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# Administrative Rules Governing Alcohol and Other Drug Screening Specialist (ADSS)

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HEALTH SYSTEMS DIVISION  
Integrated Health Programs

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# Agenda

- Overview of rule revision process
- Review of OARs
- Forms
- Q & A

# Rule Revision Process

- **Statutory Authority**
  - §413.042 and §430.256
    - General authority to adopt rules necessary for the administration of the laws that the Oregon Health Authority is charged with administering
  - §813.021 and §813.025 and §813.200
    - Specific authority to set standards for individuals/organizations providing screenings and treatment services for DUII offenders.
- **Division Receives Input**
  - Internal and external feedback
  - New information/research

# Rule Revision Process - continued

- **Division Drafts Proposed Revisions**
  - Internal Review
  - Manager Sign-off
- **Rules Advisory Committee**
  - Small External Stakeholder Advisory Group
  - Informs the Filed Rules
- **Rules Filed with Secretary of State's Office**
  - Published in the *Oregon Bulletin*
  - <http://sos.oregon.gov/archives/Pages/oregon-bulletin.aspx>

# Rule Revision Process - continued

- **Public Hearing Held**
  - December 15, 2017
  - Oral Testimony
  - Written Testimony Accepted for 2 Days After
  - Formal Division Response to Testimony
- **Permanent Rules Filed**
- **Rules Become Effective**
  - January 1, 2018

# Rules Are In Effect Now

- A copy of the new rules were emailed to every ADSS on January 2, 2018.
- Available online at:  
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1928>
- Sign up for notices about any future changes to these rules at:  
[https://public.govdelivery.com/accounts/ORDHS/subscriber/new?topic\\_id=ORDHS\\_263](https://public.govdelivery.com/accounts/ORDHS/subscriber/new?topic_id=ORDHS_263)

LET'S GET  
STARTED



# 415-054-0461 Purpose

(1) These rules:

- (a) Establish procedures for the application, initial certification, renewal of certification, review, and other actions on a certificate including revocation, denial, suspension, and placement of conditions for the types of services listed in section (2) of this rule; and
- (b) Prescribe minimum service delivery standards for services and supports provided by providers certified by the Health Systems Division (Division) of the Oregon Health Authority (Authority).

(2) These procedural rules apply to Alcohol and Other Drug Screening Specialists (ADSS) and those seeking certification as an ADSS.

# 415-054-0462 Definitions

- “Chief Officer” means the Chief Health Systems Officer of the Division or designee.
- “Conflict of Interest” means use of a personal relationship to obtain financial gain or avoidance of financial detriment, making business decisions that create a pattern of biased or preferential treatment, or initiating a professional role with someone with whom there was a pre-existing personal relationship. The conflict of interest may be actual or potential.
- “Division” means the Health Systems Division of the Oregon Health Authority.
- “DUII Services Provider” means a provider of a DUII education program or a DUII rehabilitation program.

# 415-054-0462 Definitions

- “Face-to-Face” means a personal interaction where both words can be heard and facial expressions can be seen in person or through telehealth services where there is a live streaming audio and video.
- “Negative Report” means a report of tampering with an ignition interlock device, unauthorized removal of an ignition interlock device, lockout or a test violation recorded by an ignition interlock device.
- “Oregon Health Authority” (Authority) means the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414.

# 415-054-0463 Minimum Qualifications

- (1) Minimum experience requirements for ADSS certification include:
  - (a) A Bachelor Degree in a behavioral health field; or
  - (b) Four years of full-time supervised experience in the behavioral health services field with a minimum of two years of experience providing substance use disorder evaluation or treatment; or
  - (c) A combination of an Associate Degree in a behavioral health field and two years of full-time supervised experience providing substance use disorder evaluation or treatment.
  
- (2) Applicants or ADSS recovering from substance use disorders must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

# 415-054-0464 Background Check Requirements

- 1) For all new or renewal applications for ADSS certification, the Authority shall conduct a background check in accordance with OAR 943-007-0010 through OAR 943-007-0501. New or renewal certificates may not be issued prior to a background check being completed.
- 2) New or renewal ADSS applicants may be denied certification or renewal of certification based on a fitness determination that applies a weighing test for potentially disqualifying convictions or conditions.

# 415-054-0465 Terms of Certification

- Each applicant and ADSS agrees as a term of certification for 3 years at a time between site reviews.
- Each ADSS is required to permit division staff to inspect the service delivery location when the applicant or ADSS intends to provide or currently provides ADSS services.
- To permit Division staff to inspect, audit, assess and collect data or copies from all records maintained by the applicant or ADSS in relation to the certificate and all documentation required by applicable service rules, statute, other applicable regulations, and administrative rules.

