

Conflict of Interest of Private Probation

SB12-122

Sponsored by Senator Williams &
Representative DeGrosso

COURT ORDERS & Referrals

○ If you get a DUI, the courts will prosecute you, and probation will evaluate you. The courts then respond to probation's recommendations and order the appropriate level of care.

○ State Probation –

○ The role of state probation is to assess the level of risk of an offender. State probation manages high-risk offenders.

○ State probation refers the lower risk offenders to one of the private probation companies.

○ State probation may refer a client to a specific treatment provider but protocols direct that state probation provide a client with a choice of agencies within close proximity to where the client lives or works, to insure success in accessing and completing treatment.

Court Orders & Referrals

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0 PRIVATE PROBATION

- 0 Private Probation has access to official court paperwork so it is possible that they could refer clients to any treatment facility including themselves, which could constitute a conflict of interest.
- 0 As of 2/1/11, Some private probation companies have exclusive monitored sobriety contracts with various judicial districts. Clients do not have a choice where their testing will be done.
- 0 No consideration is given by private probation as to client's limitations on available transportation or where client lives or works. This creates extreme hardship on clients and a revenue stream for private probation.
- 0 Some private probation companies require that all offenders must do monitored sobriety even if it was not court ordered by state evaluator.

TREATMENT REFERRALS SHOULD ALWAYS PROVIDE A CHOICE TO THE CLIENT!

The 3 Main Conflicts

1. Undue influence on where client will complete treatment.
2. The existence of an inherent self-interest for financial gain.
3. The potential for lack of confidentiality of client records, as the treatment agencies are housed literally in the same office as the private probation offices.
4. Lack of confidentiality will likely impact the amount of sharing and the depth of work done by the clients, as they feel unable to trust the treatment provider.

Imagine being inside the Conflict

- A. Your son gets arrested for a DUI
 - He is a first time offender, but his behaviors are getting dangerous and you want him to get some help.
 - He goes to probation. They notice he is “high-functioning” and a first time offender so they refer him to private probation, because he is new to the system.
 - Your son is nervous, and unable to concentrate when he walks into the office of private probation. He notices that many of the people seem to think it’s a joke and he tries to joke with the secretary but gets told to be quiet and have a seat.
 - He meets with his private probation officer who tells him that the cheapest treatment in town is right there at the office he is at, so he might as well get started. He nervously agrees.
 - He is now in treatment with a treatment provider who is under-paid and a room that has 30 clients in one room when the state regulations allow only 12. He feels like another cow in a herd.

Conflict Continued

- B. Your son attends groups for 12 weeks, he makes some new friends, but gains almost nothing from treatment. In fact, he does not build a relationship with the therapist, which is known to be the greatest predictor of positive change in a client. He feels the therapist is way too busy to care about him. She is taking care of 30 clients each group, because the agency has to over-load the groups to be profitable.
- C. Your son meets up with other friends he made in treatment and begins to hang out with them. He develops a significant problem with alcohol. When you try to get him to go to treatment, he is appalled at your suggestion, because he thinks treatment is a joke, all about how many people you can put in a room.
- D. Your son dies in a car accident, his second DUI. He kills a couple coming home from their night out. They have 3 children at home with a babysitter.
- E. Recidivism comes at the cost of “cheap treatment” and inappropriate relationships. Our current focus on “reducing costs of care,” will surely raise the cost to our society. Poor quality treatment has the effect of missing what is often the only opportunity one has to make a change in their lifestyle. Don't sell out our clients under the guise of “free market.” The market has been free, which resulted in well educated and trained therapists, competing on the basis of quality of care, not who can provide the cheapest intervention.

Ethics/Business/Lives

- F. Don't mistake business people for clinicians. Business people have long been accused and jailed for unscrupulous behaviors. The unscrupulous ones don't always get jailed or run out of business. Some of them just get richer. In fact if someone in business harms you, we might say; "hey that's business." But they don't daily hold the hearts and trust of their clients in the palm of their hands.
- G. In our business, we live by the ethics and regulations of our field. It should be evident that we are against this dual relationship, not just to protect our business investments, but also to protect the hearts and lives of those we treat. We hope your son is not among them, but if he is, we want him to have choice and not be the victim of someone's "business plan;" to corner the market on some of the most broken in our society.