce impaired driving.
- It provided offenders with an opportunity to remain in the community with their families and friends and maintain gainful employment rather than incarceration.
- Prosecutors and judges originally referred people into the program pre-trial and post-conviction.

ORIGINS OF THE 24/7 SOBRIETY PROGRAM

The program's methods were as simple as they were effective. It worked by:

- Requiring participants to abstain from alcohol while in the program;
- Conducting on-site testing of participants each morning and evening, approximately 12 hours apart, to ensure compliance;
- Sanctioning participant violations with immediate short term incarceration (commonly referred to as “flash incarceration”).

ORIGINS OF THE 24/7 SOBRIETY PROGRAM

- When a participant violated the terms of the program multiple times, the participant appeared before a judge and was either placed back into the program or given an alternate bond or sentence.
- During the initial stages of implementation, test administrators observed that some participants appeared to be “impaired,” but were passing the breath alcohol tests. Accordingly, they incorporated a drug testing component (urinalysis or drug patch) into the program.

ORIGINS OF THE 24/7 SOBRIETY PROGRAM

- Twice-daily testing at a centralized location proved to be a hardship for some South Dakota residents who lived far away from their local sheriff's offices. The test requirement made it very difficult, if not impossible, for participants to obtain and keep jobs, attend school, or maintain a healthy family life. Administrators added remote transdermal alcohol testing to accommodate these participants.
- South Dakota piloted and evaluated the program before taking it statewide. This allowed the state to obtain preliminary information about the program's utility and most effective components. The National Institute on Alcohol Abuse and Alcoholism subsequently funded the RAND studies that documented the program's success.

ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM

- An effective 24/7 Sobriety Program that maintains fidelity to the original model contains the following essential elements: A mechanism for identifying participants who would benefit from participation in the 24/7 Sobriety Program (i.e., offenders charged with drinking and driving or other offenses that have a nexus to alcohol or drug abuse) regardless of who or when the participant(s) is placed in the program
- Statutes, rules, or regulations for implementing the 24/7 Sobriety Program; testing facilities; written procedures for implementing program methods, testing, and sanctioning offenders, documenting key events, and retaining records;

ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM

- A prohibition against using alcohol and drugs (absent a valid prescription) for all participants while they are in the program;
- Agreement form(s) or contract(s) that participants must sign acknowledging their understanding of program rules (including abstinence), expectations, and sanctions, and agreeing to abide by them and allow their records to be used for assessment purposes;
- A primary testing methodology for alcohol and drugs involving twice-daily breath testing at a central site (or sites) for alcohol and regularly conducted random or scheduled testing for drugs;

ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM

- Availability of additional testing methodologies that can be employed in the limited circumstances where individual participants are unreasonably burdened by twice-daily breath testing, these include remote breath, transdermal alcohol monitoring and drug patch testing;
- Positive feedback for compliance;
- Swift (preferably immediate), certain, proportional, and consistent sanctions for all violations, including flash incarceration (short-term incarceration);
- A sustained evaluation of the program through analysis of testing data and participant recidivism;
- A means to ensure program sustainability through predictable funding sources, including program fees.

Components of a 24/7 Sobriety Program

The best practices of a 24/7 Sobriety Program should contain the following as core components:

- Stakeholder's advisory group to review procedures and recommend changes;
- Defined program objectives;
- Operating procedures,
- A plan for program funding;
- Program agreements with testing facilities and other participating agencies, including the courts, parole, corrections, and, where appropriate, social services;

Components of a 24/7 Sobriety Program

- Alcohol and drug testing methodologies. As previously noted, the primary methods should include twice-daily breath testing and regular scheduled or random drug testing. 7. Defined testing and maintenance protocols for each of the test methodologies;
- Participant agreements and other necessary forms;
- Defined program participant eligibility;

Components of a 24/7 Sobriety Program

- Positive feedback for compliance, preferably including a system that rewards participants for maintaining sobriety and complying with program rules;
- Clearly defined graduated sanctions for program violations;
- Data collection, evaluation, and dissemination of results; and
- A defined process for program adaptation, to include methods for identifying and developing new protocols and test methods; pilot testing, evaluating, and peer reviewing outcomes; and incorporating new proven methods into the best practices.