# 415-054-0465 Terms of Certification

- ADSS is certified to provide only those services that are specified in the scope of services and conditions listed on the certificate.
- The certificate is not transferable to any other person or provider without Division approval.
- The ADSS is to abide by the federal drug-free workplace requirements outlined in 45 CFR Part 76.

# 415-054-0465 Terms of Certification

- An ADSS certificate is void immediately upon the following circumstances:
  - Voluntary closure by an ADSS.
  - Discontinuation of services.
  - Expiration date of the certificate if the ADSS fails to submit timely a complete application for certification renewal pursuant to these rules.

# 415-054-0465 Terms of Certification

- An ADSS discontinuing services voluntarily must:
  - Notify the Division and designated court/s at least 60 days prior to the date of voluntary closure and provide a written plan to comply with record retention standards as applicable.
  - Make reasonable and timely efforts to obtain alternative services for individuals currently being served.
- An ADSS discontinuing services must provide individuals with a minimum 30-day written notice regarding discontinuation of services or as soon as possible in the case of immediate suspension or revocation of certification by the Division.

# 415-054-0466 The Application Process

- An applicant must submit a completed application to the Division that demonstrates the following:
  - Minimum education or experience as required in OAR 415-054-0463.
  - Three signed letters of reference from individuals in the behavioral health services field.
  - A written statement signed by the designating court/s. Presiding judge or court admin.
- The application must be legible and completed on the forms furnished by the Division.

# 415-054-0466 The Application Process

- Written attestation that all applicable rules of the Division shall be met and maintained.
- Written attestation of no potential or actual conflict of interest with any DUII services provider exists, such as financial gain or ADSS and DUII provider association except as provided for in OAR 415-054-0545 through 415-054-0570. (Sole Service Provider or Demonstration Project Approval by the Division).
- Initial applications and recert applications must be submitted to the Division at least six months in advance of the applicant's desired date of certification or recertification with current court designations.

# 415-054-0467 Response to Application

- Division shall conduct a review of the application within 60 days of receipt and notify the applicant of its approval or denial.
- Division will inform applicant of the insufficiencies and the applicant has 21 days to resubmit corrected application.
- When an application is denied, the Division shall issue a written notice of denial within 14 days of the determination.
- Denied applications are often a result of the following:
  - Lack of minimum qualifications, disqualifying convictions, substantial non compliance with statute or rule, failure to resubmit completed application when requested by Division, previous suspended or revoked certification, applicant is listed on any current Medicaid exclusion list or submitting false or inaccurate information.

# 415-054-0468 Appealing Denial of Application for Certification

- In the case of denial an applicant may request, in writing, an appeal review by the Chief Officer of the Division.
  - This written request must be within 14 days of the denial notification.
- The Chief Officer of the Division has 30 days of receipt of the written request to review appeal and subsequent decision is final.
- A denial by the Chief Officer shall become final, the application closed, and a notice of the appeal review outcome mailed to the applicant within 14 days
- If appeal is granted the Division will notify applicant within 14 days in writing along with certificate of approval or notice of required amendment to application materials and a timeframe for re-submission.

# 415-054-0469 Types of Reviews

- Initial certification review.
- Certification renewal review.
- Discretionary certification review.
- Complaint response review.
- Desk review.

# 415-054-0471 Conduct of Certification Reviews

- ADSS must cooperate with Division staff during a certification review.
- Review procedures may include but are not limited to:
  - Entry and inspection of any service delivery location.
  - Review of documents
  - Interviews with individuals such as program staff, managers, governing or advisory board members, allied agencies, individuals, their family members, and significant others.
- Post review reports and POC's within 30 days.
- The Division may deny, suspend, or revoke an applicant or ADSS' certification if the ADSS fails to submit an adequate POC within the established timeframe of 14 calendar days of notification.

# 415-054-0472 Issuing Certificates

- Every certificate issued shall include:
  - Signature of DUII Coordinator and Chief Officer.
  - List of court designations, service delivery rules, effective and expiration dates, conditions and variances.
  - A letter noting:
    - Designated courts, approved alternative practices and variances.
  - Initial certificates 6 months and recertification 3 years.

