
Oregon Administrative Rules for: Alcohol & Other Drug Screening Specialists and DUII Services Providers

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DUII Coordinator

2018 Regional Trainings:
Salem, Oregon City, Roseburg, Baker City, Bend



HEALTH SYSTEMS DIVISION
Integrated Health Programs

Agenda

- Welcome & Introductions
- Overview of Oregon DUII System
- Overview of Rule Revision Process
- OARs for Alcohol & Other Drug Screening Specialists (ADSS)
- Lunch – on your own
- OARs for DUII Services Providers (DSP)
- Questions
- End by 4:00

Hello
my name is

Name

Agency/Organization

DUI in Oregon

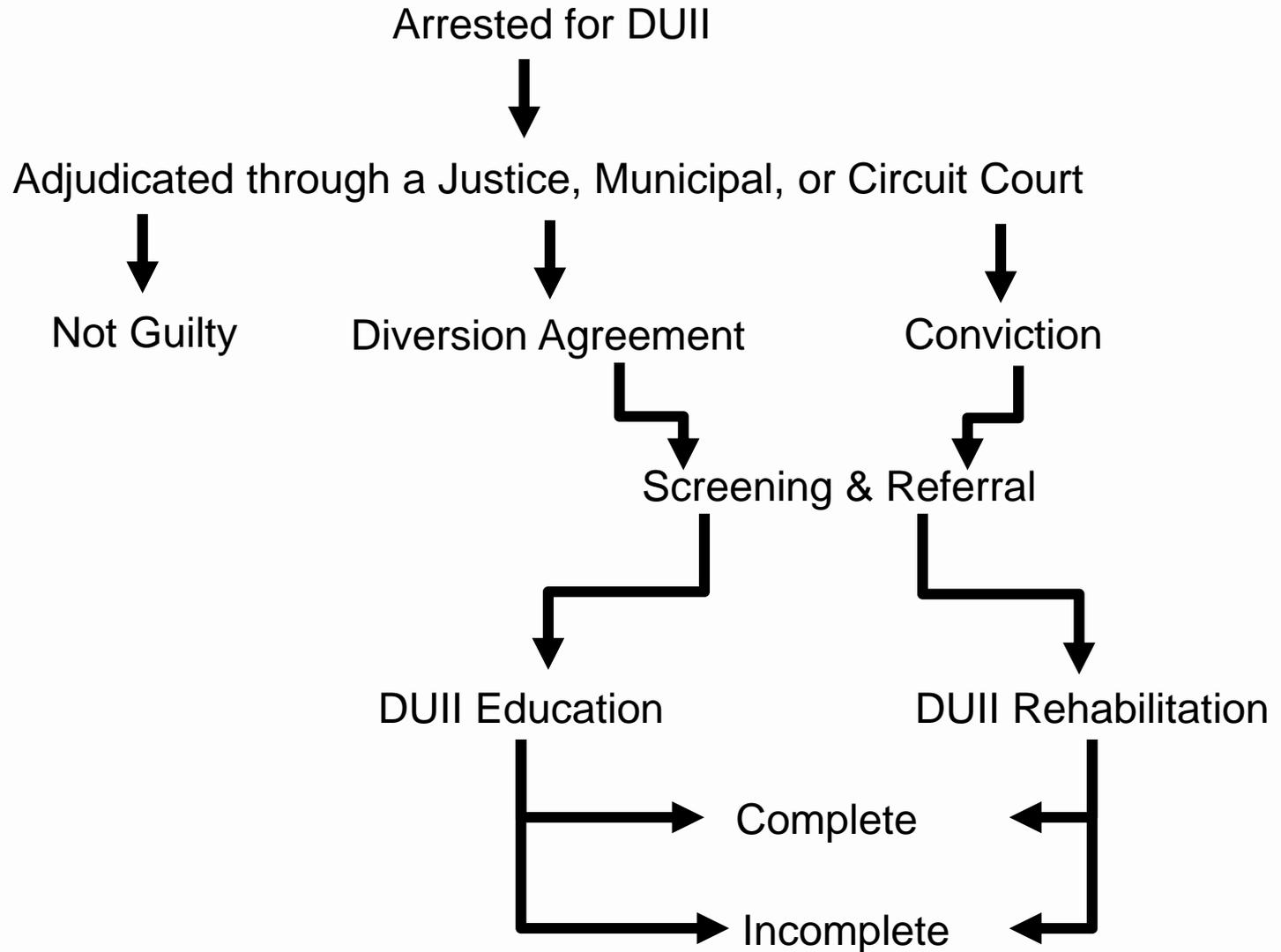
- Covered by [ORS Chapter 813](#)
- Unlawful to operate a vehicle under the influence of:
 - Alcohol
 - Controlled substances
 - Inhalants
- Oregon offers Diversion
 - Generally 1st time offenders
 - May require attendance at a Victims Impact Panel
 - DUI is dismissed if completed successfully
- Convictions can be either misdemeanor or felony
 - May include probation (bench or formal)
 - May include incarceration

