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ARCHIVES DIVISION

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SALEM, OR 97310

503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 415 OREGON HEALTH AUTHORITY HEALTH SYSTEMS DIVISION: ADDICTION SERVICES

FILED

11/06/2017 2:30 PM

ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Updates to rules governing Alcohol and Drug Evaluation & Screening Specialists

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/19/2017 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:

Wanda Davis

Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/15/2017

TIME: 10:30 AM - 11:30 AM

OFFICER: Sandy Cafourek

ADDRESS: Human Service Building

500 Summer St. NE, Salem, OR 97301

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Room 137B

NEED FOR THE RULE(S):

Amending to clarify roles and responsibilities for Alcohol and Drug Evaluation & Screening Specialists

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

FISCAL AND ECONOMIC IMPACT:

De minimus

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Amending these rules will have a de minimus fiscal impact on the Authority, other state agencies, units of local government, the public, or businesses, including small businesses.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Approximately 50 small businesses providing substance use disorder screenings for individuals adjudicated for driving under the influence of intoxicants.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

De minimus

c. Equipment, supplies, labor and increased administration required for compliance:

De minimus

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

All participants of the Rule Advisory Committee were small business owners or employees of a small business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

415-054-0020, 415-054-0030, 415-054-0400, 415-054-0410, 415-054-0420, 415-054-0430, 415-054-0440, 415-054-0450, 415-054-0460, 415-054-0461, 415-054-0462, 415-054-0463, 415-054-0464, 415-054-0465, 415-054-0466, 415-054-0467, 415-054-0468, 415-054-0469, 415-054-0470, 415-054-0471, 415-054-0472, 415-054-0473, 415-054-0474, 415-054-0475, 415-054-0476, 415-054-0477, 415-054-0478, 415-054-0479, 415-054-0480, 415-054-0481, 415-054-0485, 415-054-0490, 415-054-0500, 415-054-0510, 415-054-0520, 415-054-0530, 415-054-0535, 415-054-0540, 415-054-0545, 415-054-0546, 415-054-0550, 415-054-0560, 415-054-0570, 415-054-0580

AMEND: 415-054-0020

RULE SUMMARY: Housekeeping edits updating Information to Education.

CHANGES TO RULE:

415-054-0020

DUII Alcohol/Other Drug Information Program Detail ¶

(1) A DUII ~~inform~~Education program shall include a minimum of four sessions over a four-week period and provide 12-20 hours of education.¶

(2) Required Content/Topics of Education Curriculum:¶

(a) Victim's panel when possible;¶

(b) A pre- and post-test that has been approved by the Division;¶

(c) History, use, and definition of alcohol;¶

(d) Alcohol as a drug;¶

(e) Physiological effects of alcohol;¶

- (f) Other drugs - legal and illegal - and their effects on driving when used separately and/or in combination with alcohol;¶
- (g) Psychological and sociological consequences of abuse of alcohol or drugs to include the effect on families;¶
- (h) Blood alcohol concentration and effects on driving performance; and¶
- (i) Court penalties;¶
- (j) Motor Vehicles Division laws and penalties;¶
- (k) Alcoholism as a problem and a disease (one hour minimum); and¶
- (l) Alternatives to drinking and driving.¶

(3) Urinalysis Testing: A minimum of one urinalysis sample shall be observed and collected during the first two weeks of a client's DUII ~~inform~~Education program:¶

- (a) The sample shall be tested for at least three controlled drugs from a list of targeted drugs specified by the Division using the process set out in the definition of "urinalysis testing" in OAR 415-054-0010; and¶
- (b) The program may use methods of testing for the presence of alcohol or other drugs in the client's body other than urinalysis tests if the program has obtained the prior review and approval of such methods by the Division.¶

(4) Client Evaluation and Rehabilitation Services: The DUII ~~inform~~Education program shall establish and follow a procedure to assure communication with the evaluation specialist about whether a client should be referred to a rehabilitation program. Clients who test positive for illicit drugs must be referred to a DUII rehabilitation program for assessment and further treatment.

Statutory/Other Authority: ORS 430.256

Statutes/Other Implemented: ORS 813.010, ORS 813.200 - 813.270

AMEND: 415-054-0030

RULE SUMMARY: Housekeeping edits updating Information to Education.

CHANGES TO RULE:

415-054-0030

Program Approval ¶

(1) Letter of Approval: In order to receive a Letter of Approval from the Division under the process set forth in OAR 415-012-0000 to 415-012-0090, a DUII ~~inform~~Education program shall meet the standards set forth in these rules and any other administrative rules applicable to the program.¶

(2) A DUII ~~inform~~Education program seeking approval under these rules shall establish to the satisfaction of the Division that the local alcoholism and other drug planning committee was actively involved in the review of the DUII ~~inform~~Education program as it relates to the CMHP plan.¶

(3) Inspection: The Division shall inspect at least every two years each ~~inform~~Education program under these rules.¶

(4) Renewals: The renewal of a letter of approval shall be governed by OAR 415-012-0040.¶

(5) Denial, Revocation, Nonrenewal, or Suspension: The denial, revocation, nonrenewal, or suspension of a letter of approval/license for an ~~inform~~Education program may be based on any of the grounds set forth in OAR 415-012-0060.¶

(6) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:¶

- (a) Any convictions under any federal or state law relating to any controlled substance;¶
- (b) Furnishing of false, misleading, or fraudulent material in any application for a letter of approval; or¶
- (c) Any other factors relevant to, and consistent with, the public health or safety.¶

(7) Without the approval of the Assistant Director, no agency or person may provide DUII ~~inform~~Education program services to a client who has also been referred by a judge to the same agency or person for a DUII related diagnostic assessment. Failure to comply with this section will be considered a violation of ORS Chapter 813. If the Assistant Director finds such a violation, the Assistant Director may deny, suspend, revoke, or refuse to renew a Letter of Approval.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 430.256

Statutes/Other Implemented: ORS 813.010, ORS 813.200 - 813.270

REPEAL: 415-054-0400

RULE SUMMARY: Now addressed in 415-054-0461.

CHANGES TO RULE:

415-054-0400

Purpose

~~These rules prescribe the standards and requirements for DUII Information Programs, for certification and services provided by Alcohol and Drug Evaluation and Screening Specialists and for approval to establish a demonstration project, both related to individuals ordered by the court for DUII screening, diagnostic and referral to treatment services.~~

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: ORS 430.256, 813.021~~

REPEAL: 415-054-0410

RULE SUMMARY: Now addressed in OAR 415-054-0462.

CHANGES TO RULE:

~~415-054-0410~~

Definitions

(1) "~~Alcohol and Drug Evaluation and Screening Specialist~~" (ADES) means an individual who possesses a valid certificate issued by the Addictions and Mental Health Division (Division) of the Oregon Health Authority (Authority), as prescribed in these rules.¶

(2) "~~Assistant Director~~" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority.¶

(3) "~~Certificate~~" means a document issued to a person by the Division which authorizes the person to practice as an ADES.¶

(4) "~~CFR 42 Part 2~~" means the Code of Federal Regulations, Title 42, Volume 1, Chapter 1, Part 2 entitled Confidentiality of Alcohol and Drug Abuse Patient Records.¶

(5) "~~Conflict of Interest~~" means use of a personal relationship to obtain financial gain or avoidance of financial detriment; making business decisions which 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.¶

(6) "~~Diversion Agreement~~" means a petition approved by the court meeting the criteria established in ORS 813.200 through 813.260.¶

(7) "~~Division~~" means the Addictions and Mental Health Division of the Oregon Health Authority.¶

(8) "~~DUII~~" means driving under the influence of intoxicants.¶

(9) "~~DUII Diagnostic Assessment~~" means an examination by an ADES to determine if a person has a problem condition involving alcohol or controlled substance as described in ORS 813.040.¶

(10) "~~DUII Demonstration Project~~" means an agency approved by the Assistant Director to demonstrate the effectiveness of combining diagnostic assessment and treatment services in a single agency or organization for persons charged with the offense of driving under the influence of intoxicants.¶

(11) "~~DUII Information Program~~" means a short term (12-20 hours in duration), didactic alcohol and drug education program which meets the minimum curriculum, instructor and hourly standards established by the Division.¶

(12) "~~Individual~~" means any person being considered for or receiving services regulated by these rules including adolescents referred pursuant to ORS 419C.443.¶

(13) "~~Individual Record~~" means the confidential, permanent individual record including all documentation, written or electronic, from the point of entry through service conclusion.¶

(14) "~~Marijuana Diversion Agreement~~" means a petition approved by the court pursuant to ORS 135.907 through 135.921.¶

(15) "~~Re-referral~~" means a referral which occurs after an individual disengages from initial treatment and then receives a new referral to the same or different treatment program.¶

(16) "~~Risk~~" means an individual's use of alcohol or drugs is a problem indicated by a substantial impairment or endangerment to the individual's health or that of others, or because the individual's social or economic function is substantially disrupted.¶

(17) "~~Screening Interview~~" means determining the most appropriate treatment provider and making a referral to that provider for an individual convicted of a DUII.¶

(18) "~~Single Agency or Organization~~" means any one person or business entity, any combination of persons or business entities acting together as a program, an agency or any other arrangement which provides or has a financial interest in providing DUII diagnostic assessment and screening interview services approved by the Assistant Director under OAR 415-054 and any DUII treatment services defined in OAR 309-032.¶

(19) "~~Transfer~~" means an individual is referred from one approved DUII treatment program to another as

~~requested by the individual, the ADES or the first treatment program.~~¶

(20) "Treatment Program" means an approved alcohol and drug treatment program which meets all standards established by the Division evidenced by a current letter of approval and which specializes in services to individuals with court ordered DUII convictions or diversions, or marijuana diversions.¶

(21) "Treatment Services" means those services provided by the treatment program which are individualized, planned and medically appropriate and which are designed to remediate the problem condition involving alcohol or drugs.¶

(22) "Variance" means an exception from a requirement in these rules, granted in writing by the Division on a case by case basis.

