

Chapter MVD 23

PROCEDURE FOR COUNSELING AND RE-EXAMINATION OF DRIVERS

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MVD 23.01 Applicability. In accordance with the authority conferred under section 343.32 (2), Wis. Stats., all persons enumerated in said section shall be required to appear for driver improvement group or individual counseling, reexamination or both unless specifically exempt under this chapter.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70.

MVD 23.02 Definitions. (1) Group counseling is defined as a series of meetings between a driver improvement analyst and a specified number of drivers.

(2) Individual counseling is defined as a meeting between a driver improvement analyst and an individual driver.

(3) Re-examination is defined as an examination consisting of all or part of the examinations defined in sections 343.16 (1) and 343.16 (2).

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70.

MVD 23.03 Appearance required; exceptions. (1) **APPEARANCE REQUIRED.** Except as otherwise specified, persons who have accumulated more than 6 demerit points on their driving record, persons who have been involved in 2 or more accidents in a one year period where the accident report indicates that the person may have been causally negligent and those persons whose licenses have been suspended or revoked shall be required to appear for group or individual counseling, re-examination or both.

(2) **EXCEPTIONS.** Any person whose license is suspended or revoked under sections 48.34 (1) (g); 343.30 (1m) (1n) (2d) (2m) (6) (a) and (6) (b); 343.305 (7) (b) and (c); 343.32 (1) (d); 343.34 (1); 343.345; 344.08; 344.14 (1) and 344.40 Wis. Stats., and any suspension or revocation for less than 60 days is exempt from the requirements set forth in this chapter.

(3) **EXEMPTION.** A group of persons consisting of 10% of the total number required to appear under this chapter are exempt. These persons will be randomly selected and placed in a control group for study purpose to determine the effectiveness of this particular mandatory requirement.

(4) **ORDER TO APPEAR.** A certified written notice setting forth the time and place of appearance shall be mailed to the person at the

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last-known address. The notice shall describe the reason the person is required to appear, the penalty for failing to appear and the type of counseling anticipated. The written notice shall be mailed at least 5 days prior to the time the person is to appear.

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MVD 23.04 Cancellation of operating privileges for failing to appear. (1) The operating privilege of any person who fails to comply with an order to appear for group or individual counseling, re-examination or both, will be cancelled under section 343.25 (4), Wis. Stats.; reference section 343.06 (8), Wis. Stats. The cancellation shall remain in effect until compliance with the order has been secured or the order has been rescinded.

(2) If such person has changed his address and fails to notify the Division of Motor Vehicles, Bureau of Driver Control, as required in section 343.22, Wis. Stats.; then failure to receive the order to appear shall not alter the effect of the cancellation of operating privileges.

(3) When a person's record of demerit point accumulation or accident involvement occurs while operating as a private operator and such person holds a chauffeur license, only the regular license will be cancelled. If the record of demerit point accumulation or accident involvement occurs while operating as a chauffeur, both the regular and chauffeur license will be cancelled.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70.

MVD 23.05 Determining causal negligence on accident involvement.

(1) Information provided on accident reports submitted by the investigating police agencies or accident reports submitted by the drivers involved shall be examined to determine causal negligence.

(2) Contributing circumstances or the issuance of a citation for a traffic offense shall be weighed in determining that the driver may have been causally negligent in the accident when it is substantiated by other information appearing on the reports including the type of accident; directional analysis, road character and traffic control.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70.

MVD 23.06 Determining type of action. (1) The type of shall be determined by factors that appear on the driving record, accident reports or elsewhere in the files of the division of motor vehicles.

(2) Wherever and whenever possible persons who have a continuing record of traffic violations which demonstrate a behavior pattern that is not attributed to a lack of skill or physical capability, shall be required to appear for group counseling meetings.

(3) Persons will be required to appear for individual counseling and/or re-examination when their driving record or accident reports indicate that there is a lack of skill or a physical or mental condition that prevents the safe operation of a motor vehicle.

(4) Whenever there is good cause to believe that a person may fall in the class of persons not to be licensed as specified in section 343.06, Wis. Stats., a re-examination shall be included as a prerequisite to, or following, group or individual counseling. Such re-examination may consist of all or part of the tests specified in section 343.16 (1) (a) (1), Wis. Stats., or special examinations as specified in section 343.16 (2), Wis. Stats.

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(5) Whenever there is good cause to believe persons are users of alcoholic beverages to excess or addicted to the use of narcotic or dangerous drugs, or have been convicted under section 346.63 (1) (a) or (b), Wis. Stats., may be required to submit to a special examination to determine competency. Such special examination shall consist of a written or oral screening test based upon behavior patterns that relate to the excessive use of alcohol or drugs. At the conclusion of the examination, if there is cause to believe that the person may be addicted to the use of alcohol or drugs, further mental, physical or psychological examinations may be required to substantiate or repudiate the findings. In addition to the special examinations, such persons shall be required to attend group or individual counseling.

History: Cr. Register, September, 1970, No. 177, eff. 10-1-70.