

Final Minutes

State Drug Treatment Court Advisory Committee Meeting

9:30 a.m. • Tuesday, September 26, 2006

Legislative Council Conference Room • Boji Tower Building

Members Present:

Judge Patrick Bowler, Chair Judge William Rush
Judge William Schma, Vice Chair Jeffrey Sauter
Ken Aud Homer Smith
Kathleen Brickley Dr. Chuck Spence
Constance Laine Phyllis Zold-Kilbourn

Members Excused:

Lawrence Belen
Andrew Konwiak
Judge Brian MacKenzie
Beth Morrison
Terrence Sizeland
Judge Edward Sosnick

Others Present:

John Strand, Legislative Council Administrator
Susan Cavanagh, Legislative Council Administrator's Office
Dan Voss, Senate Democratic Staff
John Lazet, Senator Cropsey's Office
Bruce Timmons, House Republican Policy Office
Others were present, but did not identify themselves.

I. Convening of Meeting

The Chair called the meeting to order at 9:45 a.m. A quorum was not present.

II. Senate Bill 1428

While waiting for other Committee members to arrive, the Chair asked John Lazet from Senator Cropsey's office to give a brief explanation of the substitute to Senate Bill 1428. Mr. Lazet explained that the bill was introduced in response to three recommendations made by the State Drug Treatment Court Advisory Committee and shared that the question of who would pay when a participant is transferred to another jurisdiction was raised during the Senate Judiciary Committee. He recalled that this issue was discussed by this advisory committee and asked that the minutes reflect that the Committee's recommendation recognized that the receiving court would not accept participants from other jurisdictions unless adequate funding is available. He noted that there may not be enough time in the last three weeks of session to add some of the other changes that have since been talked about including the additional principles for juvenile drug treatment courts. The discussion continued and Mr. Sauter added that the same question regarding the structure for payment was brought up by the Drug Court Association. The consensus was that the legislation provides the legal opportunity for the transfer, but it does not try to establish any set method for the transfer of the payment which will be worked out between the two drug courts involved. The issue with regard to treatment and the receiving jurisdiction's treatment system was raised by Dr. Zold-Kilbourn who noted that when a court accepts a participant it is often done before the level of treatment has been made. She explained that the question becomes what coordinating agency or health department assumes that responsibility and added that the other question is with regard to juveniles.

III. Meeting Schedule for 2007

A discussion regarding the Committee meeting schedule for 2007 followed. The Chair proposed that the Committee continue to meet on the last Tuesday of every other month. There were no objections. A schedule will be distributed to Committee members.

IV. Future Discussion Items

Establishing a schedule of items for discussion by the Committee over the next few months and determining whether any subcommittees should be formed was then discussed. Judge Bowler suggested the following list of items be considered for discussion at future meetings:

- 1) Confidentiality issues. A subcommittee chaired by Dr. Spence has been formed.
- 2) The requirement of reporting individual program data to SCAO for evaluations. Judge Bowler noted that the statute requires reporting to SCAO and suggested a subcommittee should be formed to deal with this issue.
- 3) Distinctions between juvenile and family treatment courts. Bringing in a person from the juvenile area might be needed to assist the Committee.

- 4) Exclusions from a deferral.
- 5) Other certification matters.
- 6) Other cross assignment matters.
- 7) Funding of drug treatment courts.
- 8) The definition of violent offense because of the different interpretations in the drug courts.
- 9) Granting restricted licenses to drug court participants in conjunction with the high BAC discussion.

Kathleen Brickley added that one issue that has been addressed in Kalamazoo County is whether or not the legislation requires a defense attorney be a part of the drug treatment court team. She pointed out that the legislation explains that the person waives his or her right to defense attorney representation at the review hearing, but also says it shall comply with the 10 key components which include the use of a non-adversarial approach by the prosecution and defense promoting public safety while protecting the participant's due process rights. She offered that the Committee may want to make it clear whether or not a defense attorney should be part of the team and whether funding should be provided for that person who, in her opinion, is a vital part of the process.

During the discussion, more committee members entered the room and the Chair announced that a quorum was present. **Judge Rush moved, seconded by Mr. Smith, to excuse all absent members. The motion prevailed.**

V. Appointment of Subcommittees

The appointment of subcommittees to review future discussion items was then considered. Dr. Zold-Kilbourn pointed out that mandatory reporting as required by SCAO is already in statute, but there are some other peripheral issues that would be taken care of if mandatory reporting to the MIS system is defined in statute. After further discussion, Mr. Sauter recommended that this issue be referred to the subcommittee already formed to deal with confidentiality. Dr. Spence, who chairs the Confidentiality Subcommittee, agreed to accept the additional responsibility.