Statutory/Other Authority: ORS 430.256, 413.042

Statutes/Other Implemented: ORS 419C.443, 430.256, 813.021, 813.040

REPEAL: 415-054-0420

RULE SUMMARY: Now addressed in 415-054-0481.

CHANGES TO RULE:

~~415-054-0420~~

~~Screening and Referral~~

(1) Each individual shall be assured the same civil and human rights as other persons. The ADES shall provide services in a manner that protects individual privacy and dignity.¶

(2) The ADES must provide the rights to the individual in written form or in a requested primary language or other alternative format, explain the rights and respond to the individual's related questions.¶

(3) The ADES must place in the individual record the individual's signed acknowledgement that the individual received these rights.¶

(4) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:¶

- (a) Participate in the selection of the treatment program;¶
- (b) Have the role of the court, treatment program and ADES monitoring process explained where the DUII system is concerned;¶
- (c) Confidentiality and the right to consent to disclosure in accordance with 42 CFR Part 2.¶
- (d) Give informed consent in writing prior to the start of services, except as otherwise permitted by law;¶
- (e) Pursuant to ORS 179.505, inspect all parts of their individual record which originated from the ADES within five working days of the request. The individual must obtain copies of documents which originated from other sources from the original source. The individual may be responsible for the cost of duplication.¶
- (f) Receive prior notice of service conclusion or transfer, unless the circumstances necessitating service conclusion or transfer pose a threat to health and safety;¶
- (g) Be free from harassment, abuse or neglect and to report any incident of harassment, abuse or neglect without being subject to retaliation;¶
- (h) Have religious freedom;¶
- (i) Be informed of the policies and procedures, service agreements and fees applicable to the services provided;¶
- (j) Have a custodial parent, guardian or representative assist with understanding any information presented;¶
- (k) Receive a copy of the ADES's or demonstration project's grievance process which shall include the Division and Disability Rights of Oregon telephone numbers. The individual shall:¶
 - (A) File a written grievance without any form of reprisal;¶
 - (B) Receive a written response to the grievance within 30 days and¶
 - (C) File an appeal with the Division if dissatisfied with the ADES's response.¶
- (l) Exercise all rights described in this rule without any form of reprisal or punishment

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: ORS 430.256, 109.675, 179.505, 430.010, 430.205 – 430.210, 430.254 – 430.640, 430.850 – 430.955, 461.549, 743A.168, 813.010 – 813.055, 813.200 – 813.270~~

RULE SUMMARY: Housekeeping edits updating Information to Education.

CHANGES TO RULE:

415-054-0430

Administrative Requirements for Information Programs ¶

- (1) An ~~inform~~Education program that contracts directly with the Division or indirectly with the Division through the (CMHP) administered by the Division shall comply with the contracting rules of the Division and contract agents governing reimbursement for services and refunds.¶
- (2) An ~~inform~~Education program shall develop and implement written policies and procedures that describe program operations. Policies and procedures shall include a quality assurance process ensuring that clients receive appropriate services and that the program is in compliance with relevant administrative rules.¶
- (3) Instructors shall have one year of education, experience, and/or training in one or more of the following areas: social science, psychology, counseling, alcohol/drug rehabilitation, education, or other related field approved by the Division.¶
- (4) If two or more staff provide services, the program shall have and implement the personnel policies and procedures which address:¶
 - (a) Rules of conduct and standards for ethical practices of program practitioners, including conflict of interest;¶
 - (b) The requirement of a Drug Free Workplace with procedures for managing incidents of use and abuse and;¶
 - (c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws related to employment practices, and any subsequent amendments effective on or before the effective date of these rules. The DUIL ~~inform~~Education program shall give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.¶
- (5) Personnel records for each member of the program's staff, volunteers, and interns/students shall be kept and shall include:¶
 - (a) Résumé and/or employment application and job description;¶
 - (b) Documentation of applicable qualification standards and requirements;¶
 - (c) Annual performance appraisals based on pre-established performance criteria founded on the specific responsibilities of the position as stated in the job description;¶
 - (d) Documentation of any performance problem and formal corrective action taken due to the problem and;¶
 - (e) For volunteers or interns/students, the record need only include information required by subsections (5)(a) and (5)(d) of this rule and the written work plan for such person.¶
- (6) Records shall be maintained and utilized in such a way as to ensure program staff confidentiality and shall be retained for a period of three years following the departure of a program staff person.¶
- (7) ~~Inform~~Education programs receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et seq. after July 26, 1992.¶
- (8) Each program shall maintain the following client record requirements:¶
 - (a) Each record shall include all information about clients as required by these rules in permanent client records;¶
 - (b) Maintain each client record to assure permanency, identification, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent client or program record;¶
 - (c) Keep all documentation in the permanent client record current (unless specified otherwise), within seven days of delivering the service or obtaining the information;¶
 - (d) Include the signature of the person providing the documentation and service;¶
 - (e) Not falsify, alter, or destroy any client information required by these rules to be maintained in a client record or program records;¶

(f) Document all procedures in these rules requiring client consent and the provision of information to the client on forms describing what the client has been asked to consent to or been informed of, and signed and dated by the client. If the program does not obtain documentation of consent or provision of required information, the reasons must be specified in the client record and signed by the person responsible for providing the service to the client;

¶

(g) Require that errors in the permanent client record shall be corrected by lining out the incorrect data with a single line in ink, adding the correct information, and dating and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape so they cannot be read; and¶

(h) Permit inspection of client records upon request by the Division to determine compliance with these rules.¶

(9) Client records shall be kept for a minimum of seven years. If a program is taken over or acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR ¶ 2.19(a)(1) and/or (b), whichever is applicable. If a program discontinues operations, the program is responsible for:¶

(a) Transferring fiscal records required to be maintained under section (1) of this rule to the Division if it is a direct contract or to the CMHP administering the contract, whichever is applicable; and,¶

(b) Destroying client records or, with client consent, transferring client records to another program.

Statutory/Other Authority: ORS 430.256

Statutes/Other Implemented: ORS 813.260

REPEAL: 415-054-0440

RULE SUMMARY: Duplicative.

CHANGES TO RULE:

~~415-054-0440~~

~~Information Program Detail~~

~~(1) A DUII information program shall include a minimum of four sessions over a four week period and shall include 12-20 hours of education.¶~~

~~(2) Required Content/Topics of Education Curriculum:¶~~

~~(a) Victim's panel when possible;¶~~

~~(b) A pre- and post-test that has been approved by the Division;¶~~

~~(c) History, use, and definition of alcohol;¶~~

~~(d) Alcohol as a drug;¶~~

~~(e) Physiological effects of alcohol;¶~~

~~(f) Other drugs—legal and illegal—and their effects on driving when used separately and/or in combination with alcohol;¶~~

~~(g) Psychological and sociological consequences of abuse of alcohol or drugs to include the effect on families;¶~~

~~(h) Blood alcohol concentration and effects on driving performance;¶~~

~~(i) Court penalties;¶~~

~~(j) Motor Vehicles Division laws and penalties;¶~~

~~(k) Alcoholism as a problem and a disease (one hour minimum); and¶~~

~~(l) Alternatives to drinking and driving.¶~~

~~(3) A minimum of one urinalysis sample shall be observed and collected during the first two weeks of a client's DUII information program.¶~~

~~(a) The sample shall be tested for at least three controlled drugs from a list of targeted drugs specified by the Division using the process set out in the definition of "urinalysis testing" in OAR 415-054-0010; and¶~~

~~(b) The program may use methods of testing for the presence of alcohol or other drugs in the client's body other than urinalysis tests if the program has obtained the prior review and approval of such methods by the Division.¶~~

~~(4) The DUII information program shall establish and follow a procedure to assure communication with the evaluation specialist about whether a client should be referred to a rehabilitation program. Clients who test positive for illicit drugs must be referred to a DUII rehabilitation program for assessment and further treatment.~~

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: ORS 813.010, 813.200-813.270~~

REPEAL: 415-054-0450

RULE SUMMARY: Duplicative.

CHANGES TO RULE:

~~415-054-0450~~

~~Information Program Approval~~

(1) In order to receive a Letter of Approval (LOA) from the Division, a DUII information program shall meet the standards set forth in these rules and any other administrative rules applicable to the program.¶

(2) A DUII information program seeking approval under these rules shall establish to the satisfaction of the Division that the local alcoholism and other drug planning committee was actively involved in the review of the DUII information program as it relates to the CMHP plan.¶

(3) The Division shall inspect at least every two years each information program under these rules.¶

(4) The renewal of a letter of approval shall be governed by OAR 415-012-0040.¶

(5) The denial, revocation, nonrenewal, or suspension of a letter of approval/license for an information program may be based on any of the grounds set forth in OAR 415-012-0060.¶

(6) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:¶

(a) Any convictions under any federal or state law relating to any controlled substance;¶

(b) Furnishing of false, misleading, or fraudulent material in an application for a letter of approval; or¶

(c) Any other factors relevant to, and consistent with, the public health or safety.¶

(7) Without the approval of the Assistant Director, no agency or person may provide DUII information program services to a client who has also been referred by a judge to the same agency or person for a DUII related diagnostic assessment. Failure to comply with this section will be considered a violation of ORS Chapter 813. If the Assistant Director finds such a violation, the Assistant Director may deny, suspend, revoke, or refuse to renew a Letter of Approval.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 430.256, 413.042

Statutes/Other Implemented: ORS 813.010, 813.200 – 813.270

REPEAL: 415-054-0460

RULE SUMMARY: Addressed in 415-054-0463 through 415-054-0479.