PROGRAM OBJECTIVES

A 24/7 Sobriety Program should strive to accomplish the following:

- Ensure that program participants will participate in judicial proceedings in a timely, sober fashion;
- Promote recovery and sobriety;
- Provide an alternative to incarceration with this community-based supervision program;
- Allow offenders to live and work in the community;
- Better manage jail and prison populations;
- Improve participants' ability to work and maintain relationships by providing a mechanism for them to obtain conditional or restricted driving permits or licenses contingent upon program compliance;

PROGRAM OBJECTIVES

- Improve probation and parole monitoring;
- Enable wide expansion of the program, including in specialty courts and family courts;
- Provide testing for specialty courts, including DUI, Veterans, Drug, and HOPE Courts;
- Reduce short and long-term recidivism for a variety of offenses that have a nexus to alcohol or drug abuse; and
- Improve overall public safety by reducing criminal behavior and crashes.

STAKEHOLDERS' ADVISORY GROUP

- In most jurisdictions, the chances that a 24/7 Sobriety Program will succeed are dependent, in part, upon support from, and a comprehensive dialogue among, all stakeholders on program objectives, procedures, and features including, but not limited to, the testing facility. Program leaders should create an advisory group to provide input. Ideally, all key stakeholders, including at least one judge and one law enforcement officer, will participate.

STAKEHOLDERS' ADVISORY GROUP

The advisory group 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 • Public defenders and private defense bar



PROGRAM LEADER / ADVOCATE

Every program needs a leader. Depending on the size of the program, a state or local official should lead the program and ensure proper implementation, including fidelity to the model. Ideally, this official should have the ability to lead and influence the stakeholders that will participate in the program. This champion will need to be able to convene, educate and lead the key stakeholders.



PARTICIPANTS

All offenders with alcohol or drug misuse issues may be considered for the program. Historically, the program was limited to those who committed the crime of driving under the influence of alcohol or drugs; however, many programs currently include people who committed other crimes where alcohol and/or drugs was a contributing factor, such as domestic violence, assaults, as well as child abuse, or neglect cases. In some jurisdictions, family judges may even refer parents who abuse alcohol or drugs to the program.



PARTICIPANTS

A participant may be placed on the program at any point during the process and as a condition of release. Thus, a participant may be referred to the program as a condition of pre-trial bond, sentence, or probation or parole. A person may even be placed in the program as a condition for obtaining a restricted driver's license.

All participants should be required to execute a Participation Agreement (or contract) during the orientation process that outlines the participant's obligations under the program. In some jurisdictions, the agreement outline sanctions the participants may expect for non-compliant events. This Participation Agreement is an important part of the "buy in process" and enhances the program's deterrent effects by ensuring that the participants are fully aware of program expectations and consequences for violations.

CORE TESTING COMPONENTS

- Program participants are required to maintain sobriety and comply with all program rules.
- Compliance is monitored via frequent alcohol and drug testing.
- Compliant behavior is acknowledged.
- Positive alcohol or drug tests are not accepted or tolerated. All violations result in swift, certain, proportional, and consistent sanctions.
- Sanctions are considered “swift” if they occur immediately or very close to when the violation occurs.
- These core components are essential to the program’s success.

CORE TESTING COMPONENTS

- Research from the fields of neurobiology, psychology and economics suggests that punishment certainty is a stronger deterrent against criminal activity than punishment severity.
- Research also suggests that rewards and incentives can significantly impact behavior and that individuals value immediate rewards more than delayed rewards.
- Testing methods that can produce both immediate positive feedback for compliant behavior and immediate sanctions for non-compliant behavior are preferred.

CORE TESTING COMPONENTS

- Program participation length varies according to each participant's risk, need, and compliance. Participants who fail to report for testing or test positive typically participate for an extended period of time. Considerations include why the participant is in the program and the participant's prior history.
- Participants should remain in the program for a period of time sufficient to result in long term behavioral change. Studies have shown that the program may impact some participants in as short as 30 days, greater impacts (reduced recidivism) are associated with longer program participation. Research in the treatment field typically suggests that 90 days is the minimum amount of time needed for a significant dose response relationship.

CORE TESTING COMPONENTS

Specific core features include:

- Written procedures setting forth the means by which an eligible participant is placed in the program and which agency is responsible for testing.
- Standard operating procedures (SOP) for each testing agency. The SOPs should specify all acceptable test methods and instruments and provide all necessary forms, orders, and agreements.
- Protocols should include uniform operating and data collection procedures for any and all testing devices. Leadership should require all vendors to meet program specifications.
- SOPs should establish standards for data collection and Program evaluation;

CORE TESTING COMPONENTS

- Each testing method should be chosen according to clearly defined parameters in the SOPs. Considerations should include the participant's risks, needs, and proximity to testing twice-daily testing stations;
- Data collection and record keeping should allow administrators and justice practitioners to quickly and easily assess participant's progress and the overall program's performance;
- Clear procedures for addressing all violations.