DUI in Oregon – Continued

- May require installation of an Ignition Interlock Device (IID)
 - While Under Diversion Agreement if:
 - BAC > 0.08
 - Refused breath/blood;
 - Blood/breath/urine BAC > 0.00 but < 0.08, and positive for cannabis, controlled substance, or inhalant
 - **May** require for BAC < 0.08
 - When convicted:
 - Before eligible for hardship permit, and while issued a hardship permit
 - 1 year after suspension for 1st DUI
 - 2 years after suspension for 2nd or subsequent DUI
 - 5 years if also convicted of specific crimes (e.g. murder, manslaughter, assault 1)

DUI in Oregon – Continued

- Required to be screened by an ADSS
 - Agency/organization designated by the court
 - Meets standards set by OHA
 - Separate from treatment provider
 - Only provider in a geographic area
 - Demonstration Project
- Required to complete the treatment program referred to as the result of the screening
 - Meets standards set by OHA
- Required to pay for treatment
 - Medically necessary services are generally covered by insurance
 - Providers may offer sliding-fee or payment arrangements



Role of OHA Health Systems Division (HSD)

- Implement standards for certification and service provision for Alcohol and Other Drug Screening Specialists (ADSS)
 - OAR 415-054-0461 through 415-054-0570
- Implement standards for certification and service provision for DUII service providers
 - OAR 309-008-0100 through 309-008-1600 (certification)
 - OAR 309-019-0195 (DUII Rehabilitation)
- Monitor ADSS and DUII service providers for compliance with applicable rules and statute

HSD Contacts – Adult Behavioral Health Unit

- **Behavioral Health and Housing Manager**

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- **DUII Coordinator**

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- **DUII Information Specialist**

Mary

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HSD Contacts – Licensing & Certification Unit

- **Licensing and Certification Manager**

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- **Compliance Specialists**

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Regional Map – OP/RES SUD LCCS Assignments