CHANGES TO RULE:

415-054-0460

ADES Application and Certification Process

(1) ~~Minimum qualifications for ADES certification include:~~¶

(a) ~~A Bachelor Degree in social sciences, psychology, sociology, substance abuse or a related subject with course work specific to alcohol or other drug treatment; or~~¶

(b) ~~Four years of full time supervised experience in alcohol or drug evaluation, treatment or counseling; or~~¶

(c) ~~A combination of two years of education or training in alcohol or drug treatment, evaluation, education or counseling and two years of full time supervised experience in alcohol or drug service delivery.~~¶

(2) ~~A person who wishes to be certified as an ADES must submit a packet of information which includes at minimum an application, three letters of reference, the completed conflict of interest form designated by the Division and a written court Designation that explains the need for an additional ADES in that court's jurisdiction. Examples of need are an increased number of DUII cases or the need for an ADES with specific language proficiency.~~¶

(3) ~~An applicant may be denied a certificate for reasons which include but are not limited to insufficient education or experience, poor reference feedback, a confirmed or potential conflict of interest or if the Division determines a lack of need for an ADES in the applicant's geographical area.~~¶

(4) ~~Prior to final certification the applicant must have completed ADES specific training curriculum pre-approved by the Division, which includes the following subjects:~~¶

(a) ~~The scope, authorities and responsibilities of the ADES as addressed in related Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR) and Division policies and procedures;~~¶

(b) ~~A summary of related roles of the court and the treatment provider and how their roles differ from those of the ADES;~~¶

(c) ~~A review of professional issues such as conflict of interest, other ethics standards, confidentiality, releases of information and individuals' rights;~~¶

(d) ~~The process of conducting screening interviews, diagnostic assessments, interpreting court and other legal documents, determining risk and formulating a screening summary, referral procedures and reporting requirements;~~¶

(e) ~~Determining the appropriate treatment provider for each case based upon the screening or diagnostic assessment results and individual needs and referral procedures;~~¶

(f) ~~Interpretation of toxicology and urinalysis tests results and~~¶

(g) ~~Standards and requirements of individual permanent records.~~

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: ORS 430.256, 813.021, 813.260~~

ADOPT: 415-054-0461

RULE SUMMARY: Clarify purpose and scope of rules.

CHANGES TO RULE:

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.

Statutory/Other Authority: ORS 430.256, ORS 413.042, ORS 430.357

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.200, ORS 813.260

415-054-0462

Definitions

(1) "Alcohol and Other Drug Screening Specialist (ADSS)" means an individual who possesses a valid certificate issued by the Division of the Authority. ¶

(2) "ASAM Criteria" means the most current edition of the American Society of Addiction Medicine (ASAM) for the Treatment of Addictive, Substance-related, and Co-Occurring Conditions, which is a clinical guide to develop patient-centered service plans and make objective decisions about patient admission, continuing care, and transfer or discharge for individuals and is incorporated by reference in these rules." ¶

(3) "Background Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0001 through 0501. ¶

(4) "Certificate" means a document issued to an individual by the Division which authorizes the individual to provide ADSS services. ¶

(5) "CFR 42 Part 2" means the Code of Federal Regulations, Title 42, Volume 1, Chapter 1, Part 2 entitled Confidentiality of Alcohol and Drug Abuse Patient Records. ¶

(6) "Chief Officer" means the Chief Health Systems Officer of the Division or designee. ¶

(7) "Conflict of Interest" means use of a personal relationship to obtain financial gain or avoidance of financial detriment; making business decisions which 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. ¶

(8) "Court" means the last convicting or ruling court unless specifically noted. ¶

(9) "Diversion Agreement" means a petition approved by the court meeting the criteria established in ORS 813.200 through 813.260. ¶

(10) "Division" means the Health Systems Division of the Oregon Health Authority. ¶

(11) "DUII" means driving under the influence of intoxicants as defined in Chapter 813 or Oregon Revised Statutes. ¶

(12) "DUII Education Program" means a short-term, didactic alcohol and other drug education program which meets the minimum curriculum and hourly standards established by the Division for an individual who is either: ¶

(a) A violator of ORS 813.010 (Driving Under the Influence of Intoxicants); or ¶

(b) A defendant participating in a diversion agreement under ORS 813.200. ¶

(13) "DUII Rehabilitation Program" means a program of treatment and therapeutically oriented education services for an individual who is either: ¶

(a) A violator of ORS 813.010 (Driving Under the Influence of Intoxicants); or ¶

(b) A defendant participating in a diversion agreement under ORS 813.200. ¶

(14) "DUII Services Provider" means a provider of a DUII Education Program or a DUII Rehabilitation Program. ¶

(15) "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. ¶

(16) "Grievance" means a formal complaint submitted verbally or in writing by an individual or the individual's representative pertaining to the denial or delivery of services and supports. ¶

(17) "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR). ¶

(18) "Individual" means any individual being considered for or receiving services and supports regulated by these rules. ¶

(19) "Individual Record" means documentation, written or electronic, regarding an individual including information relating to entry, screening, orientation, services and supports planning, services and supports provided, and transfer. ¶

(20) "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.¶

(21) "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. For purposes of these rules, divisions of the Oregon Health Authority include the Public Health Division and the Health Systems Division.¶

(22) "Screening" means the process of administering a Division approved screening tool to determine whether the individual exhibits risk factors for a substance use disorder and resulting in a referral to a Division approved DUII Services Provider. ¶

(23) "Single Agency or Organization" means any one individual or business entity; combination of persons or business entities acting together as a program; or agency or other arrangement which provides or has a financial interest in providing Division approved DUII Education or DUII Rehabilitation services. ¶

(24) "Substance Use Disorder (SUD)" means a disorder related to the taking of a drug of abuse including alcohol to the side effects of a medication and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, and includes but is not limited to substance induced psychotic disorder, mood disorder, as defined in DSM criteria.¶

(25) "Variance" means an exception from a requirement in these rules, granted in writing by the Division on a case by case basis.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 419C.443, ORS 813.021, ORS 813.040

ADOPT: 415-054-0463

RULE SUMMARY: Clarifies minimum qualifications.

CHANGES TO RULE:

415-054-0463

Minimum Qualifications

(1) Minimum experience requirements for ADSS certification include: ¶

(a) A Bachelor Degree in a behavioral health science field; or ¶

(b) Four years of paid full-time experience in the behavioral health services field with a minimum of two years of direct substance use disorders counseling experience; or ¶

(c) A combination of an Associate Degree in a behavioral health science field and two years of full-time direct substance use disorders service delivery experience. ¶

(2) Applicants or ADSS recovering from substance use or problem gambling disorders must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.
Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 419C.443, ORS 813.021, ORS 813.040

ADOPT: 415-054-0464

RULE SUMMARY: To ensure safety for vulnerable populations.

CHANGES TO RULE:

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 943-007-0010 through 943-007-0501.

(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.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 419C.443, ORS 813.021, ORS 813.040

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0465

Terms of Certification

(1) Each applicant and ADSS agrees, as a term of certification: ¶

(a) To permit Division staff to inspect the service delivery location where the applicant or ADSS intends to provide or currently provides ADSS services: ¶

(A) During regular business hours and at any other reasonable hour to verify information contained in the application or to ensure compliance with all applicable statutes, administrative rules, other applicable regulations, or contractual obligations; and ¶

(B) For immediate entry and inspection, extending to any premises the Division has reason to believe ADSS services are provided. ¶

(b) 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 including but not be limited to: ¶

(A) Financial records; ¶

(B) Individual Service Records; ¶

(C) Records of utilization and quality assurance reviews conducted by the applicant, ADSS, or other accredited entity; ¶

(D) Employee records including, but not limited to: ¶

(i) Academic degrees; ¶

(ii) Professional licenses; ¶

(iii) Supervision notes, disciplinary actions, and logs; and ¶

(iv) Criminal background checks; ¶

(v) All documentation required by applicable service rules, statute, other applicable regulations, and administrative rules; ¶

(vi) Additional documentation deemed necessary by the Division to determine compliance with this or any other applicable administrative rules, statutes, or other applicable regulations; ¶

(c) That the ADSS is certified to provide only those services which are specified in the scope of services and conditions listed on the certificate; ¶

(d) To post the certificate or a legible copy and any accompanying letter noting any applicable conditions in a public space of each service delivery location to be available for inspection at all times; ¶

(e) That the certificate does not create an express or implied contract in the absence of a fully executed written contract; ¶

(f) That the certificate is not transferable to any other person or provider without Division approval; and ¶

(g) To abide by the federal drug-free workplace requirements outlined in 45 CFR Part 76. ¶

(2) The Division may not discriminate in its review procedures or services on the basis of race, color, national origin, age, or disability. The Division may issue certificates to specialized programs to assure maximum benefit for special populations, in which case, the Division may identify that special population in the certificates and impose applicable program criteria under the applicable service delivery rules. ¶

(3) A certificate is void immediately: ¶

(a) Upon voluntary closure by an ADSS; ¶

(b) Upon the listed expiration date of the certificate if the ADSS fails to timely submit a complete application for certification renewal pursuant to these rules; ¶

(4) Discontinuation of services: ¶

(a) An ADSS discontinuing services voluntarily must: ¶

(A) Notify the Division and appropriate court jurisdictions at least 60 days prior to the date of voluntary closure and provide a written plan to comply with record retention standards as applicable; ¶

(B) Make reasonable and timely efforts to obtain alternative services for individuals currently being served; and ¶
(b) An ADSS discontinuing services must provide individuals with a minimum 30-day written notice regarding discontinuation of services. In circumstances where undue delay might jeopardize the health, safety, or welfare of individuals or the public, including where the Division has revoked or immediately suspended the certificate, the ADSS must notify individuals regarding the discontinuation of services as soon as possible.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0466

The Application Process

(1) An applicant seeking initial certification or certification renewal must submit a completed application to the Division which demonstrates the following: ¶

(a) Minimum education or experience as required in OAR 415-054-0463; ¶

(b) Three signed letters of reference from individuals in the behavioral health services field with personal knowledge of the applicant who attests to the applicant's character, work habits, and qualifications; ¶