# 415-054-0473 Conditions

- The Division may at any time and at its discretion place conditions on a certificate upon a finding that:
  - There is substantiated evidence of abuse, neglect, mistreatment, threat to the health, welfare, or safety of an individual or the public .
  - Failure to meet relevant minimum qualifications of OARs or ORS.
  - Failure to fully implement a Plan of Correction or adequately maintain a corrective action.
- Conditions to the certificate that the Division may include are listed in the OAR.
- The Division may deny, suspend, and refuse to renew or revoke the certificate when the ADSS or applicant fails to comply timely with the condition.

# 415-054-0474 Modification to Certification

- Seeking designation by additional courts must be approved by Division in writing.
- The written request for such changes must be submitted at least 60 days prior to the desired effective date.
- Final determination for approval or disapproval will be within 45 days of receiving the written request.
- The Division shall make every reasonable effort to expediently review the ADSS's request for the designation and make a final determination. The Division shall provide written notice of its determination.

# 415-054-0475 Nonrenewal, Suspension, and Revocation of Certification

- Immediate revocation or suspension of a certificate may occur when:
  - Any of the components found in the “Conditions” portion of the rule are substantiated as well as:
    - Substantial failure to comply with these administrative rules or with applicable state or federal law.
  - Has a direct contract with the Division, and the Division terminates its agreement or contract with the ADSS.
  - Submits falsified or incorrect information to the Division or fails to comply with staff qualification requirements .
  - Refuses to cooperate with a review from the Division.

# 415-054-0476 Informal Conference

- Within ten calendar days of the Division issuance of an Order of Suspension, a notice of intent to revoke or notice of intent to nonrenew (refusal to renew) the certificate to an applicant or ADSS, the Division shall offer the applicant or ADSS an opportunity for an informal conference.
- The Division shall provide written notice of its decision under section (2) of this rule within 14 calendar days of the informal conference.

# 415-054-0477 Hearings

- An applicant or ADSS who is issued a notice of intent to revoke, suspend, or refuse to renew its certificate under these rules shall be entitled to request a hearing in accordance with ORS Chapter 183.
- When the Division orders the imposition of a condition or orders immediate suspension of a certificate under the provisions of this rule, the ADSS shall be entitled to request a hearing.

# 415-054-0478 Complaints

- Any individual may file a complaint with the Division concerning an ADSS holding a certificate and may be instructed to exhaust grievance procedures available through the ADSS prior to initiating an investigation.
- The Division shall only investigate a complaint concerning an ADSS falling within the Division's scope and regulatory authority and respond to a complaint pursuant to Division policies and procedures.
- Consequences of a substantiated complaint related to the health, safety, or welfare of an individual or the public may result in the suspension, revocation, denial, or refusal to renew an applicant or ADSS's application or certificate.

# 415-054-0479 Policies

- All ADSS must develop and implement written personnel policies and specific procedures and service delivery policies and specific procedures compliant with these rules.
- Mandatory abuse reporting, Criminal Records Checks, Drug-Free Workplace Act compliant with 45 CFR Part 76.
- Fee agreements, HIPAA, 42 CFR Part 2, ADA Title 2, Grievances and appeals, Individual rights, QI, Trauma informed service delivery & Trauma Informed Services Policy, culturally and linguistically appropriate services. Crisis prevention and response, including suicide risk assessment and appropriate referral and Incident reporting.

# 415-054-0481 Individual Rights

- Be informed at the start of services of the rights guaranteed by this rule,
- Every individual receiving services has the right to:
  - Choose provider and be free from undue influence or coercion when choosing a provider,
  - Have the role of the court, DUII services provider, and ADSS monitoring process explained,
  - Be treated with dignity and respect,
  - Confidentiality and the right to consent to disclosure,
  - Inspect their service record,
  - Refuse participation in experimentation,
  - Receive prior notice of transfer,

# 415-054-0481 Individual Rights

- Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation,
- Have religious freedom,
- Be free from seclusion and restraint,
- Be informed of the policies and procedures, service agreements and fees applicable to the services provided and to have a custodial parent, guardian, or representative assist with understanding any information presented,
- Have family and guardian involvement in service planning and delivery,
- File grievances, including appealing decisions resulting from the grievance
- Exercise all rights described in this rule without any form of reprisal or punishment,

# 415-054-0481 Individual Rights

- The ADSS must give to the individual and, if appropriate, the guardian a document that describes the applicable individual's rights as follows,
  - Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need,
  - The rights and how to exercise them must be explained to the individual and if applicable the guardian,
  - Individual rights must be posted in writing in a common area.