■ WV/North Coast

Manuel
Outpatient SUD/PG
Residential SUD/Detox/PG

Tom
Outpatient BH

■ Tri-County

Melissa
Outpatient BH
Residential SUD/Detox

Christy
Outpatient BH

■ Eastern

Lisa
Outpatient BH
Residential SUD/Detox

■ Southern

Karen
Outpatient BH
Residential SUD/Detox

■ Entire State

Tamara
CMHP w/Civil Commitment

Manuel
Opioid Treatment Programs

Simon
ADES, DOC, Res PG

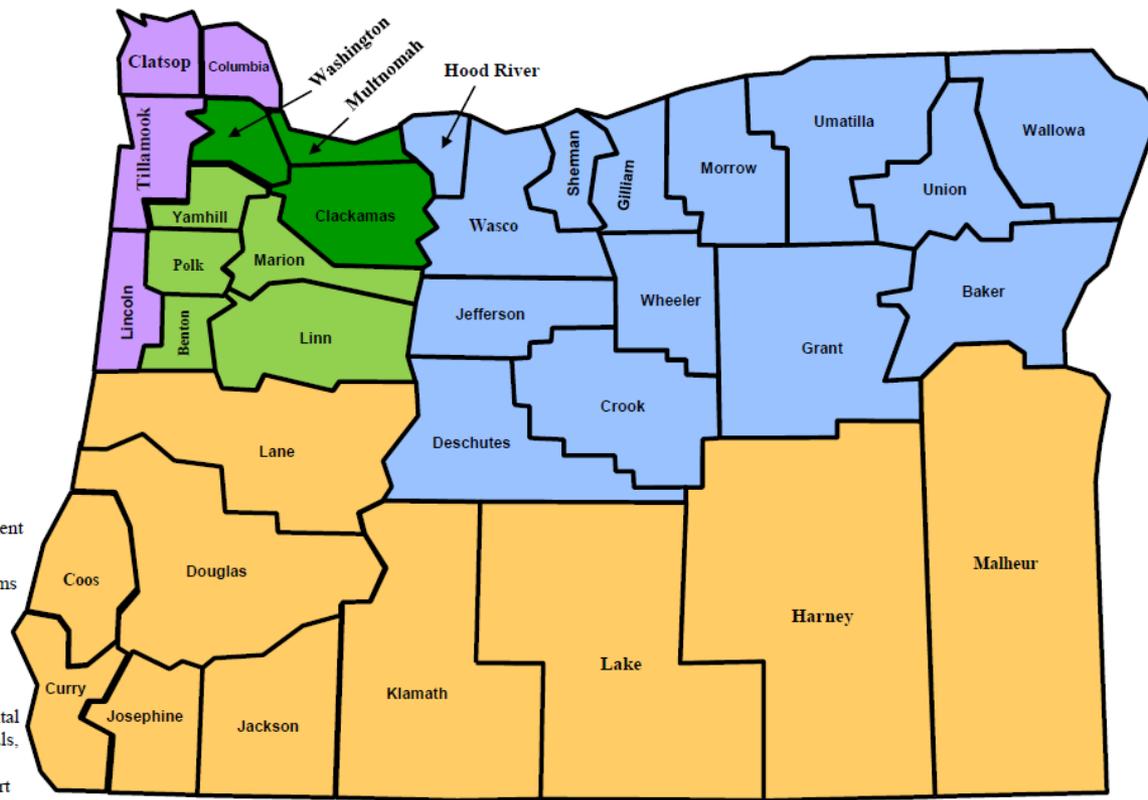
Civil Commitment
Sam – Sec Transport,
Transport Custody, Hospital
Hold, Acute Care Hospitals,
SRFT Hold Rooms
Christy - Invest. Train/Cert

Tom - Non-Inpatient

Lisa - CCBHC

Carrie
Adolescent SUD Res/ITS/CESIS

■ Willamette Valley ■ North Coast ■ Tri-County ■ Eastern ■ Southern ■ Entire State



Tamara
Community-Based Structured Housing
Home and Community-Based Services Implementation Lead

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; §813.025; §813.200; §813.500; §813.510
 - Specific authority to set standards for agencies/organizations providing screenings and treatment services for individuals adjudicated for a DUII
- **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 (RAC) is Held**
 - 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 is Held**
 - 15th of Each Month from 10:30-11:30
 - Oral Testimony
 - Written Testimony Accepted for 2 Days After
 - Formal Division Response to Testimony
- **Permanent Rules are Filed with the Secretary of State's Office**
- **Rules Become Effective**
 - http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx

Alcohol & Other Drug Screening Specialists (ADSS)

OAR 415-054-0461 through 415-054-0570

Rule Revision – ADSS Rules

- **RAC Held:** October 3, 2017
- **Public Hearing Held:** December 15, 2017
- **Rules Become Effective:** January 1, 2018

ADSS – Summary

- ADSS are:
 - Certified by HSD
 - Designated by the Court
- Screen individual adjudicated for a DUII
 - Anyone Under a Diversion Agreement
 - Anyone Convicted of a DUII within the last 15 years
- Refer to treatment
- Monitor treatment compliance
- Report to the court the individual's:
 - successful completion or
 - failure to complete all or any part of the screening or treatment
- Receive notifications from Ignition Interlock Device installers
 - Installation, removal, tampering, negative reports

415-054-0462 Definitions

- “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.
- “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.

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.