(c) A written statement signed by the Presiding Judge or Court Administrator for the court or courts designating the applicant to perform ADSS screenings; ¶

(2) The Division shall furnish an application with instructions, and provide appropriate technical assistance to facilitate completion of the application, upon: ¶

(a) Request from an applicant seeking initial certification; and ¶

(b) Request from an existing ADSS seeking certification renewal congruent with timelines established by these rules. ¶

(3) The application must be legible and completed on the forms furnished by the Division, in the manner specified by the Division. Each application must include: ¶

(a) Written attestation by the applicant that all applicable rules of the Division for provision of the proposed services will be met and maintained in substantial compliance with applicable rules; and ¶

(b) Written attestation by the applicant of no potential or actual conflict of interest with any DUII Services Provider including financial gain or avoidance of financial detriment to self or a relative or business with which the applicant or ADSS is associated, except as provided for in OAR 415-054-0545 through 415-054-0570. ¶

(4) Timeframe for application submission: ¶

(a) An applicant seeking initial certification under these rules must submit a completed application at least six months in advance of the applicant's desired date of certification; ¶

(b) An applicant seeking to renew their certificate must: ¶

(A) Request a renewal application from the Division; and ¶

(B) Submit a complete application for recertification, which includes current court designations, at least six months prior to the expiration of the existing certificate.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0467

Response to Application

(1) Upon receipt of application materials, the Division shall conduct a comprehensive audit of the application materials to determine compliance with these rules. ¶

(a) Within 60 days of the Division's receipt of a complete application compliant with these rules the Division shall notify the applicant that the application has been accepted as complete. ¶

(b) Within 60 days of the Division's receipt of an incomplete application, the Division shall provide written feedback describing any necessary amendment to the application prior to resubmission. To resubmit, the applicant must submit an amended application to the Division for review within 21 calendar days of receipt of the Division's written feedback. ¶

(2) When an application is denied, the Division shall issue a written notice of denial within 14 days of the determination. ¶

(3) Applications for certification shall be denied when: ¶

(a) The applicant does not meet the minimum qualifications in OAR 415-054-0463; ¶

(b) The applicant is found to have disqualifying convictions or conditions by the Background Check Unit; ¶

(c) The applicant fails to demonstrate substantial compliance with applicable statutes, administrative rules, or other applicable regulations. ¶

(d) The applicant fails to re-submit complete application materials within 21 calendar days of receipt of the Division's written feedback; ¶

(e) The applicant timely re-submits the application but the Division finds the re-submitted application remains incomplete or fails to demonstrate substantial compliance with applicable statutes, administrative rules, or other applicable regulations; ¶

(f) The applicant submits an application within 180 days of a prior application denial or certificate revocation under these rules by the Division. ¶

(4) The Division may elect to deny an application prior to review when: ¶

(a) The applicant has previously had any certification or license suspended or revoked by the Division, the Authority, the Department of Human Services, or any other similar state agency outside of Oregon; ¶

(b) The applicant has been denied certification due to failure to submit complete application materials two or more times within the previous three calendar years; ¶

(c) The applicant is listed on any current Medicaid exclusion list under OAR 410-120-1380(1)(c)(J); or ¶

(d) The applicant submits false or inaccurate information to the Division. ¶

(5) An applicant may withdraw an initial or renewal application at any time prior to the Division acting on the application unless the Division has determined that the applicant submitted false or misleading information in which case the Division may refuse to accept the withdrawal and may issue a notice of proposed denial in accordance with this rule.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0468

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0468

Appealing Denial of Application for Certification

When the Division has denied an application, an applicant may request, in writing, an appeal review by the Chief Officer.¶

(1) To obtain review, the applicant must submit a written request for the appeal review to the Division within 14 calendar days of receipt of the notice of denial.¶

(2) The Chief Officer, whose decision is final, must conduct an appeal review meeting within 30 days of receipt of the applicant's written request.¶

(3) If the Chief Officer overturns the denial, the Division shall issue written notice to the applicant within 14 calendar days of the appeal review meeting. The notice shall inform the applicant of the outcome and will either:¶

(a) Include an approved certification per these rules; or¶

(b) Include written notice of required amendment to application materials and a timeframe for re-submission.¶

(4) If the Chief Officer affirms the denial, the notice of denial shall become final, the application closed, and a notice of the appeal review outcome mailed to the applicant within 14 days of the appeal review meeting.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0469

Types of Reviews

(1) The Division may conduct the following types of certification reviews as appropriate:
¶

(a) Within six months of initial certification as an ADSS, Division staff shall complete a comprehensive audit of the required application documentation and a comprehensive audit of the service delivery locations to ensure compliance with applicable statute, administrative rules, other applicable regulations, and contractual obligations:
¶

(b) Certification renewal reviews must occur prior to the expiration of the existing certificate and at least once every three years:
¶

(c) The Division may conduct discretionary certification reviews:
¶

(A) With reasonable notice to ensure compliance with applicable statute, administrative rules, other applicable regulations, and contractual obligations, or;
¶

(B) With or without notice for the following reasons:
¶

(i) The Division has reasonable concern the ADSS may act to alter records or make them unavailable for inspections;
¶

(ii) The Division has received a complaint or information which suggest or allege conditions or practices which could threaten the health, safety, rights, or welfare of individuals; or
¶

(iii) The Division has reason to believe a certification review is necessary to ensure a ADSS is in substantial compliance with these rules, service delivery rules, other applicable administrative rules, contractual obligations or with conditions placed on the certificate;
¶

(2) If Division staff may not access records or service delivery locations for the purpose of conducting a certification review. The Division may take action on the certificate up to and including the application of conditions, suspension, or revocation.
¶

(3) At the sole discretion of the Division, Division staff may complete a certification review partially or fully via a desk review process. A desk review process is where Division staff conduct a certification review based on the ADSS or applicant's submission of required documentation and telephonic interviews where Division staff do not physically visit the service delivery locations.
¶

(a) The Division shall furnish a list of documentation necessary to complete the desk review to the applicant or ADSS;
¶

(b) The applicant or ADSS must submit all requested documents to the Division in compliance with state and federal privacy and data transmission regulations;
¶

(c) The Division may elect to schedule telephone interviews deemed necessary to fulfill the objectives of a certification review; and
¶

(d) Upon completion of the desk review, the Division shall securely dispose of documentation containing protected health information submitted by the applicant or ADSS.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

REPEAL: 415-054-0470

RULE SUMMARY: No longer necessary.

CHANGES TO RULE:

~~415-054-0470~~

~~Other Requirements~~

~~(1) The ADES shall fully cooperate with program reviews conducted by the Division and with all corrective actions required by the Division.~~

~~(2) During all working hours the ADES shall not be under the influence of nor use or have present in any amounts in his or her body any alcohol or drugs to include controlled substances, unless pursuant to a current prescription from a licensed physician.~~

~~(3) The ADES must serve a minimum of twelve individuals over the calendar year.~~

~~(4) The ADES must comply with Title 2 of the Americans With Disabilities Act of 1990, 42 USC Section 12131 et seq.~~

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: 813.021, 813.260, ORS 430.256~~

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0471

Conduct of Certification Reviews

(1) The Division shall employ review procedures deemed adequate to determine applicant or ADSS compliance with applicable administrative rules, statutes, other applicable regulations, and as necessary, contractual obligations. These procedures may include but are not limited to: ¶

(a) Entry and inspection of any service delivery location; ¶

(b) Review of documents; and ¶

(c) Interviews with or a request for completion of a questionnaire by individuals knowledgeable about the ADSS or applicant. Individuals interviewed may include program staff, managers, governing or advisory board members, allied agencies, individuals, their family members, and significant others. ¶

(2) ADSS must cooperate with Division staff during a certification review. ¶

(3) Within 30 days following the completion of each discretionary review, the Division may, at their discretion, issue a report and require a Plan of Correction congruent with section (4) of this rule. ¶

(4) Within 30 days following the completion of each initial or renewal certification review, the Division shall issue a report that includes: ¶

(a) A statement of any deficiency including a description of the review findings related to non-compliance with applicable administrative rules, statutes, other applicable regulations, and any required corrective actions where applicable; ¶

(b) Pursuant to a certification review when the Division determines an ADSS or applicant is not operating in substantial compliance with all applicable statutes, administrative rules, and other regulations, and the plan of correction (POC) process is appropriate, the Division may require the ADSS or applicant to submit a POC. The Division shall provide written notice of the requirement to submit a POC, and the ADSS or applicant shall prepare and submit a POC according to the following terms: ¶

(A) The ADSS or applicant shall submit the POC to the Division within 30 days of receiving the statement of deficiency. The Division may issue up to a 90-day extension to the existing certification to allow the ADSS or applicant to complete the plan of correction process; ¶

(B) The POC shall address each finding of non-compliance and shall include: ¶

(i) The planned action already taken to correct each finding of non-compliance; ¶

(ii) The anticipated or requested timeframe for the completion of each corrective action not yet complete at the time of POC submission to the Division; ¶

(iii) A description of and plan for quality assurance activities intended to ensure ongoing compliance; and ¶

(iv) The name of the individual responsible for ensuring the implementation of each corrective action within the plan of correction. ¶

(c) If the Division finds that clarification or supplementation to the POC is required prior to approval, Division staff shall contact the ADSS or applicant to provide notice of requested clarification or supplementation, and the ADSS or applicant shall submit an amended plan of correction within 14 calendar days of notification; ¶

(d) The ADSS shall submit a sufficient POC approved by the Division prior to receiving a certificate. Upon the Division's approval of the POC, the Division shall issue the appropriate certification; ¶

(e) The Division may deny, suspend, or revoke an applicant or ADSS' certification if the ADSS fails to submit an adequate POC within the established timeframes.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0472