# 415-054-0485 Screening

- Who is required to be screened by an ADSS?
  - Anyone under a Diversion Agreement (ORS 813.200)
  - Anyone convicted of a DUII within the last 15 years (ORS 813.021)
- ADSS may only provide screenings for the courts listed on their certificate.
- Screenings must be conducted face-to-face unless:
  - Documented risk to health or safety;
  - Resident of another state or county and lives more than 75 miles from the ADSS service site;
  - Inclement weather or other unsafe road conditions
  - Approved by the Division prior to the screening.

# 415-054-0485 Screening

- At the time of screening each individual (and their Guardian, if applicable) must be provided:
  - Written program orientation information including:
    - A description of individual rights
    - Grievance policy including an example grievance form
    - Privacy practices
- Screening for substance use disorder risk factors
  - Not a diagnostic assessment
  - Does not determine therapeutic level of care

# 415-054-0485 Screening

- Must use Division approved screening tool
  - Texas Christian University Drug Screen 5 (TCU 5)
- May include other collateral information as available to the ADSS
  - Examples include: court records, arrest report, driving record
- DUII Education recommendation
  - Only for individuals with a TCU score of 0 or 1; and
  - No other risk factors of a substance use disorder, such as:
    - BAC higher than 0.15
    - Prior alcohol or other drug arrest
    - Prior diagnosis or treatment of a substance use disorder

# 415-054-0485 Referral

- Must use Division approved forms and procedures.
  - Screening and Referral Report
- ADSS must provide the individual with a list of all Division approved DUII services providers:
  - Within the geographic area preferred by the individual;
  - In any other geographic area capable of responding to the individual's special needs.
- A signed & dated copy of the list must be included in the individual's file.

# 415-054-0485 Referral

- The ADSS may not deny a referral to any Division approved DUII services provided except in cases where the referral would constitute an imminent health or safety risk to the individual.
- Denials must be clearly documented in the file including the specific health or safety risk posed.
- The ADSS must notify the Division within 3 calendar days of denying a referral.

# 415-054-0485 Referral

- Residents of Oregon must be referred to an in-state Division approved DUII services provider.
  - Oregon providers will issue the DTCC.
- Residents of states other than Oregon may be referred to an outpatient substance use disorder service provider in their state of residence.
  - For referrals on or after April 1, 2018, HSD will issue the DTCC.

# 415-054-0500 Transfers

- Individuals must submit a written request for a transfer.
- The ADSS may not deny a transfer to any Division approved DUII services provided except in cases where the referral would constitute an imminent health or safety risk to the individual.
- Denials must be clearly documented in the file including the specific health or safety risk posed.
- The ADSS must notify the Division within 3 calendar days of denying a transfer.

# 415-054-0520 Individual Records and Fees

- Record must be maintained for each individual screened.
  - May be paper or electronic
  - Must be stored in compliance with HIPAA and 42 CFR Part 2
- Full record must be kept for seven years.
- Documentation of successful completion or failure to complete must be kept for 15 years from adjudication date.
- Screening fee is mandated by Oregon law at \$150.
  - Additional fees may only be charged if ordered by the court.
  - List of fees must be provided to the individual and posted in a common area.

# 415-054-0545 and 415-054-0546

## Sole Service Provider Designation

- May be requested if:
  - Only one DUII services provider in the county
  - ADSS records are kept separate from the clinical records
  - ADSS does not provide DUII Education or DUII Rehabilitation services
- Must be requested in writing using Division approved forms and procedures.
- Approval is at the Chief Officer's discretion.

# 415-054-0550 through 415-054-0570 Demonstration Project

- Must be requested in writing using Division approved forms and procedures.
- Request must include:
  - Letters of endorsement from each referring court
  - Letters of endorsement from other DUII services providers in the county
  - Recommendation from CMHP Director and LADPC
- Approval is at the Chief Officer's discretion.

# 415-054-0530 Reporting Requirements

- To the court within 14 days of notice of successful completion or failure to complete.
  - Unless otherwise agreed to in writing between the ADSS and the court.
- To the DUII services provider within 72 hours of receipt of a negative report from an IID installer.
- To the Division by the 10<sup>th</sup> of each month.
  - Must use Division approved forms and procedures.
  - Must be submitted via secure email to:  
[ADSS.Reports@dhsoha.state.or.us](mailto:ADSS.Reports@dhsoha.state.or.us)
- All forms are available at: <http://www.oregon.gov/oha/HSD/AMH-DUII/Pages/Providers.aspx>



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