Certification Rules

- 415-054-0465 Terms of Certification
- 415-054-0466 The Application Process
- 415-054-0467 Response to Application
- 415-054-0468 Appealing Denial of Application for Certification
- 415-054-0469 Types of Reviews
- 415-054-0471 Conduct of Certification Reviews
- 415-054-0472 Issuing Certificates
- 415-054-0473 Conditions
- 415-054-0474 Modification to Certification
- 415-054-0475 Nonrenewal, Suspension, and Revocation of Certification

Certification Rules - Continued

- 415-054-0476 Informal Conference
- 415-054-0477 Hearings
- 415-054-0478 Complaints
- 415-054-0479 Policies
- 415-054-0481 Individual Rights

Two Things to Remember...

#1 – “In compliance with 42 CFR Part 2 and HIPPA.”

#2 – “Unless otherwise ordered by the Judge.”

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 - Continued

- 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 - Continued

- 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 – Continued

- 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 – Continued

- 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 & 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 10th of each month.
 - Must use Division approved forms and procedures.
 - Must be submitted via secure email to:
ADSS.Reports@dhsoha.state.or.us
- All forms are available at: <http://www.oregon.gov/oha/HSD/AMH-DUII/Pages/Providers.aspx>

DUII Services Providers (DSP)

OAR 309-019-0195

Rule Revision – DSP Rules

- **RAC Held:** November 30, 2017
- **Public Hearing Held:** February 15, 2018
- **Rules Become Effective:** April 1, 2018

Revision Goals

- Consolidate DUII Education, DUII Rehabilitation, and RDL Recommendations under one rule
- Ensure provision of education topics to reduce the risk of recidivism
- Ensure provision of a diagnostic assessment by a qualified clinician
- Ensure provision of appropriate treatment services for individuals diagnosed with a substance use disorder
- Support continuity of care
- Ensure statewide access to RDL recommendation services
- Clarify urinalysis testing requirements
- Clarify abstinence requirements
- Clarify reporting requirements

Two Things to Remember...

#1 – “In compliance with 42 CFR Part 2 and HIPPA.”

#2 – “Unless otherwise ordered by the Judge.”

309-019-0195 DUII Services Providers

(1) Outpatient Substance Use Disorders (SUD) Treatment Programs approved by the Division as DUII Services Providers shall provide DUII Education, DUII Rehabilitation, and Recommendations for Hardship Permits as outlined in this rule.

(2) A DUII Services Provider may not provide Alcohol and Other Drug Screening Specialist (ADSS) services except as allowed in OAR 415-054-0545 through 415-054-0570.

(3) DUII Services Providers shall assess, as outlined in OAR 309-019-0135(3), all individuals seeking DUII services. Level of care, diagnosis, frequency of contact, and duration of treatment services shall be consistent with the current DSM diagnostic and ASAM Criteria.

309-019-0195 DUII Services Providers - Continued

(4) DUII Education shall be provided for individuals who:

- (a) Do not currently meet DSM diagnostic criteria for a SUD; and
- (b) Meet ASAM Criteria for Level 0.5; and
- (c) Have never been diagnosed with a SUD; and
- (d) Have never been enrolled in a DUII or SUD treatment program.

(5) DUII Education shall include a minimum of four sessions over a four-week period and include the provision of a minimum of 12 hours of didactic education. The minimum 12 hours does not include diagnostic assessment, service planning, or transfer planning. DUII Education shall include but is not limited to:

309-019-0195 DUII Services Providers - Continued

- (a) Completion of a Division approved DUII Education Pre and Post Test;
- (b) DUII Laws and Consequences in Oregon;
- (c) Use of alcohol and other drugs, and their effects on driving;
- (d) Physical and psychological effects of alcohol and other drugs of abuse;
- (e) SUD signs and symptoms;
- (f) SUD recovery support services; and
- (g) Alternatives to intoxicated driving.

(6) No more than four of the 12 minimum hours shall be conducted utilizing educational films or pre-recorded audio-visual presentations.

309-019-0195 DUII Services Providers - Continued

- (7) DUII Rehabilitation shall be provided for individuals who:
- (a) Meet DSM diagnostic criteria for a SUD; or
 - (b) Meet ASAM Criteria for Level 1 or higher; or
 - (c) Have been previously diagnosed with a SUD; or
 - (d) Have previously been enrolled in a DUII or SUD treatment program.
- (8) DUII Rehabilitation shall include:
- (a) DUII Education as described in section (5) of this rule; and
 - (b) SUD treatment services as outlined in the individual's service plan.