Issuing Certificates

(1) The Division shall issue an approved applicant a certificate to provide ADSS services. Every certificate shall: ¶

(a) Be signed by the DUIL Coordinator and Chief Officer; ¶

(b) List the courts which have designated the ADSS; ¶

(c) List the service delivery rules under which the applicant or ADSS is approved to provide services; ¶

(d) List the effective and expiration dates of the certificate; ¶

(e) List any conditions applied to the certificate; ¶

(f) List any variances approved by the Division; and ¶

(g) Be accompanied by a letter from the Division noting: ¶

(A) The courts which have designated the ADSS; and ¶

(B) Approved alternative practices related to variances listed on the certificate. ¶

(2) The Division shall issue initial certificates to new applicants whose applications demonstrate substantial compliance with applicable administrative rules and statutes: ¶

(a) For up to six calendar months from the date of approval; and ¶

(b) Initial certifications may be issued with conditions pursuant to this rule. ¶

(3) After conduct of the certification review and the plan of correction process where applicable, the Division shall renew the certificate of an applicant with a current certification that demonstrates substantial compliance with applicable administrative rules or statutes: ¶

(a) For up to three calendar years from the date of renewal; and ¶

(b) Renewal certifications may be issued with conditions pursuant to these rules.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0473

Conditions

(1) The Division may elect at any time and at its discretion to place conditions on a certificate upon a finding that:

¶

(a) The applicant or ADSS employs or contracts with any program staff for whom there is substantiated evidence of abuse, neglect, or mistreatment; ¶

(b) The applicant or ADSS employs or contracts with any program staff that fails to meet relevant minimum qualifications described in these rules, service delivery rules, or other applicable law; ¶

(c) There is substantiated evidence of abuse, neglect, or mistreatment; ¶

(d) The applicant or ADSS operates such that there is a threat to the health, welfare, or safety of an individual or the public; ¶

(e) The applicant or ADSS has substantially failed to comply with these rules, service delivery rules, or other applicable law; ¶

(f) The applicant or ADSS fails to fully implement a Plan of Correction or adequately maintain a corrective action;

¶

(g) The Division has issued the applicant or ADSS through two or more consecutive certification reviews substantially similar findings of non-compliance with these rules, service delivery rules, or other applicable administrative rules, statutes, or regulations; ¶

(h) There is a need for increased regulatory oversight of the applicant or ADSS; or ¶

(i) The applicant or ADSS fails to comply with any reporting requirements relating to funding certification. ¶

(2) The Division shall consider the sum of the circumstances including but not limited to the following criteria when deciding whether to impose conditions as opposed to denying, suspending, refusing to renew, or revoking a certificate: ¶

(a) The expressed willingness and demonstrated ability of the applicant or ADSS to gain and maintain compliance with all applicable administrative rules and law; ¶

(b) Submission of a POC prescribing reasonable, sustained, and timely resolution to areas of non-compliance; ¶

(c) The relative availability of alternative ADSS to address any service needs that would be unmet if the applicant or ADSS is not issued a certificate with conditions as an alternative to revocation or refusal to award a certificate; or ¶

(d) The applicant or ADSS' historical compliance with Division rules, previous conditions placed on certificates, and previous POCs. ¶

(3) Conditions to the certificate may include: ¶

(a) Requiring corrective actions with associated timeframes for completion necessary for the applicant or ADSS to correct areas of non-compliance or concern identified by the Division; ¶

(b) Limiting the total number of individuals enrolled in services or on a waitlist for services; ¶

(c) Limiting the population such as narrowing the age range of individuals who the applicant or ADSS may serve; ¶

(d) Limiting the scope and type of services that the applicant or ADSS may provide; ¶

(e) Other conditions deemed necessary by the Division to ensure the health and safety of individuals and the public; and ¶

(f) Other conditions deemed necessary by the Division for the purpose of ensuring regulatory compliance with this or other applicable administrative rules and law. ¶

(4) The Division may impose conditions on a certificate With Notice or Without Notice. In both processes, an ADSS or an applicant may request an informal conference: ¶

(a) The Division may issue the conditions With Notice by issuing a Notice of Impending Imposition of Certificate Condition (Notice) at least 48 hours prior to issuing an Order Imposing Certificate Condition (Order) to an ADSS

or an applicant. After the Order is issued, the Division shall revise the certificate to indicate the conditions that have been ordered: ¶

(b) The Division may impose the conditions Without Notice only if the Division determines that there is an imminent threat to individuals such that the Division determines it is not safe or practical to give an applicant or an ADSS advance notice. The Division may impose the conditions without notice by issuing an Order to an ADSS or an applicant. After the Order is issued, the Division shall revise the certificate to indicate the conditions that have been ordered. ¶

(5) The Notice may be provided in writing or orally. When the Notice is provided in writing, it shall be sent by certified or registered mail or delivered in person to the applicant or ADSS. If the Notice is provided orally, it may be provided by telephone or in person to the applicant, ADSS, or person represented as being in charge of the program. When the Notice is delivered orally, the Division shall subsequently provide written notice to the applicant or ADSS by registered or certified mail. The Notice shall: ¶

(a) Generally describe the acts or omissions of the applicant or ADSS and the circumstances that led to the finding that the imposition of a certificate condition is warranted; ¶

(b) Generally describe why the acts or omissions and the circumstances create a situation for which the imposition of a condition is warranted; ¶

(c) Provide a brief statement identifying the impending condition; ¶

(d) Identify a person within the Division whom the applicant or ADSS may contact and who is authorized to enter the Order or to make recommendations regarding issuance of the Order; ¶

(e) Specify the date and time the Order is scheduled to take effect; and ¶

(f) Offer that the applicant or ADSS may request an informal conference prior to the issuance of the Order Imposing Certificate Condition, or if the ADSS has already requested an informal conference, specify the date and time that an informal conference shall be held. ¶

(6) If an informal conference is requested regarding conditions, the conference shall be held at a location designated by the Division. If determined to be appropriate by the Division, the conference may be held by telephone. Following the informal conference, the Division may modify the conditions. The timing of the informal conference is described as follows: ¶

(a) If a Notice is issued, the applicant or ADSS may request an informal conference to object to the Division's proposed action before the condition is scheduled to take effect. The request for an informal conference shall be made prior to the date the conditions are intended to be effective. If timely requested, the informal conference shall be held within seven days of the request. The Order Imposing Condition may be issued at any time after the informal conference; ¶

(b) If an Order is issued without a prior Notice, the applicant or ADSS may within 48 hours of the issuance of the Order request an informal conference. If timely requested, the informal conference shall be held within two business days of receipt of the request. Following the informal conference, the Division at its discretion may modify the conditions. ¶

(7) When an Order is issued, the Division must serve the Order either personally or by registered or certified mail. The Order must include the following statements: ¶

(a) The authority and jurisdiction under which the condition is being issued; ¶

(b) A reference to the particular sections of the statute and administrative rules involved; ¶

(c) The effective date of the condition; ¶

(d) A short and plain statement of the nature of the matters asserted or charged; ¶

(e) The specific terms of the certificate condition; ¶

(f) Right to request a contested case hearing under ORS Chapter 183; ¶

(g) A statement that if a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or ADSS shall have waived the right to a hearing under ORS Chapter 183; ¶

(h) Findings of specific acts or omissions of the applicant or ADSS that are grounds for the condition and the reasons the acts or omissions create a situation for which the imposition of a certificate condition is warranted; and, ¶

(i) A statement that the Division may combine the hearing on the Order with any other proceeding affecting the certificate. The procedures for the combined proceeding must be those applicable to the other proceedings affecting the certificate. ¶

(8) Hearing: ¶

(a) If the Division serves an Order, the applicant or ADSS is entitled to a contested case hearing pursuant to ORS Chapter 183; ¶

(b) The Division must receive the request for a hearing within 21 days of the date of Order. If a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or ADSS shall have waived the right to a hearing under ORS Chapter 183; ¶

(c) The applicant or ADSS may request a contested case hearing, ORS Chapter 183, regarding the imposition of the conditions in addition to, or in lieu of, an informal conference. Requesting a contested case hearing may not delay the effective date of the conditions. ¶

(9) When a restriction of enrollment or intake is in effect pursuant to an Order, the Division in its sole discretion may authorize the ADSS to admit or serve new individuals for whom the Division determines that alternate placement or ADSS is not feasible. ¶

(10) Conditions may be imposed for the duration of the certificate or limited to some other shorter period of time. If the condition corresponds to the certificate period, the reasons for the condition shall be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the condition shall be indicated on the certificate. ¶

(11) When the applicant or ADSS determines that the circumstances leading to imposition of the condition no longer exist and that effective systems are in place to ensure that similar deficiencies do not recur, the applicant or ADSS may make written request to the Division for re-inspection. ¶

(12) Re-inspection: ¶

(a) If the Division finds that the situation for which the condition was imposed has been corrected and finds that systems are in place to ensure that similar deficiencies do not recur, the condition shall be withdrawn, and the Division must revise the certificate accordingly. Following re-inspection, the Division shall notify the facility by telephone of the decision to withdraw the condition. Telephone notification shall be followed by written notification; ¶

(b) If the Division determines after a re-inspection that the situation for which the condition was imposed continues to exist or that there are not sufficient systems in place to prevent similar deficiencies, the certificate condition may not be withdrawn, and the Division is not obligated to re-inspect again for at least 45 days. A decision not to withdraw the Order shall be given to the applicant or ADSS in writing, and the applicant or ADSS shall be informed of the right to a contested case hearing pursuant to ORS Chapter 183. Nothing in this rule is intended to limit the Division's authority to conduct a certification review at any time. ¶

(13) 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. ¶

(14) When the Division orders a condition be placed on a certificate under the provisions of this rule, the applicant or ADSS is entitled to request a hearing in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0474

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0474

Modification to Certification

An ADSS with a current certificate seeking to be designated by additional courts must submit a written request for Division approval prior to any such changes.¶

