



## **In-patient treatment for DWI offenders**

When it comes to treatment in lieu of jail time, there are always some confusing between the judicial laws and the DWI laws which are under DMV guidelines. The minimum requirements for treatment for the courts are not the same minimum requirements for treatment under DMV guidelines. I have listed below the 2 different governing guidelines in this letter. Life Changes DWI Centers have developed a program with Emerge Health Innovations called Redirect. When a client is referred to us, we will help them access the treatment program they need after they have their DWI assessment. They aren't required to do the assessment with us but we will need to have the assessment done before they go to treatment. Then we will determine how many continuing care hours they will need to complete when they return from treatment to satisfy their DWI requirements. This will make it easier for the client to know what all they have to do and also for you, their attorney, to know they have completed all requirements, This is better than getting a call at the end of a year and the client wondering why they couldn't get their license back. **Please call me Gene Smith at 800-776-3022 with any questions you may have.**

## **In-patient treatment for DWI offenders**

### **Residential 7 day treatment-** NC program for men and women

**\$2800.00 (cash)\*\*** when they start and will include their continuing care upon their return to their community.

### **South Carolina program for men only**

**\$1700.00 (cash)\*\*** when they start and will include their continuing care upon their return to their community.

### **Residential 30 day treatment-** NC program for men and women

**\$5200.00(cash)\*\*** when they start and will include their continuing care upon their return to their community.

### **South Carolina program for men only**

**\$3400.00 (cash)\*\*** when they start and will include their continuing care upon their return to their community. **60 days: \$4400.00    Level 1A    90 days: \$5500.00**

**\*\*Should the court want additional days, we can add those on a per day fee. We are currently working on a program to take insurance but most out of pocket expenses using insurance, are the same as our cash price. Using insurance does not guarantee they get the days they need to meet the requirement, Insurance will determine the days.**

For those on Medicaid or no money, the client may contact their local LME agency to see about help for inpatient treatment. We will be glad to work with them upon their return and give them credit for the treatment to help complete their DWI requirements.

## **Safe Roads Act**

**Credit for Inpatient Treatment.** - Pursuant to G.S. 15A-1351(a), the judge may order that a term of imprisonment imposed as a condition of special probation under any level of punishment be served as an inpatient in a facility operated or licensed by the State for the treatment of alcoholism or substance abuse where the defendant has been accepted for admission or commitment as an inpatient. The defendant shall bear the expense of any treatment unless the trial judge orders that the costs be absorbed by the State. The judge may impose restrictions on the defendant's ability to leave the premises of the treatment facility and require that the defendant follow the rules of the treatment facility. The judge may credit against the active sentence imposed on a defendant the time the defendant was an inpatient at the treatment facility, provided such treatment occurred after the commission of the offense for which the defendant is being sentenced. This section shall not be construed to limit the authority of the judge in sentencing under any other provisions of law.

G.S. 20-179(k1) might be interpreted as permitting a judge to award credit for qualifying inpatient treatment at a licensed facility only against a sentence that imposes "active punishment" as that term is defined by [G.S. 15A-1340.11](#), that is a sentence that requires a term of imprisonment and is not suspended. Another still-yet broader reading of the provision is that a defendant may receive credit for qualifying inpatient treatment against periods of imprisonment imposed as a condition of special probation as well as against an active sentence. This interpretation of the provision, which strikes me as the one most likely indicative of the legislature's intent and is, I believe, the view shared by most practitioners and judges, considers the term "active" in the context of G.S. 20-179(k1) to mean a period of imprisonment rather than "active punishment" pursuant to [G.S. 15A-1340.11](#). The pairing of the credit provision in subsection (k1) with authorization for service of a term of imprisonment imposed a condition of special probation at such a treatment facility provides support for the view that the legislature intended to allow for credit against periods of imprisonment served pursuant to active or probationary sentences. If this interpretation is correct, then credit awarded for qualifying inpatient treatment may satisfy the minimum terms of imprisonment required for active sentences or as a condition of special probation for each level of impaired driving. Thus, a defendant who serves 30 days as an inpatient at a licensed treatment facility after committing an impaired driving offense sentenced at Level One, may, in the judge's discretion, be awarded credit for this time against a term of special probation requiring a term of imprisonment of 30 days. In this circumstance, the defendant will not be required to serve any time in jail unless she violates conditions of probation and imprisonment is ordered in response to such a violation.

### **10A NCAC 27G .3813 PLACEMENT CRITERIA FOR ASSESSED DWI CLIENTS**

Clients who have completed a DWI substance abuse assessment shall be placed in the appropriate service level. (b) Placement of clients in a specific category shall be based on the assessment outcome, diagnosis, and level of care determined to be necessary for treatment. (c) In addition to the terms defined in Rule .3805(10) of this Section for each of the following progressive categories, determination for placement shall be based on the criteria specified in this Paragraph.

(1) Alcohol and Drug Education Traffic School (ADETS): the assessment did not identify a substance abuse handicap; (B) the person has no previous DWI offense conviction; (C) the person had an alcohol concentration of 0.14% or less at the time of arrest; (D) the person did not refuse to submit to a chemical test;

(2) Short-term Outpatient Treatment: this category of service requires a minimum of 20 contact hours over a minimum of 30 days. Each client must have services scheduled weekly. alcohol concentration is .15 or higher (ii) refusal of chemical test at time of arrest; (iii) problems relating to family history of substance abuse; (iv) other problems which seem to be a contributing factor to DWI behavior, such as grief, loss; and (v) the client meets the criteria for Level I of the ASAM Placement Criteria;

(3) Longer -term Outpatient Treatment: (A) when a client meets minimal conditions for the diagnosis of "substance dependence"; (B) the criteria for Level I of the ASAM placement criteria are met; and (C) this category of service requires a minimum of 40 contact hours over a minimum of 60 days. Each client must have services scheduled weekly.

(4) Day Treatment/Intensive Outpatient Treatment: (A) the assessment confirms a diagnosis of substance dependence, with or without physiological dependence; (B) the ASAM placement criteria for Level II Outpatient Treatment is met; (C) the program: (i) offers additional continuing care, urging voluntary participation of the client and significant others; and (ii) requires a minimum of 90 contact hours and participation of the client over a period of at least 90 days, for any client referred under G.S. 20-179(g - k), or G.S. 20-17.6; and (D) the program may be preceded by a brief inpatient admission for detoxification or stabilization of a medical or psychiatric condition.

(5) Inpatient and Residential Treatment Services: (A) the level of care requires that the client meets the same diagnostic criteria as Day Treatment, as defined in this Rule; (B) outpatient treatment of other associated problems has not been successful

**Please call me Gene Smith at 800-776-3022 with any questions you may have.**