

## Chapter MVD 23

### PROCEDURE FOR COUNSELING AND RE-EXAMINATION OF DRIVERS

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**MVD 23.01 Applicability.** (1) In accordance with the authority conferred under s. 343.32 (2), Stats., all persons enumerated in said section shall be required to appear for driver improvement group or individual counseling, re-examination or both unless specifically exempt under this chapter.

(2) Sections of this chapter may also be used to administer s. 343.32 (5), Stats., and those sections of ch. MVD 11, Wis. Adm. Code, which relate to persons seeking point reduction in their records.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72.

**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 s. 343.16 (1) and (2), Stats.

(4) Traffic safety school—a school or course organized and approved as authorized by s. 345.16, Stats.

(5) Group dynamics traffic safety school—a school or course organized and approved as authorized by s. 345.16, Stats., which course content deals with alcohol education and is designed to meet the needs of persons who drink and drive and whose driving problems are attributed to alcohol, at least to some degree.

**Note:** s. 345.16 has been renumbered to be s. 345.60.

(6) Defensive driving course—a course approved by the division which highlights or stresses safe driving techniques to avoid accident involvement. These courses are not limited to, but include the curriculum approved by the national safety council which are taught in schools approved by the board of vocational, technical and adult education.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72.

**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

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be required to appear for group or individual counseling, re-examination or both.

(2) **EXCEPTIONS.** Any person whose license is suspended or revoked under ss. 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, 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 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.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72.

**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 s. 343.25, Stats.; reference s. 343.06 (8), Stats. The cancellation shall remain in effect until compliance with the order has been secured or 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 s. 343.22, 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 or 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, 1972, No. 201, eff. 10-1-72.

**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, 1972, No. 201, eff. 10-1-72.

Register, June, 1982, No. 318

**MVD 23.06 Determining type of action.** (1) The type of action or assignment to a school shall be determined by factors that appear on the driving record, accident reports or elsewhere in the files of the division of motor vehicles, and the factors obtained in any interview or counseling with the individual. To qualify for a point reduction in accordance with ch. MVD 11, the person must satisfactorily complete the course to which he is assigned.

(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 or other courses as defined in MVD 23.02.

(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 s. 343.06, 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 test specified in s. 343.16 (1) (a) 1., Stats., or special examinations as specified in s. 343.16 (2), Stats.

(5) Whenever there is good cause to believe a person is a user of alcoholic beverages to excess or addicted to the use of controlled substances under ch. 161, Stats., or has been convicted under s. 346.63 (1) (a) or (b), Stats., or a local ordinance which is in conformity therewith, such person 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 controlled substances. At the conclusion of the examination, if there is cause to believe that the person may be addicted to the use of alcohol or controlled substances, further mental, physical or psychological examinations may be required to substantiate or repudiate the findings. In addition to the special examinations, such person shall be required to attend group or individual counseling or the group dynamics traffic safety school.

**History:** Cr. Register, September, 1972, No. 201, eff. 10-1-72.