(1) The Division must receive the written request for such changes at least 60 days prior to the desired effective date for any changes.¶

(2) The Division shall make reasonable efforts to make final determination for approval or disapproval of changes to the certificate within 45 days of receiving the written request.¶

(3) When an emergency requires an ADSS to be designated by additional courts prior to Division approval:¶

(a) The ADSS must submit a request to the Division within 15 calendar days of the new designation and include copies of designation documentation as required in OAR 415-054-04669; and¶

(b) 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.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0475

Nonrenewal, Suspension, and Revocation of Certification

(1) Immediate Revocation or Suspension of a certificate may occur when: ¶

(a) The Division finds there is substantial failure to comply with applicable statutes, administrative rules, service delivery rules, or other applicable regulations, such that the Division finds there is a serious danger to the public health or safety: ¶

(b) The ADSS demonstrates substantial failure to comply with these administrative rules and other applicable regulations such that the health or safety of individuals is jeopardized to the degree that immediate cessation of services by the ADSS is considered necessary to prevent harm to the individual. ¶

(2) The Division may revoke, suspend, or refuse to renew a certificate when the Division determines that there is substantiated evidence of abuse, neglect, or mistreatment or determines that an ADSS: ¶

(a) Demonstrates substantial failure to comply with these administrative rules or with applicable state or federal law; ¶

(b) Demonstrates a substantial failure to comply with applicable rules and regulations such that the health or safety of individuals is found to be jeopardized during two certification reviews within a six-year period; ¶

(c) Has a direct contract with the Division, and the Division terminates its agreement or contract with the ADSS; ¶

(d) Fails to comply with the requirements of one or more conditions on the certificate; ¶

(e) Fails to submit and or implement a POC sufficient to come into substantial compliance with these and other applicable rules or regulations; ¶

(f) Submits falsified or incorrect information to the Division; ¶

(g) Refuses to allow access to information for the purpose of verifying compliance with applicable statutes, administrative rules, or other applicable regulations within a specified date or fails to submit such information following the date specified for such a submission in the written notification; or ¶

(h) Fails to comply with staff qualification requirements. ¶

(3) When the Division determines the need to revoke, suspend, or deny renewal of a certificate issued under these rules, a notice of intent to take action on the certificate shall be issued to the ADSS. ¶

(4) The applicant or ADSS has a history of, or currently demonstrates financial insolvency including but not limited to filing for bankruptcy, a foreclosure or failure to pay taxes; ¶

(5) The ADSS is found to have permitted, aided or abetted the commitment of an unlawful act; ¶

(6) Failure to allow an individual to exercise rights as defined in these rules; or ¶

(7) Failure to declare in writing any potential or actual conflict of interest.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0476

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0476

Informal Conference

(1) 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 applicant or ADSS shall make its request for an informal conference in writing within seven days of the issuance of notice. Upon receipt of a timely written request, the Division shall select a location and time for such a conference, provided that the conference occurs within 14 days of the Division's receipt of the request. ¶

(2) Following the conference, the Division may: ¶

(a) Approve the application or renewal or initiate the process of imposing conditions to certification as described and allowed by these rules as an alternative to denying or revoking certification; ¶

(b) Continue to proceed with action on the ADSS' certificate up to and including suspension, revocation, or refusal to renew the certificate; or ¶

(c) Withdraw or amend the order of suspension, notice of intent to revoke, or notice of intent to nonrenew the certificate. ¶

(3) The Division shall provide written notice of its decision under section (2) of this rule within 14 calendar days of the informal conference. ¶

(4) Informal conferences regarding conditions are set forth in OAR 309-008-0905.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0477

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0477

Hearings

(1) 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. ¶
(2) 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 in accordance with ORS Chapter 183.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0478

RULE SUMMARY: Consolidates certification requirements within 415-054.

CHANGES TO RULE:

415-054-0478

Complaints

(1) Any individual may file a complaint with the Division concerning an ADSS holding a certificate. The Division may require the complainant to exhaust grievance procedures available through the ADSS prior to initiating an investigation. ¶

(2) The Division shall only investigate a complaint concerning an ADSS falling within the Division's scope and regulatory authority: ¶

(a) The Division shall investigate and respond to a complaint pursuant to Division policies and procedures. ¶

(b) The Division shall refer the complainant to the appropriate entity if the complaint pertains to an ADSS falling outside the Division's scope or regulatory authority or otherwise regulated by another state or local entity. ¶

(3) 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.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Clarifies administrative standards for ADSS.

CHANGES TO RULE:

415-054-0479

Policies

(1) All ADSS must develop and implement written personnel policies and specific procedures compliant with these rules including: ¶

(a) Mandatory abuse reporting compliant with ORS 430.735 - 430.768 and OAR 943-045-0250 through 943-045-0370; ¶

(b) Criminal Records Checks compliant with ORS 181.533 through 181.575 and 943-007-0001 through 0501; and ¶

(c) Drug-Free Workplace Act compliant with 45 CFR Part 76.¶

(2) All ADSS must develop and implement written service delivery policies and specific procedures compliant with these rules: ¶

(a) Service delivery policies must be available to individuals and family members upon request; and ¶

(b) Service delivery policies and procedures must include at a minimum: ¶

(A) Fee agreements; ¶

(B) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and state confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530; ¶

(C) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA); ¶

(D) Grievances and appeals; ¶

(E) Individual rights; ¶

(F) Quality assessment and performance improvement; ¶

(G) Trauma informed service delivery consistent with the Division Trauma Informed Services Policy; ¶

(H) Provision of culturally and linguistically appropriate services; ¶

(I) Crisis prevention and response, including suicide risk assessment and appropriate referral; and ¶

(J) Incident reporting.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

REPEAL: 415-054-0480

RULE SUMMARY: Now addressed in 415-054-0485.

CHANGES TO RULE:

415-054-0480

Screening Interview and Diagnostic Assessments

(1) The ADES must perform a screening interview for individuals convicted of a DUII to determine the most appropriate DUII treatment provider in making a referral to that provider. The ADES must use documents and procedures designated by the Division. ¶

(2) The ADES must perform a diagnostic assessment for individuals under a DUII Diversion Agreement to determine if the individual has a problem condition involving alcohol or drugs including controlled substances and to determine the most appropriate DUII treatment provider. In making the referral to that provider the ADES must use documents and procedures designated by the Division. ¶

(3) Screening interviews and diagnostic assessments shall be conducted in a face-to-face interview whenever possible. If a telephone interview is used the ADES shall document in the individual's record a full explanation for the absence of a face-to-face interview.

Statutory/Other Authority: ORS 430.256, 413.042

Statutes/Other Implemented: ORS 430.256, 813.021, 813.260

RULE SUMMARY: Clarifies administrative standards for ADSS.

CHANGES TO RULE:

415-054-0481

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to: ¶

(a) Choose from available services and supports that are culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual, and that provide for the greatest degree of independence; ¶

(b) Have the role of the court, DUIL Services Provider, and ADSS monitoring process explained where the DUIL system is concerned; ¶

(c) Be treated with dignity and respect; ¶

(d) Confidentiality and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50; ¶

(e) Inspect their service record in accordance with ORS 179.505; ¶

(f) Refuse participation in experimentation; ¶

(g) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety; ¶

(h) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation; ¶

(i) Have religious freedom; ¶

(j) Be free from seclusion and restraint; ¶

(k) Be informed at the start of services of the rights guaranteed by this rule; ¶

(l) 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; ¶

(m) Have family and guardian involvement in service planning and delivery; ¶

(n) File grievances, including appealing decisions resulting from the grievance; ¶

(o) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules; ¶

(p) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and ¶

(q) Exercise all rights described in this rule without any form of reprisal or punishment. ¶

(2) The ADSS must give to the individual and, if appropriate, the guardian a document that describes the applicable individual's rights as follows: ¶

(a) 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; ¶

(b) The rights and how to exercise them must be explained to the individual, and if applicable the guardian; and ¶

(c) Individual rights must be posted in writing in a common area.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 109.675, ORS 179.505, ORS 430.205 - 430.210, ORS 430.254 - 430.640, ORS 430.850 - 430.955, ORS 461.549, ORS 743A.168

RULE SUMMARY: Clarifies Screening requirements.

CHANGES TO RULE:

415-054-0485

Screening

(1) The ADSS shall perform a screening interview using documents and procedures designated by the Division for individuals under a DUII Diversion Agreement or convicted of a DUII within the preceding 15 years to determine whether to refer an individual to a DUII Education Program or a DUII Rehabilitation Program. ¶

(2) The ADSS must utilize a screening procedure that at a minimum shall ensure the provision and documentation of the following: ¶

(a) Individuals must be considered for entry without regard to race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, creed, national origin, age (except when program eligibility is restricted to children, adults, or older adults), familial status, marital status, source of income, and disability; ¶

(b) Individuals must receive services in the most timely manner feasible consistent with the presenting circumstances; ¶

(c) Development and maintenance of adequate records and other documentation for each individual served that demonstrates the specific services for which payment has been requested, including documentation of a suicide risk assessment and appropriate referral; ¶

(d) An authorization for the release of information obtained for any confidential information concerning the individual being considered for or receiving services in accordance with ORS 179.505, Federal Confidentiality Regulations (42 CFR, Part 2), and HIPAA; and ¶

(e) Reasonable effort is made to attain appropriate collateral information including, but not limited to the individual's DUII arrest record. ¶

(3) At the time of screening, the program must offer to the individual and guardian, if applicable, written program orientation information. The information must be written or, upon request, in an alternative format or language appropriate to the individual's need and must include: ¶

(a) A description of individual rights; ¶

(b) Policy concerning grievances and appeals consistent with these rules to include an example grievance form; and ¶

(c) Notice of privacy practices. ¶

(4) Screening interviews shall be conducted in a face-to-face interview unless: ¶

(a) The individual provides documentation from a health care professional indicating that a face-to-face interview would jeopardize their health or safety; ¶

(b) The individual is a resident of another state or county and lives more than 100 miles from the ADSS service site; ¶

(c) There is inclement weather or other unsafe road conditions; or ¶

(d) Approved by the Division in writing prior to the screening interview. ¶

(5) The ADSS shall clearly document the reason for the absence of a face-to-face interview in the Individual Record. ¶

(6) Individuals who exhibit risk factors for a substance use disorder as indicated in the Division approved screening tool shall be referred to DUII Rehabilitation Services. ¶

(7) Individuals who do not exhibit risk factors for a substance use disorder as indicated in the Division approved screening tool shall be referred to DUII Education Services.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Clarifies Referral requirements.

