

LEGAL ASPECTS OF ALCOHOL

Teaching Social Responsibility; My Sister, My Responsibility®

Developed by Dr. Terry McCarthy, attorney

TIME | 55 minutes

Objectives:

- Understand the ramifications of violating risk management rules of the organization and school.
- Understand the ramifications of providing alcohol to minors.
- Understand the ramifications the entire organization can face if individual members violate alcohol policies and laws.
- Understand some of the basic procedures of risk management.

Group size:

- Any size group is suitable for this workshop.

Setup:

- Choose a space where the group can sit and face the facilitator comfortably.
- You will play a PowerPoint presentation during the lesson, so you'll need to connect a laptop to a projector and screen.

Preparation:

- Look up the university policies and local laws related to alcohol and insert them into the PowerPoint.

Materials needed:

- Projector and screen
- PowerPoint
- Laptop
- For each group: a different case study from the "Case Studies" handout

INTRODUCTION | 2 minutes

The facilitator should introduce him/herself, welcome participants and thank everyone for attending the session.

Share:

- Today's activity and discussions will help you understand the risks that alcohol poses and the obligations of the individuals and the chapter as a whole to abide by various policies.
- I am not here today to tell you not to drink. However, I am here to tell you the ramifications that your behavior can have on our organization.
- Are you aware that just a few of you can do something that will put the entire chapter in jeopardy? Are you aware that you can be personally liable for things that a lot of you do or do not do on a regular basis? Are you aware that some of your actions or inactions could get the Fraternity and the fraternity officers sued?
- This program will give you all some guidance on how to prevent some of these things from happening.

PARTYING GONE WRONG—THE WORST-CASE SCENARIO | 8 minutes

Share:

- Although we try not to think about it, and we usually think that it can't happen to us, on too many occasions, fraternity and sorority events have ended tragically. What we are about to listen to is an actual 911 call from when partying went wrong at California State University, Chico. Please pay close attention and think about how scared the individuals in that room must have been.

Play the 911 call.

- That happened at a fraternity house. The person in that tape was Adrian Heideman, an 18-year-old new member. Adrian was not sure that he wanted to join a fraternity, but he did and thought it was great. What you just heard happened after a fraternity ceremony when the new members were introduced to their Big Brothers. Adrian did not drink much prior to college, but he reportedly drank large amounts of alcohol that night. He eventually fell asleep (Passed out is probably a more accurate description.). Sometime after 1 a.m., his friends checked on him. He had stopped breathing. They called 911, and you just heard what happened. By the time the ambulance arrived, it was too late. Unfortunately, Adrian was dead.
- Three of the chapter members were criminally charged with furnishing alcohol to a minor causing death. At that time in California, if convicted, they could possibly have served up to a year in jail or faced a \$1,000 fine.

Legal Aspects of Alcohol

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- Understand the ramifications of providing alcohol to minors.
- Understand the ramifications the entire organization can face due to individual members violating alcohol policies and laws.
- Understand some of the basic procedures of risk management.

Introduction

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Partying Gone Wrong—The Worst-Case Scenario

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Play audio in PowerPoint.

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- Adrian was not sure that he wanted to join a fraternity, but he did and thought it was great. What you just heard happened after a fraternity ceremony when the new members were introduced to their "Big Brothers."
- Adrian did not drink much prior to college, but he reportedly drank large amounts of alcohol that night.
- He eventually fell asleep (Passed out is probably a more accurate description.).
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Partying Gone Wrong—The Worst-Case Scenario

- Three of the chapter members were criminally charged with furnishing alcohol to a minor causing death. At that time in California, if convicted, they could possibly have served up to a year in jail or faced a \$1,000 fine.
- Adrian's parents sued the fraternity, seeking monetary damages for the death of their son. The case settled out of court for an undisclosed amount of money.
- What situations have you seen your university that, if things went really wrong, could have a bad outcome like the one with Adrian?
- How many of you have seen someone drink so much that they passed out?

- Adrian's parents sued the fraternity, seeking monetary damages for the death of their son. The case settled out of court for an undisclosed amount of money.

Discuss:

- What situations have you seen at your university that, if things went really wrong, could have a bad outcome like the one with Adrian?

Answers might include Bid Day parties, Big Sister/Little Sister parties, formals, etc.

- How many of you have seen someone drink so much that they passed out?