With regard to the juvenile issue, Judge Bowler urged the appointment of a subcommittee to look at the differences that are inherent in the juvenile and family courts and noted that we may need to bring in some outside help. He nominated Ms. Laine to serve on the committee and stated that he will leave it to her to suggest who else should be appointed to the committee. Other recommendations to the committee included Judge Beagle in Genesee County, an Isabella County juvenile court judge, Jennifer Warner of SCAO, and Bill Kennedy from Eaton County. Judge Bowler clarified that the mission of the subcommittee is to determine what, if any, part of the present statute conflicts with the mandatory requirements of juvenile or family courts.

On the cross assignment issue, Judge Bowler will ask Judge Schma to continue to work with him to determine if there are any other issues that need to be addressed by the subcommittee.

As Chair of the Certification Subcommittee, Judge Rush reported that there is still a lot to be done, but nothing that requires legislative change or action. Mr. Aud added that the next step is for the association to pick up the charge and promulgate some standards. With the appointment of West Huddleston as Executive Director of the National Association of Drug Court Professionals, he believes there will be a stronger effort to establish national standards as well. Judge Bowler concurred that this committee probably has no further role in suggesting legislative change on this issue. Dr. Zold-Kilbourn advised that we need to think about how to enforce or monitor the courts to insure they comply with the mandates. If the certification process is to go forward, she believes it would make it easier for the certification committee to have mechanisms to evaluate court activities. Ms. Laine commented that Carolyn Hardin pointed out that the legislation should distinguish between the 10 key components, the 16 strategies, and the 10 guiding principles because juvenile programs are very different from adult programs. After some discussion, the issue will be reviewed by the Juvenile subcommittee. Ms. Laine also announced that at the last MADCP Board meeting, Judge Bowler was selected to chair a committee on the program certification issue.

It was suggested that an organizational breakdown of the committees be prepared for the next meeting and Judge Bowler asked for input on whether any other subcommittees should be formed. Ms. Brickley suggested that the defense attorney issue she brought up earlier be put on the next agenda and agreed to prepare something for the next meeting. Dr. Zold-Kilbourn then stated she thought the dismissal issue could be resolved very quickly and also agreed to present a brief synopsis of the issue at the next meeting. Mr. Sauter agreed and offered to develop language to resolve the issue.

The definition of a violent offender and what would be considered a prior violent offense was then discussed. Mr. Sauter suggested that this might be more of a training issue. Committee members agreed and decided not to propose any recommended statutory suggestions at this time.

VI. July 25, 2006 Minutes

The minutes of the July 25, 2006 meeting were presented for consideration and approval. The Chair offered one amendment to the first paragraph on page 2 to change the "20" to "10" guiding principles. The amendment was approved. The Chair asked for a motion to adopt the minutes of the July 25, 2006 State Drug Treatment Court Advisory Committee meeting as amended. **Judge Rush moved, seconded by Mr. Aud, to approve the minutes of the July 25, 2006 meeting as amended. There was no further discussion. The motion prevailed and the minutes were adopted.**

VII. Confidentiality Issues

The Chair called on Dr. Spence to provide an update from the Confidentiality Subcommittee. Because the issue is complex and the area of public health and surveillance should be considered, he recommended that the committee be given more time to review the approach that is taken to address the confidentiality issue. Dr. Zold-Kilbourn relayed the problems SCAO has run into in obtaining treatment information and recommended that the statute be changed to define the collection and evaluation of this information as a surveillance of public health so that HIPPA does not apply. After further discussion, the Chair noted that the matter will be placed on the next meeting agenda.

VIII. High BAC and Repeat Offenders Issue

Mr. Smith presented some background on the issues involving high BAC repeat offenders and provided members with a handout on House Bill 6264. He reported that MADD has proposed some amendments to HB 6264 and asked for feedback and support of the bill from the State Drug Treatment Court Advisory Committee. A discussion on the issue of assessments followed and Dr. Spence suggested that the Department of Community Health should be involved in the process so that the two systems are brought together more efficiently. Concerns with mandating a particular type of assessment and rehab and the cost involved particularly for the indigent was raised. The Chair stressed the importance of providing funding for treatment plans through sobriety courts and Judge Schma suggested that it might be useful for MADD to consider some provisions in the legislation for alternative methods of payment such as community service. Mr. Smith noted that because MADD is looking to establish good policy and additional changes will be considered, the Committee may want to wait until a final version of the bill is offered. He also noted that there has been some discussion in relaxing release standards for some violent crimes including DUI. If the Committee gets involved in this issue, he would appreciate it if we could pass along the information.

IX. Public Comment

The Chair asked for public comment. There was none.

X. Adjournment

Having no further business, Mr. Aud moved, supported by Judge Rush, to adjourn the meeting. Without objection, the motion was approved. The meeting was adjourned at 12:02 p.m.

NEXT MEETING DATE

The next full Committee meeting is scheduled for **Tuesday, November 28, 2006**. A proposed agenda and the location of the next meeting will be sent to members.

(Minutes approved at the November 28, 2006 meeting.)