CHANGES TO RULE:

415-054-0490

Referrals ¶

(1) ~~After completion of a screening interview, the ADES shall perform the referral process by thoroughly completing all documents and following all~~ initiate a referral to the Division approved DUII Services Provider of the individual's choice using forms and procedures designated by the Division.¶

(2) The ADES shall provide to the individual with a list of all Division approved treatment program DUII Service Providers.¶

(a) Within the geographic area preferred by the individual; and ¶

(b) ~~These treatment programs~~ In any other geographic area capable of responding to a specific need including, but not limited to a: ¶

(A) Ability to pay or seek reimbursement through insurance, p; ¶

(B) Primary language or hours of treatment which allow an individual to maintain a work schedule.; ¶

(C) Culturally-specific services; ¶

(D) Hours of operation; or ¶

(3E) The process of selecting the treatment program shall be collaborative between the ADES and ~~t~~ Need for a restricted driver's license as outlined in ORS 813.500. ¶

(3) ~~i~~ Individual, however the ADES shall make the final determination in referring the individual to an approved DUII information or treatment program. The ADES shall explain the rationale for the information or treatment program Record shall include documentation of which Division approved DUII Services Providers were offered for referral which the ADES believes most closely provides services specific to the individual's treatment needs, including the individual's request for a restricted driver's license has been signed and dated by the individual. ¶

(a4) The ADES shall confirm that the individual participated in the selection of the information or treatment program by documenting in a statement which must be co-signed by the individual and placed in may not deny a referral to any Division approved DUII Services Provider except in cases where the referral would constitute an imminent health or safety risk to the individual record. ¶

(45) The ADES may not refer an individual to a program if doing so may cause an actual or potential conflict of interest. ¶

(5) Whenever possible referrals of adolescents shall be to programs that specialize in treatment for adolescents including the specific health or safety risk posed. ¶

(6) Within five calendar days of the screening the ADES shall forward to the selected information or treatment program a copy of the copy of the Division approved referral form, the screening cover sheet and the completed screening instrument to: ¶

(a) The selected screening instrument DUII Services Provider; and ¶

(b) The individual. ¶

(7) ~~If~~ When the individual ~~has~~ a court approved Marijuana Diversion Agreement the screening and referral process is identical to those for resident of a state other than Oregon, the ADES may refer the individual to a program licensed by and located in the individual's referred for DUII charges. ¶

(8) If the screening results indicate the individual does not have a problem condition as defined in ORS 813.040 for the use of marijuana the ADES shall indicate so on the screening instrument and then refer the individual back to court state of residency. ¶

(8) Referrals to out-of-state substance use disorder service providers shall also include a copy of applicable Oregon Administrative Rules for issuance of a DUII Treatment Completion Certificate.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

AMEND: 415-054-0500

RULE SUMMARY: Clarifies Transfer requirements.

CHANGES TO RULE:

415-054-0500

~~Transfers, Re-Referrals and Out-of-State Offenders~~

~~(1) When a transfer from one treatment program to another is requested by the individual or the current treatment program, the ADES shall consider and document the logistic, financial or other reasons for the request and the rationale for either an acAn individual may request a transfer to a different Division approved DUII Services Provider by submitting a request in writing to the ADSS.¶~~

~~(2) The ADSS shall initiate a referral to the requested Division approved DUII Services Provider as described in OAR 415-054-0490(3) within five calendar days from the receiptance or denial of the of the individual's written request.¶~~

~~(23) A transfer may not be approved if the individual refusThe ADSS may not deny a transfer request to any Divisi gon a release of information which permits an exchange of verbal and written communications between the current and the proposed next treatment program.¶~~

~~(3) When the individual resides in a state other than Oregon, the ADES may refer the individual to a treatment program licensed by and locatedpproved DUII Services Provider except in cases where the referral would constitute an imminent health or safety risk to the individual.¶~~

~~(4) The ADSS shall clearly document in the iIndividuall's home state.¶~~

~~(4) The ADES' roles concerning out-of-state offenders shall be identical as those for Oregon residents Record the reason for denial of a transfer request including the specific health or safety risk posed.~~

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

AMEND: 415-054-0510

RULE SUMMARY: Clarifies Monitoring requirements.

CHANGES TO RULE:

415-054-0510

Monitoring ~~¶~~

~~As required in ORS 813.021 and ORS 813.260, the ADESS shall monitor the individual throughout the information or treatment process by:~~

- ~~(1) Verifying the individual began the information or program within 30 days of the referral;~~
- ~~(2) Verifying whether or not the individual satisfactorily completed all requirements of the program;~~
- ~~(3) Notifying the court concerning the individual's compliance with program requirements and;~~
- ~~(4) Documenting progress of individuals under a DUII Diversion Agreement or convicted of a DUII, by documenting:~~
- ~~(1) Enrollment or failure to enroll in the DUII Services Program referred to; and~~
- ~~(2) Successful completion of the DUII Services Program referred to; or~~
- ~~(3) Failure to complete all or any part of the screening in the individual record each contact with the program and the court referred to.~~

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Clarifies administrative requirements for ADSS.

CHANGES TO RULE:

415-054-0520

Individual Records and Fees ¶

(1) ~~The ADES must develop and maintain a confidential permane~~An Individual Record shall be maintained for each individual. The record must, ~~who receives ADSS services.~~ The record shall contain at a minimum include a copy of:

- (a) All legal documents received;
- (b) A form signed by the individual acknowledging receipt of confidentiality rights pursuant to 42 CFR Part 2;
- (c) All completed documents required in these rules and any related Division procedures;
- (d) Documentation of each contact related to the individual's case;
- (e) All status reports and other documents received from the DUII approved treatment program;
- (f) All documents related to any re-referral or request for transfer from one treatment program to another and;
- (g) All documents related to any out-of-state referral;

(a) Screening information;

(b) Documentation of referrals, re-referrals, or transfers to DUII Services Programs;

(c) Legal documents and other collateral information received;

(d) Documentation of successful completion or failure to complete the DUII Services Programs referred to; and

(e) Documentation of each contact with or related to the individuals.

(2) Any errors in the individual record shall be corrected by drawing a single ink line through the error and adding the correction date and ADES's initials. The use of correction fluid or tape or any other attempt to make the error illegible is unacceptable.

(3) ~~The ADES shall maintain~~Individual Records shall be kept for a minimum of seven years ~~each individual record for seven years in a location which assures accessibility,~~ rs.

(4) Documentation of the individual's successful completion or failure to complete the screening interview or DUII Services Program referred to for a minimum of 15 years.

(5) Client records shall be kept confidential in accordance with the individuals' confidentiality and which protects against damage or lossce with HIPAA, ORS 179.505, 45 CFR 205.50 and 42 CFR Part 2, and any Division administrative rule pertaining to client records.

(6) A schedule of all fees shall be provided to each individual screened and posted in writing in a common area.

(7) Pursuant to ORS 813.021 and ORS 813.240, the ADES may charge \$150.00 for their services to each individual.

(a) The ADES must itemize in the individual record all fees received by the individual, indicating the service(s) provided and any outstanding fees.

(5) screening fee shall be \$150.00.

(8) Additional fees may only be charged if agreed to in writing by the court in which the individual was adjudicated. The ADES shall permit the Division to inspect all permanent records to determine compliance with these rulebe responsible to provide the Division with a copy of any such fee agreements.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

AMEND: 415-054-0530

RULE SUMMARY: Clarifies Reporting requirements.

CHANGES TO RULE:

415-054-0530

Reporting Requirements ¶

(1) ~~By the 10th of each month, the ADES shall send to the Division the monthly report of DUII and marijuana diversion report to the referring court the individual's served by the ADES caseload.~~ ¶

(2) Any potential or actual conflict of interest must immediately be declared to the Division on the designated form. ¶

(3) An ADES who decides to close the business voluntarily must notify the Division in writing within 60 days of the proposed closure with a plan for: ¶

(a) ~~Transferring service responsibility for each individual the ADES is currently monitoring to another ADES, who uccessful completion or failure to complete all or any part of the DUII services program determined by the screening interview within 14 calendar days of receipt of notification from the DUII Services Provider unless an alternate reporting schedule is agreed to in writing to the plan and~~ ¶

(b) ~~Secure storage of all individual between the ADSS and the designating court.~~ ¶

(2) ~~The form of the records less than seven years old, pursuant to OAR 166.040. The Division may approve a plan to transfert shall be determined by agreement between the records to another court and ADSS.~~ ¶

(3) ~~ADES within the same court jurisdiction who indicates in writing the willingness to accept responsibility for their secure storage.~~ ¶

(4) ~~When a program is discontinued, its current certificate is immediately void and shall be returned to the Division. A discontinued program is one which has terminated its services for which it had been approved or licensed shall notify the DUII Service Provider within 72 hours of receipt of a negative report from an individual's Ignition Interlock Device installer.~~ ¶

(4) ~~ADSS shall submit monthly screening reports no later than the 10th of each month using forms and procedures designated by the Division.~~

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0535

RULE SUMMARY: Clarifies Variance process. Formerly 415-054-0580.