CORE TESTING COMPONENTS

Sanctions should be:

- **Swift** - Research has shown that proximal identification of every violation and quick application of sanction increases the impact of the sanction upon the offender and reinforces behavior change. In other words, the quicker a violation can be detected and sanctions applied, the larger impact the sanction will have upon behavior (the same is true for rewards: the more immediate the positive feedback for compliance, the greater the impact on behavior).
- **Certainty** - Offender behaviors are influenced by their perception of the likelihood that they will be caught. In the context of alcohol and drug programs, their behaviors are directly impacted by their perceptions about the likelihood of their alcohol or drug consumption being detected by the testing methods used. The more they believe that an alcohol or drug consumption event will be detected, the less likely they are to use alcohol or drugs;

CORE TESTING COMPONENTS

- Proportional - Responses to a violation should be proportional to the violation.
- They should involve an escalating sequence of meaningful sanctions and be sufficient to deter future misconduct, but not so serious that they unnecessarily undermine the participant's ability to live in the community or be viewed as overly punitive (research shows that if a person believes that sanctions are unfair, it may undermine the deterrent effect).
- Consistent - Sanctions should be applied consistently for similar conduct among offenders. Inconsistent application among offenders may lead to a perception that the testing methods are unfair and undermine the deterrent effect.

CORE TESTING COMPONENTS

- Officials should constantly evaluate the participants' sanctions and responses to determine whether the chosen testing methods and the program is properly suited for each participant.

Intensive monitoring of drug and/or alcohol use should employ technologies that:

- Will detect alcohol and drug use consistently, accurately, and reliably;
- Allow for swift and consistent application of consequences for compliance and non-compliance;
- Allow participants to maintain employment, education, and/or a family life;

CORE TESTING COMPONENTS

- Are proven effective in reducing criminal behavior for the long term (i.e. they continue to impact participants after they leave the program).
- Techniques that reduce recidivism both while the participant is in the program and after they leave the program are preferential to those that only have an impact on recidivism while the participant is actively engaged in the program.
- Although experimentation and pilot testing of other methods is encouraged, overall fidelity to the original program is important and proven methods are the backbone of any evidence based 24/7 Sobriety Program.

CORE TESTING COMPONENTS

- Regardless of the chosen methods, program administrators must create minimum standards and ensure that all vendors comply with them. Participants should be required to invest in their sobriety.

Programs should require participants to:

- Execute a written participation agreement or contract that defines program expectations and their obligations;
- Abide by the agreed upon schedule testing regimen;
- Pay for the full or partial cost of the testing; and
- Agree to share their test data with interested parties through waivers and consents.

CONSEQUENCES: CLEARLY DEFINED SANCTIONS

- It is absolutely essential that program staff respond quickly and strategically to all non-compliant events. Program administrators have employed two strategies for accomplishing this. Some programs leave the sanctioning to a judge or supervising agent's discretion with little guidance, while others utilize a formalized graduated sanction schedule to respond to a noncompliant event.
- Sanctions should be applied in a swift, certain, proportional, and consistent manner. Celerity is critical; in general, the faster the response, the better the result. The SOPs should establish who will impose the sanction, how they will impose the sanction, and how quickly they will impose the sanctions. Consistency is essential. Arbitrary sanctioning (i.e. 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.

CONSEQUENCES: CLEARLY DEFINED SANCTIONS

Programs typically impose the following remedial measures and sanctions:

- Community service
- Extended monitoring term
- More strict and intensive testing methodologies
- Short-term incarceration
- Loss of restricted driving privileges
- In family court cases, modification of condition

RESOURCES AND COSTS

Like any other program or method, 24/7 Sobriety Programs require proper resources. The originally conceived program started with a grant and implemented an offender pay model. Charging offenders for their participation not only can defray costs, but also means that participants “buy in” to the program in the most literal way possible.

Specific resource needs include:

- Labor: If the site is testing only a few participants, existing full time employees often can perform testing. If, however, a substantial number of participants are assigned to the site, officials should consider using volunteers or hiring new employees or third party providers to administer the tests.

RESOURCES AND COSTS

- Program location: Again, depending upon the volume of participants, existing locations, (such as jails or correctional options facilities), may be capable of handling the testing and other program requirements. However, program managers are cautioned to consider ease of access, including proximity to public transit, and available parking.
- Computer, Internet, PBT, Data Management Software: Data collection is critical to properly manage participants and evaluate the program. Program officials should collect and maintain the data in a web based management system that is capable of creating test schedules, recording test event histories, supporting the use of a variety of testing modalities and vendor's products, managing cash accounts for each participant, tracking participant status and maintaining records of participant performance while on the program.