CRIMINAL LAWS | 5 minutes

Share:

- In addition to what we have discussed, there can also be criminal penalties for alcohol use. Many of us think of drinking as no big deal, but here is a short list of alcohol-related violations that could result in jail time. If you plan to go to graduate school, medical school or law school, or even apply for a job, the admission committee or hiring supervisor would likely find out about such violations, hurting your chances of reaching your goals. Any criminal or civil judgment WILL follow you beyond college!
- **Violations could include:**
 - » DUI (Driving Under the Influence)/DWI (Driving While Intoxicated)—In most states, the legal limit is .08
 - » Minor in possession
 - » Providing alcohol to a minor
 - » Encouraging, aiding or inducing a minor to possess alcohol
 - » Public intoxication
 - » Possessing a fake ID (which we know that some minors use to attempt to purchase alcohol)
 - » In some states, it is a criminal misdemeanor if you simply allow minors to drink in your house or apartment, even if you are not there.
 - » Hazing

Criminal Laws

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- Hazing

CIVIL LIABILITY | 10 minutes

Share:

- In addition to possibly going to jail if you make mistakes with alcohol, you and/or your parents could be sued for money. Lawyers are expensive.

- **Additionally, some examples of civil liability could include:**

- » You have a keg party at your apartment. A drunk guest, who is a minor, drives home and is injured in an accident. In some states, you can be sued by that guest for her injuries.
- » A chapter has a party with alcohol and someone gets injured. The sorority and its officers, or any members pertaining to the incident, can be sued. This links back to the 911 call we played. Adrian's parents sued the fraternity.

- Let's look at two actual lawsuits involving fraternities and sororities to see how civil liability has been applied to organizations:

- » **Coghlan v. Beta Theta Pi Fraternity**—Coghlan was an 18-year-old sorority new member at a university. She was informed that the sorority had been invited to several fraternity parties to celebrate the new members joining the organization. The sorority assigned an older sister to be Coghlan's "guardian angel," but that sister did not attend the fraternity parties with her. Coghlan became intoxicated and was escorted to the top floor of her sorority house where she was left unattended. Later, she suffered permanent paralyzing injuries when she fell from the third floor fire escape. Coghlan sued several defendants, including the university, three fraternities that hosted the parties she attended and the sorority. The Idaho Supreme Court concluded that the sorority could possibly be liable for Coghlan's injuries, as the sorority promised to appoint her a guardian angel but failed to do so and then escorted her to the top floor of the sorority house and left her unattended while she was intoxicated.
- » **Estate of Hernandez v. Arizona Board of Regents**—Rayner, a fraternity member, attended a Bid Day party where alcohol was served. Rayner was underage, but he was allowed to drink at the party because he contributed money to purchase the alcohol. Rayner later had a car accident that killed Ruben Hernandez. Rayner's blood alcohol content was .15 at the time of the accident. The Estate of Ruben Hernandez sued the national and local fraternity, as well as the Arizona Board of Regents. The Arizona Supreme Court ruled that the defendants had a duty of care to avoid furnishing alcohol to minors and that it would be for a jury to decide the extent of liability, if any.

Civil Liability

Examples:

- You have a keg party at your apartment. A drunk guest, who is a minor, drives home and is injured in an accident. In some states, you can be sued by that guest for her injuries.
- The chapter has a party with alcohol and someone gets injured. The sorority and its officers, or any members pertaining to the incident, can be sued. This links back to the 911 call we played. Adrian's parents sued the fraternity.

Coghlan Versus Beta Theta Pi Fraternity

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BASIC RULES—WHAT CAN WE DO TO KEEP OUT OF TROUBLE? | 10 minutes

Share:

- So how do you help keep our organization and our members out of harm's way? Basically, you need to know and follow a few of our basic rules.

Basic Rules—What Can We Do To Keep Out Of Trouble?

- So how do we help keep our organization and our members out of harm's way?
- The alcohol rules apply to "any event an observer would associate with the fraternity." These policies could apply if a group of sisters have a party at an apartment and an observer would see it associated with our organization.
 - No drinking games.
 - No open parties.
 - No alcohol at recruitment events.
 - No "passing the hat" by members to buy alcohol, and no alcohol from a common source.
 - Use common sense. If things go wrong at a party and you are part of a lawsuit, it will usually come down to whether everyone involved acted reasonably.

The following should definitely be emphasized:

- The alcohol rules apply to “any event an observer would associate with the Fraternity.” These policies could apply if a group of sisters has a party at an apartment and an observer would see it associated with our organization.
- No drinking games.
- No open parties.
- No alcohol at Recruitment events.
- No “passing the hat” by members to buy alcohol and no alcohol from a common source.
- Use common sense. If things go wrong at a party and you are part of a lawsuit, it will usually come down to whether everyone involved acted reasonably.

CASE STUDIES | 15 minutes

Share:

- To review, let’s look at some case studies to test our knowledge of laws and policies that relate to alcohol.