CHANGES TO RULE:

415-054-0535

Variance

(1) An applicant or ADSS may request a variance to these rules, applicable service delivery rules, or other applicable regulations. ¶

(2) The applicant or ADSS must submit the variance request directly to the Division along with relevant application documents submitted to the Division. The variance request must include: ¶

(a) A description and applicable details of the variance requested, including the applicable section of the rule for which the variance is sought; ¶

(b) The rationale and necessity for the requested variance; ¶

(c) The alternative practice proposed, where relevant; and ¶

(d) The proposed duration of the variance, including a plan and timetable for compliance with the rule exempted or adjusted by the variance. ¶

(3) The Chief Office, whose decision is final, shall approve or deny the variance request and include an expiration date for the variance not to exceed the length of the ADES' current certificate. ¶

(4) A variance granted by the Division becomes part of the certificate. Continuance of the variance may not be automatic, and shall be re-considered at the expiration of the variance, or when the certification is being considered for renewal, whichever comes first. ¶

(5) Requesting renewal of a variance in advance of current variance expiration is the responsibility of each ADSS. ¶

(6) Failure by the ADSS to implement approved alternative practices or otherwise demonstrates noncompliance with an approved variance may result in the Division withdrawing approval for a variance. ¶

(7) Failure by the ADSS to implement approved alternative practices or otherwise demonstrate noncompliance with an approved variance such that the health or safety of individuals is jeopardized to the degree that cessation of services by the ADSS is considered necessary to prevent harm to the individual may result in the Division taking action on the certificate pursuant to OAR 415-054-0475.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

REPEAL: 415-054-0540

RULE SUMMARY: Now addressed in 415-054-0475.

CHANGES TO RULE:

415-054-0540

Revocation, Non-renewal or Suspension of the ADES Certificate

~~The Division may deny a request for a certificate renewal, or may revoke or temporarily suspend an existing ADES certificate when it finds any of the following:~~

- ~~(1) The ADES has substantially failed to comply with applicable administrative rules, state or federal law or with local codes or ordinances;~~
- ~~(2) Failure to demonstrate competencies specified in these rules;~~
- ~~(3) Received a prior denial, suspension, revocation or refused renewal of any other Authority license or certificate;~~
- ~~(4) The applicant or ADES submits fraudulent or untrue information to the Division;~~
- ~~(5) The applicant or ADES has a history of, or currently demonstrates financial insolvency including but not limited to filing for bankruptcy, a foreclosure or failure to pay taxes;~~
- ~~(6) The applicant or ADES refuses to allow immediate access and onsite inspection by the Division;~~
- ~~(7) The applicant or ADES is found to have permitted, aided or abetted the commitment of an unlawful act;~~
- ~~(8) Deviation by the ADES from the plan or operation originally approved and certified which, in the judgment of the Division, adversely affects the quality or scope of the intended services;~~
- ~~(9) Does not meet the minimum requirement of serving a minimum of one individual per month over the course of one year;~~
- ~~(10) Failure to allow an individual to exercise rights as defined in these rules;~~
- ~~(11) Failure to declare in writing any potential or actual conflict of interest or~~
- ~~(12) Failure to fully comply with any corrective action plan designated by the Division.~~

Statutory/Other Authority: ORS 430.256, 413.042

Statutes/Other Implemented: ORS 430.256, 813.021, 813.260

ADOPT: 415-054-0545

RULE SUMMARY: Provides option as allowed for in ORS 813.025

CHANGES TO RULE:

415-054-0545

Sole Service Provider Designation Approval Process

(1) A single agency or organization with a valid letter of approval as a Division approved DUII Services Provider may request designation as a Sole Service Provider if it is able to demonstrate that: ¶

(a) It is the only Division approved DUII Services Provider in the county; ¶

(b) ADSS records are kept separate from clinical records; ¶

(c) The individual providing ADSS services maintains a valid certificate from the Division; and ¶

(d) The individual providing ADSS services does not provide DUII Education or Rehabilitation services. ¶

(2) Requests for designation under these rules must be submitted in writing using Division approved forms and procedures. ¶

(3) Sole Service Providers shall comply with all applicable ADSS, DUII Education and DUII Rehabilitation, and Recommendations for Restricted License requirements.

Statutory/Other Authority: ORS 430.256, ORS 413.042, ORS 813.025

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

ADOPT: 415-054-0546

RULE SUMMARY: Provides option as allowed for in ORS 813.025.

CHANGES TO RULE:

415-054-0546

Revocation or Denial of Approval of Sole Service Provider Designation

(1) Approval of a request for designation as a Sole Service Provider is at the Chief Officer's discretion. ¶
(2) The Chief Officer may deny, revoke or refuse to renew designation for any of the reasons set forth in OAR 415-054-0475 or due to a finding that the county has more than one Division approved DUII Services Provider.

Statutory/Other Authority: ORS 430.256, ORS 413.042, ORS 813.025

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

RULE SUMMARY: Clarifies option as allowed in ORS 813.025.

CHANGES TO RULE:

415-054-0550

Demonstration Project Approval Process ¶

(1) Only an ADES with a valid certificate and a single agency or organization with a valid letter of approval to provide treatment services may be approved as a demonstration project. ¶

(2) Requests for approval under these rules must include a narrative which describes or otherwise addresses the following: ¶

(a) That a clearly defined and significant problem exists in the separate provision of diagnostic assessment, information and treatment services as defined in these rules; ¶

(b) The problem cannot be resolved as long as the diagnostic assessment, information and treatment functions are performed by separate agencies or organizations; ¶

(c) There is relevant research or other data which shows that a particular method for combining the performance of these functions in a single agency is an effective and appropriate means of resolving the problem; ¶

(d) The person or agency proposing to conduct a demonstration of the particular method has, and can maintain for the duration of the project: ¶

(A) The appropriate clinical and managerial knowledge, skills and abilities required by administrative rule for ADES services, information and treatment programs and; ¶

(B) A process to evaluate the effectiveness of the demonstration project which: ¶

(i) Is conducted independent of the demonstration project; ¶

(ii) Compares the demonstration project program with non-project programs; ¶

(iii) Compares outcomes of post-project service recipients to those in a control group; ¶

(iv) Includes the cost effectiveness of the demonstration project and; ¶

(v) Includes cost savings to service recipients. ¶

(e) An assurance the applicant has not previously failed to resolve problems or satisfactorily conduct or complete other programs or projects for private or public entities; ¶

(f) The effect on other ADES, information and treatment programs and whether referrals will also be made to outside agencies and; ¶

(g) The geographic location to be served; the participating persons or agencies and their respective roles in the proposed project; the length of time proposed for the project and the expected outcomes. ¶

(3) The application packet designation under these rules must be submitted in writing using Division approved forms and procedures. ¶

(3) Requests must also include: ¶

(a) Letters of endorsement from courts and other relevant persons or agencies; ¶

(b) Written assurances of participation by each proposed participant; ¶

(c) Documentation that the request for approval has been reviewed and a recommendation made by from: ¶

(A) The Community Mental Health Program Director of the proposed geographic area and; ¶

(B) The Local Alcoholism and Drug Planning Committee; and; ¶

(d) Any additional information requested by the Division. ¶

(4) Approval of a demonstration project is at the discretion of the Assistant Director Chief Officer. The Division shall review requests and shall notify the requestor of the approval or denial within 60 days of the date the request is received by the Assistant Director Division.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

AMEND: 415-054-0560

RULE SUMMARY: Clarifies option as allowed in ORS 813.025.

CHANGES TO RULE:

415-054-0560

Demonstration Project General Requirements ¶

(1) The approved demonstration project must comply with all applicable ADESS, inform DUII Education and treatment program requirements detailed in OAR 415-054 and 309-032. DUII Rehabilitation, and Recommendations for Restricted License requirements. ¶

(2) The effectiveness of the approved demonstration project must be evaluated as agreed upon between the applicant and the Division. ¶

(3) Results of the program evaluation must be submitted to the Division within timelines approved by the Assistant DirectorChief Officer.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

AMEND: 415-054-0570

RULE SUMMARY: Clarifies option as allowed in ORS 813.025.

CHANGES TO RULE:

415-054-0570

Revocation or Denial of Approval for Demonstration Projects ¶

- (1) Approval of an application for a demonstration project is at the ~~Assistant Director~~Chief Officer's discretion. ¶
- (2) The ~~Assistant Director~~Chief Officer may deny, revoke or refuse to renew approval for any of the reasons detailed in OAR 415-chapter 415 division 054 or due to a finding that the demonstration project is not resolving the problems explained in the original application. ¶
- (3) The ~~Assistant Director~~Chief Officer may refuse to renew approval if the program evaluation required under these rules fails to demonstrate the effectiveness of combining the diagnostic assessment and the treatment functions within a single agency or organization. ¶
- (4) When a request for approval to operate a demonstration project is denied, a current approval is suspended or revoked, or renewal is denied, notice of the action shall be sent by certified mail and shall include information about contested case hearings.

Statutory/Other Authority: ORS 430.256, ORS 413.042

Statutes/Other Implemented: ORS 430.256, ORS 813.021, ORS 813.260

REPEAL: 415-054-0580

RULE SUMMARY: Now addressed in 415-054-0535.

CHANGES TO RULE:

~~415-054-0580~~

~~Variances~~

~~(1) A variance request must be submitted to the Division in writing and must include:~~

~~(a) The section of the rule for which the variance is sought;~~

~~(b) The reason for the request and the proposed alternative plan and;~~

~~(c) If temporary in nature, a timetable for compliance with the related rule.~~

~~(2) If the request is denied an appeal may be made to the Assistant Director whose decision shall be final.~~

~~(3) The document from the Division granting a variance must remain in the ADES's permanent business file.~~

~~Statutory/Other Authority: ORS 430.256, 413.042~~

~~Statutes/Other Implemented: ORS 430.256, 813.021, 813.260~~