RESOURCES AND COSTS

- The program should create and monitor workflows to ensure that consequences are applied.
- The program should collect and record the data (type and term) associated with any sanction that is applied, in order to assess the impact of such actions at a later point in time. Accordingly, program staff will need, at a minimum, a printer, computer, and internet connectivity. Jurisdictions typically address these needs by using existing equipment and connectivity or through grants.
- Test Equipment - Regardless of which methods are employed, program administrators need to purchase or lease test equipment and contract with the appropriate vendors and laboratories.

FUNDING SOURCES

Offender Pay Model:

- South Dakota, other states, and counties have had great success employing an “offender pay model.” Essentially, they require offenders to pay most, if not all, program costs. Several jurisdictions report earning profits and using the excess funds to support their 24/7 Sobriety Programs.
- The offender pay model is largely based on the philosophy that the program participants should pay for the program because (1) they created the need for it, (2) the program allows them to remain in the community where they can work, rather than sit in jail or prison, (3) the offender pay model encourages behavioral change.
- Some programs charge a one-time activation/de-activation or participation fee. Participants typically pay these fees when they enter the program. For most methods, participants also pay a fee per test or a daily fee.

FUNDING SOURCES

- Some people have expressed skepticism about charging offenders. They are concerned that indigent offenders will not be able to pay. However, most jurisdictions have not had a significant problem addressing the issue, possibly because it costs offenders less money to participate in the program than it does to support their drinking or drug use.
- Administrators should consider creating a fund to help truly indigent participants meet their financial obligations to their programs. If they create such a fund, they should establish clear rules and standards defining who is indigent, the process for establishing indigence, and the process for reassessing each person's indigence as they remain in the community. Under the offender pay model, indigent offenders should be required to pay at least nominal fees whenever possible

FUNDING SOURCES

- Program fees should be uniform across testing sites so that offenders at one site are treated identically to offenders at other sites and should only be used to support costs associated with operating or improving the program, including staff, software, equipment, and indigent needs. Because this model requires offenders to pay for their participation, it is believed that these programs are more sustainable than those completely funded by tax dollars.



Public Subsidized Model

- Several states, or agencies within states, have elected to partially subsidize or fully pay for the program using funds from the state or jurisdictions budget.

Grant Funding

The Fixing America's Surface Transportation (FAST) Act that was signed into law on December 4, 2015, provides a great opportunity to start statewide 24/7 Sobriety Programs. The Act provides Impaired Driving Countermeasure Grants to;

“States that enact a State law or program that authorizes a State court of agency with jurisdiction to require an individual who has committed a DUI offense to abstain totally from alcohol or drugs for a period of time subject to testing for alcohol or drugs at least twice a day at a testing location, by continuous transdermal monitoring device, or by an alternative method approved by NHTSA.”

Grant Funding

- The law's language suggests that the program must have statewide applicability (although the law or program need not require that every DUI offender be subject to a 24/7 sobriety program, it must be authorized to apply on a statewide basis). Consequently, a pilot program that may be in use in
- a small portion of a State or a program that is based solely at a local government level (e.g. county-based) may not be eligible for these funds. Programs that do not have statewide applicability may obtain funding under other provisions, as well as state, local, and private sources. Administrators who are interested in obtaining Federal grants are encouraged to speak to the NTHSA Program Manager assigned to their state for more information.

DATA COLLECTION AND DISTRIBUTION

- It is absolutely essential for program administrators to collect data on practice and performance, at the individual and group level. The data should be used to determine program successes and identify opportunities for improvement.
- The data collected within and across a program should be uniform with regard to enrollment, test methodology, accounting, sanctioning, and participant status.

DATA COLLECTION AND DISTRIBUTION

At a minimum, data should be collected for each participant that includes:

- Participant demographics and other characteristics;
- Entry point for program participation (offense, violation, pre-sentence or post-sentence);
- Participant level of risk and need;
- Testing method(s) selected;
- Data specific to each monitoring method that includes; • Participant status; • Time and date related testing (time of day, date); • Late shows or tests; • No shows (missed tests); • Tamperers (for remote testing); • Test results

EVALUATION

Administrators should create performance measures and goals for their programs. They should compile data and evaluate their program's successes and challenges on an ongoing basis. At a minimum;

- Aware of how many people have participated and are participating in the program,
- The number and outcomes of each test (and method),
- The rates of non-compliance (including tardiness, failures to appear, positive test results, and absconding).
- It is also recommended that administrators assess their program's impact on recidivism.