309-019-0195 DUII Services Providers - Continued

(9) DUII Service Providers shall use urinalysis testing for use of substances of abuse following procedures in OAR 309-019. Urinalysis tests shall be conducted as deemed clinically appropriate, but no less than:

- (a) At the time of assessment; and
- (b) Twice per calendar month with no more than 14 calendar days between tests; and
- (c) Within two weeks prior to completion; and
- (d) Within 72 hours of receipt of laboratory results indicating that a urinalysis sample was identified as out of range for Creatinine, pH, or Specific Gravity as defined by the urinalysis laboratory results.

309-019-0195 DUII Services Providers - Continued

(10) Urinalysis shall, at a minimum, test for the following substances of abuse:

- (a) Alcohol;
- (b) Marijuana;
- (c) Cocaine;
- (d) Amphetamines;
- (e) Opiates; and
- (f) Benzodiazepines.

(11) In addition to the substances of abuse outlined in section (10), an EtG/EtS test for alcohol shall be conducted, at a minimum, at the time of assessment and within two weeks prior to completion.

309-019-0195 DUII Services Providers - Continued

(12) Individuals enrolled in DUII Education are expected to demonstrate abstinence from use of intoxicants as evidenced by negative urinalysis reports, except as allowed in ORS 813.200. Individuals who provide a positive urinalysis test or who self-report use of a substance shall be required to complete DUII Rehabilitation.

(13) Individuals enrolled in DUII Rehabilitation are expected to maintain abstinence from use of intoxicants as evidenced by negative urinalysis tests, except as allowed in ORS 813.200, while outside of a controlled environment for no less than the final 90 days of the DUII Rehabilitation program.

What Does Abstinence Mean?

- **No use of intoxicants** except as allowed in ORS 813.200:
 - The person consumes sacramental wine given or provided as part of a religious rite or service
 - The person has a valid prescription for a substance and the person takes the substance as directed
 - **“All drugs listed in Schedule I have no currently accepted medical use in treatment in the United States and therefore may not be prescribed, administered, or dispensed for medical use.”** In contrast, drugs listed in Schedules II through V all have some accepted medical use and therefore may be prescribed, administered, or dispensed for medical use.” – DEA Practitioner’s Manual, page 5.
 - The person is using a nonprescription drug, as defined in ORS 689.005, in accordance with the directions for use that are printed on the label for that nonprescription drug.
 - "Nonprescription drugs" means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

309-019-0195 DUII Services Providers - Continued

(14) Division approved DUII Services Providers shall issue a DUII Treatment Completion Certificate (DTCC) for individuals convicted of a DUII using Division approved forms and procedures after:

- (a) Receipt of referral from an ADSS; and
- (b) Completion of DUII Education or DUII Rehabilitation, including applicable abstinence requirements, as outlined in these rules; and
- (c) Compliance with the terms of the fee agreement between the provider and the individual.

309-019-0195 DUII Services Providers - Continued

(15) The Division shall issue a DTCC for individuals completing an out-of-state intoxicated driving program after:

- (a) Documentation of the individual's residency in a state other than Oregon; and
- (b) Receipt of a copy of the individual's referral from an ADSS; and
- (c) Documentation of completion of an intoxicated driving program as allowed for the equivalent conviction in the individual's state of residence. Residents of states that do not require DUII treatment shall complete a program that is substantially equivalent to Oregon's standards.

309-019-0195 DUII Services Providers - Continued

(16) Division approved DUII Services Providers must report:

- (a) To the Division using the mandated state data system; and
- (b) To the referring ADSS as allowed by HIPPA and 42 CFR Part 2:
 - (A) No later than 30 calendar days from the date of referral;
 - (B) Every 30 calendar days while enrolled in DUII Rehabilitation;
 - (C) No later than 14 calendar days from the date of discharge;
 - (D) No later than seven calendar days from the written request of the ADSS.

(17) The individual's Service Record must include all information necessary to document the individual's successful or unsuccessful completion of DUII Services.