Distribute the “Case Studies” handout to the group. Divide the participants into three or six smaller groups. Assign each group one of the case studies.

FACILITATOR TIP

Groups do not have to be exactly even and should include around 10 people. If you have more than three groups, you can have multiple groups looking over one of the three cases.

Share instructions:

- Each small group is going to discuss a case study. You will have about seven minutes to do so. Try to identify the law, university policy or organization policy that relates to the case.

Allow each group to spend seven minutes talking about its case study. At the end of seven minutes, get the entire group’s attention. Ask each group to read its case and share its answers. Review the correct information with everyone. (If multiple groups have the same case, it only needs to be read once.) Use the answers provided to make sure the large group understands the aspects of liability.

Share:

• Case Study Number One

Amy and Katie, who have been chapter members for three years, decide they want to have a party at their off-campus apartment on a Friday night. The party is not announced during Wednesday night’s chapter meeting. However, as soon as the chapter meeting was adjourned but before everyone left, Amy announced to

Case Studies

- Let’s divide into small groups. Each small group will get a case study to discuss together and then we will come back to the larger group and discuss the case studies together.
- With your small group, try to identify the law, university policy or organization policy that relates to the case.

TRAINING: SOCIAL RESPONSIBILITY

LET’S TAKE A MOMENT BY OURSELVES BY OURSELVES BY OURSELVES



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everyone in attendance, “Katie and I are having a keg party at our apartment this Friday night. Tell your friends. I hope you can come. If you plan on coming, pay me \$5 on your way out tonight to put toward buying the kegs.” After this announcement, the chapter President emphasized, “This is not an official function.”

Discuss:

- Name each violation of the law, university policy or organization policy that relates to this event.

Answers could include: Providing alcohol to minors; open party; serving alcohol from a common source; this would likely constitute a sorority function (despite what the President says, etc.). Also, it is a criminal offense in some states for a resident to allow minors to drink on the premises. If anyone is injured on the way home from the party, civil liability could follow.

Share:

• **Case Study Number Two**

Amy is Laura’s Big Sister in the sorority. They have a party Thursday night with Lambda Lambda Lambda, considered by most (if not all) to be the best fraternity on campus. At dinner earlier that week, Amy announces the following to the chapter members: “Hey everyone, Big Sister/Little Sister night will be at my house before the party with Tri-Lamb. Each Big Sister is in charge of her Little Sister’s drinks. All you new members, we have your drinks, and your Big Sister will pick you up at the dorm, take you to my house and then drop you off at the fraternity house. Drink as much as you want. We’ll take care of you.” A new member has too much to drink, her BAC reaches .18 and she later injures herself while driving home alone.

Discuss:

- Name each violation of the law, university policy or organization policy that relates to this event.

Answers could include: Providing alcohol to minors; serving alcohol from a common source; this would likely constitute a sanctioned event. The organization also likely assumed a duty to take care of the new members when Amy announced, “We’ll take care of you.” Thus, civil liability could follow for the new member’s injuries suffered when she was driving home alone.

Share:

• **Case Study Number Three**

Our sorority is having a party with the Beta Epsilon Rho fraternity on Thursday night. To prevent the sisters from driving drunk and to meet Panhellenic standards, Amy, the social chair, asks for BER members to come to the house to pick up the sisters. The fraternity and sorority each identify five members who will serve as designated drivers. The five sorority designated drivers, however, all decide to drink.

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TEACHING SOCIAL RESPONSIBILITY

DO THE RIGHT BY OTHERS BY RESPONSIBILITY



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- If an intoxicated sister needs a ride home, what should she do?

TEACHING SOCIAL RESPONSIBILITY

DO THE RIGHT BY OTHERS BY RESPONSIBILITY



Discuss:

- If an intoxicated sister needs a ride home, what should she do?

Answers could include: call a taxi or shuttle service or call other members who have not been drinking. Stress how important it is that an intoxicated member should NOT get in the car alone with a male she does not know, including the fraternity's designated drivers. This puts the member in danger of a date rape scenario. Under this scenario, if the member does not make it home safely, our organization potentially has civil liability for assuming a duty to provide designated drivers but failing to do so.


WRAP UP | 5 minutes

Discuss:

- Let's sum up today's workshop. Ask these final questions to help participants process the activity.
 - » What can you do to keep the members of our chapter safe?
 - » What can you do to keep the chapter out of trouble?
 - » Do you have any additional questions?

Wrap Up

- What can you do to keep the members of our chapter safe?
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TRAINING IN ALCOHOL RESPONSIBILITYSEE THE ALPHA MY SISTER, MY RESPONSIBILITY

CASE STUDIES

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