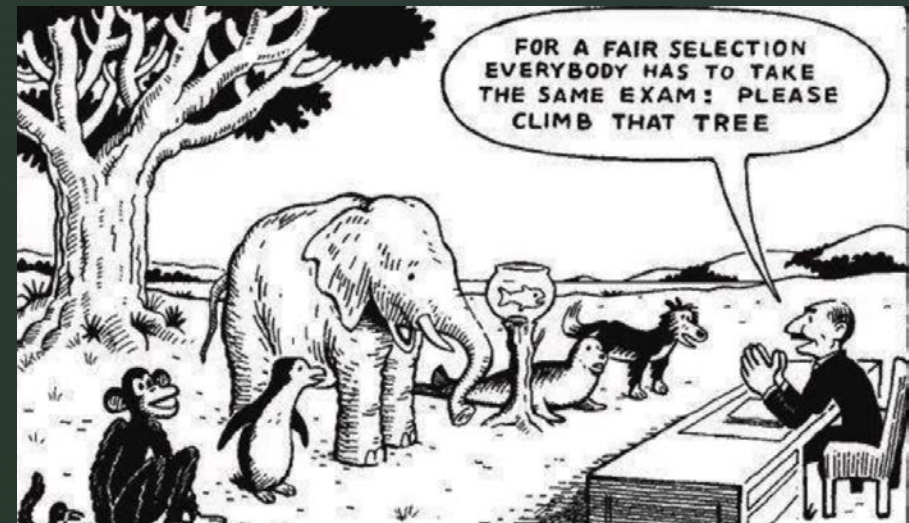


Standardized Protocols for Testing Methodologies

- There are programmatic and practical reasons for standardizing testing protocols.
 - Programmatic:
 - More uniformity of data across testing methodologies
 - Uniform data across different manufacturers products within a like testing methodology
 - Data that is aligned with the intent of the program
 - Practical
 - Easier to collect data
 - Easier to interpret the data
 - Choice for user of best product in a test type category
 - Lower cost products due to a more competitive marketplace
 - Good for the manufacturer as they can develop one product offering for all of the 24/7 programs that follow best practices.

What needs to be Standardized?

- Standardization should be used to align your resources to meet the requirements of your program. It should not be used to eliminate competition
- Testing Sequence
 - Order of Events
 - What Constitutes a Non-Compliant Event
- Minimum Requirements for Testing Device
 - Analytical Requirements (Accuracy, Precision and Quality Assurance)
 - Required Approvals
 - Size and Shape
 - Speed of Testing
 - Environmental
 - Data Collection and Transmission



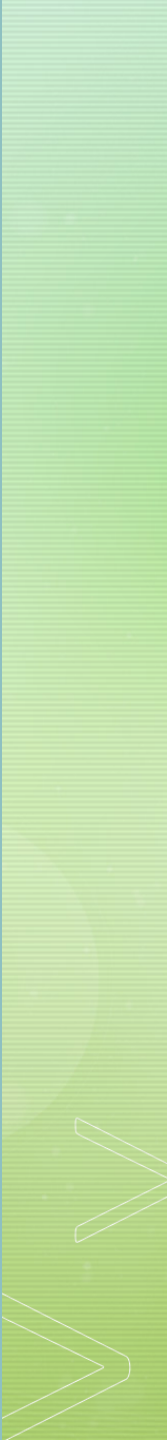
The basics of a Standardized Protocol

- A Standard Protocol would ideally be one that:
 - Tested for alcohol and or drug use frequently enough to:
 - accurately and defensibly identify use
 - deter use
 - Provide immediate consequences (immediate meaning – coincidental to use)
 - positive feedback or rewards immediately provided for compliant behavior
 - sanctions immediately applied for non-compliance
 - Uses common definitions for compliance and non-compliance
 - Common data collected and reported



CONCLUSION

Research demonstrates that the model 24/7 Sobriety Program can dramatically improve participants' lives and public safety. Officials implementing new or similar programs may only expect similar results by maintaining fidelity to the model. By incorporating and adhering to the essential components and best practices jurisdictions should be able to replicate the model's benefits. Every jurisdiction is different and technology evolves. Program officials are encouraged to collect, review, and evaluate data on their program, measure participants' progress, and "follow the evidence." The program reflects current evidence and thinking, but, as with all other programs, assuredly can be improved over time. Officials are cautioned against altering the program's proven and measured methods on a large scale in the absence of clear evidence.





THANK YOU FOR YOUR TIME AND ATTENTION

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