Recommendations for Hardship Permits

*****SB 1538 repeals ORS 813.500 and ORS 813.510*****

<https://olis.leg.state.or.us/liz/2018R1/Measures/Overview/SB1538>

- Beginning 01/01/2019, DMV will no longer issue hardship permits for individuals with 2 or more DUI convictions within a 5 year period.
- Individuals who were granted hardship permits prior to 01/01/2019 will be able to keep theirs.

309-019-0195 DUII Services Providers - Continued

(18) Division approved DUII Services Providers are designated by the Authority to determine whether an individual has a problem condition involving alcohol, inhalants, or controlled substances as defined in ORS 813.040 and to provide recommendations for issuance of a hardship permit as allowed in ORS 813.500. Issuance of a hardship permit is at the sole discretion of DMV.

****Recommendations will discontinue on 01/01/2019****

****Ongoing monitoring requirements will discontinue on 01/01/2022****

309-019-0195 DUII Services Providers - Continued

(19) When a DUII Services Provider determines that an individual does not have a problem condition involving alcohol, inhalants, or controlled substances as described in ORS 813.040, a recommendation for a hardship permit *may* be provided using the forms and procedures required by DMV if:

(a) The recommendation does not create a health or safety risk to the individual or the public; and

(b) The individual:

(A) Is enrolled in or has completed a Division approved DUII Education Program; and

(B) Maintains abstinence as defined in this rule; and

(C) Agrees to ongoing contact and abstinence monitoring after successful completion of the DUII Education Program as often as deemed clinically appropriate, but no less than once per calendar month while the individual is issued a hardship permit.

309-019-0195 DUII Services Providers - Continued

(20) The ongoing contact and abstinence monitoring shall be documented in the service plan and included in the individual's service record.

309-019-0195 DUII Services Providers - Continued

(21) When a DUII Services Provider determines that an individual has a problem condition involving alcohol, inhalants, or controlled substances as described in ORS 813.040, a recommendation for a hardship permit *may* be provided using the forms and procedures required by DMV if:

- (a) The recommendation does not create a health or safety risk to the individual or the public; and
- (b) The recommendation is deemed clinically appropriate; and
- (c) The individual is:
 - (A) Enrolled in or has completed a Division approved DUII Rehabilitation Program; and
 - (B) Maintaining abstinence as defined in this rule;
 - (C) Agrees to ongoing contact and abstinence monitoring after successful completion of the DUII Rehabilitation Program as often as deemed clinically appropriate, but no less than once per calendar month while the individual is issued a hardship permit.

309-019-0195 DUII Services Providers - Continued

(22) The ongoing contact and abstinence monitoring shall be documented in the service plan and included in the individual's service record.

(23) The recommendation for issuance of a hardship permit shall be completed using forms and procedures required by DMV and shall state specifically the times, places, routes, and days of the week minimally necessary for the individual to:

- (a) Seek or retain employment;
- (b) Attend any alcohol or drug treatment or rehabilitation program;
- (c) Obtain necessary medical treatment for the individual or a member of the individual's immediate family; or
- (d) Get to and from a gambling addiction treatment program.

309-019-0195 DUII Services Providers - Continued

(24) The recommendation for issuance of a hardship permit **shall** be withdrawn if:

- (a) A health or safety risk to the individual or public exists; or
- (b) The individual:
 - (A) Tests positive, except as allowed in ORS 813.200; or
 - (B) Discontinues contact with the DUII Services Provider; or
 - (C) Does not successfully complete a Division approved DUII Education or Rehabilitation Program.

(25) The Individual Record must include all information necessary to document the DUII Services Provider's decision to issue, not issue, or withdraw a recommendation for hardship permit to DMV.

309-019-0195 DUII Services Providers - Continued

(26) Division approved DUII Services Providers shall establish a procedure for individuals to appeal in the event that a recommendation for issuance of a hardship permit is denied or withdrawn. The appeal process shall include but not be limited to:

(a) Information on how to file a complaint with the Division directly; and

(b) Recourse to the staff supervisor, program director, and CMHP Director. Complaints that are unresolved at the provider level may be referred to the Division for review.

Questions?



Wrap-Up

- Requests for Technical Assistance
 - Marisha.L.Elkins@dhsoha.state.or.us
- Evaluations
- Handouts
- Certificates
- <http://www.oregon.gov/oha/HSD/AMH-DUII/Pages/Providers.aspx>

