

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs.

RELATES TO: KRS 189A.010, 189A.040, 189A.045, 189A.070, 222.003, 222.005, 222.221, 222.231, 222.271, 222.990

STATUTORY AUTHORITY: KRS 189A.040(6), 194A.030(5), 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189A.040(6) requires the Cabinet to promulgate administrative regulations to prescribe standards for the licensing and operation of the alcohol or substance abuse education and treatment facilities and programs that provide assessment, education, and treatment services to offenders convicted of driving under the influence pursuant to KRS 189A.010. This administrative regulation establishes certification requirements and minimum standards for an individual or other entity operating a DUI program.

Section 1. Definitions.

- (1) "Accredited college or university" means an institution listed in the most recent College Handbook published by College Board Publications, P.O. Box 886, New York, New York 10023-0886.
- (2) "Affidavit of indigency" is defined by KRS 31.120(3).
- (3) "Alcohol and other drug-free work place" means a program's policy to:
 - (a) Prohibit the unlawful manufacture, distribution, possession, or use of a controlled substance; and
 - (b) Establish the disciplinary action to be taken if the policy is violated.
- (4) "Assessment" means a procedure administered to an individual convicted of DUI that includes the administration of the PC-based or the online Kentucky DUI Assessment Instrument, a clinical interview, a determination by the assessor of a client's needs, a discussion of available options, and referral to services that provide an appropriate level of care in relation to the client's needs.
- (5) "Cabinet" is defined by KRS 222.005(4) and means the Office of Inspector General, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621.
- (6) "Case coordination" means the monitoring of a client's progress, including consultation with other service providers and the court, to ensure the coordination of a client's services from assessment to completion.
- (7) "Certification" means the process by which the division recognizes and authorizes a program, assessor, or instructor to provide services to a client convicted of DUI.
- (8) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).
- (9) "Certified assessor" means an individual who has been trained and approved by the division to evaluate the needs of a client and to recommend appropriate services by conducting assessments in a DUI program.
- (10) "Certified instructor" means an individual who has been trained and approved by the division to provide education services in a DUI program.
- (11) "Certified program" means a public or private entity approved by the division to deliver assessment, education, or treatment services to a client convicted of DUI.
- (12) "Client" means an individual who receives services in a DUI program.
- (13) "Clinical services supervisor" means an individual responsible for monitoring and directing assessment and treatment services and providing consultation and instruction to clinical staff.
- (14) "Conflict of interest" means a private relationship exists between a client and a program that will result in:
 - (a) A conflict between the program's interests and the interests of the client; or

- (b) A situation in which a program's personal or financial interest conflicts with professional responsibility.
- (15) "Court" means the court in which the client was convicted of DUI.
- (16) "Courtnet disposition system" means a statewide database maintained by the Kentucky Administrative Office of the Courts that contains criminal conviction data from both state and local law enforcement agencies in Kentucky.
- (17) "Detoxification" means a twenty-four (24) hour medical or nonmedical program providing:
- (a) Supervised management of physical and psychological withdrawal symptoms from a substance to which an individual has been addicted or abusing; and
 - (b) An assessment of the individual's need for further care or referral to appropriate resources.
- (18) "Division" means the Division of Behavioral Health, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, KY 40621.
- (19) "DUI" means driving under the influence of alcohol or other drugs in violation of KRS 189A.010.
- (20) "DUI services" means assessment, education, or treatment services provided to a client convicted pursuant to KRS 189A.010.
- (21) "Education" means a curriculum approved by the division that provides information about the risks of alcohol and other drugs.
- (22) "Education agreement" means a written plan outlining what a client referred for education is required to complete to satisfy the program's requirements.
- (23) "Enrollment" means the act of registering at a certified DUI program and receiving an assessment.
- (24) "Facility" means the physical area including the grounds and building in which a program delivers services.
- (25) "Fee agreement" means a written statement of charges to a client for services delivered by a program that specifies the arrangements for payment of the fees.
- (26) "First offender" means a person who was convicted of a first offense under KRS 189A.010(5)(a).
- (27) "Immediate danger" means a condition in the program which could or has caused death or serious physical injury.
- (28) "Indigent person" is defined by KRS 31.100(3).
- (29) "Inpatient" means a hospital-based residential service provided postwithdrawal, to an individual with a primary or secondary diagnosis of alcohol or other drug abuse or dependency that is designed to reduce or eliminate alcohol or other drug abuse behavior and dependency.
- (30) "Intensive outpatient" means a structured comprehensive program of individual and group therapeutic activities delivered in a nonresidential setting, where a client is assisted in recovery from alcohol or other drug abuse on a scheduled and intense basis.
- (31) "Location code" means a six (6) digit number issued by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to each of a program's facilities.
- (32) "Means test" means an objective method used by a program to determine a client's income and resources to evaluate a client's ability to pay for services received.
- (33) "Memorandum of understanding" means a written agreement between two (2) programs that outlines the duties and responsibilities of a program regarding a client referral that remains in effect until one (1) of the programs terminates the agreement in writing.
- (34) "Multiple offender" means a person who was convicted of a second, third or subsequent offense under KRS 189A.010.

- (35) "Off the grounds" means a facility is separated from another facility by a public road.
- (36) "Outpatient" means individual and group therapeutic activities assisting a client in recovery from alcohol or other drug abuse, provided in a nonresidential setting on a scheduled and unscheduled basis.
- (37) "Plan of correction" means a program's written plan, including the planned correction and a date when a correction will be made, that is submitted to the division by a program if deficiencies are cited by the division in a program review.
- (38) "Program administrator" means an individual, or the designee of the individual, in charge of the operation of a program who is responsible for the services provided in a program and who has responsibility for determining if a client satisfactorily completes the required services.
- (39) "Program code" means an alphanumeric identifier that is issued to a program by the division at the time a program is certified.
- (40) "Progress note" means a written entry in a client's record to document client contacts, the delivery of services, and how the goals of a client's treatment plan are being addressed.
- (41) "Regional program manager" means an individual responsible for the management of a program's county offices if a program operating statewide has multiple county locations.
- (42) "Residential" means a set of organized and intensive individual and group therapeutic activities, provided in a twenty-four (24) hour setting, which assists a client in recovering from alcohol or other drug abuse.
- (43) "Residential transitional living" means a therapeutic group setting, in which:
- (a) Counseling is provided either on site by staff or off site; and
 - (b) A client:
 1. Resides twenty-four (24) hours a day; and
 2. Makes a social and vocational adjustment prior to returning to family or independent living in the community.
- (44) "Revocation" means withdrawal by the division of a program's or an individual's right to deliver services to a client convicted of DUI.
- (45) "Self-help group" means activities provided in a self-directed peer group setting, for a person recovering from alcohol or other drug abuse or the effects of another person's alcohol or other drug abuse, in which support and direction in achieving or maintaining an alcohol and drug-free lifestyle or in learning to cope with a problem related to another person's alcohol or other drug abuse is provided.
- (46) "Sliding fee scale" means a program's formula for providing a service to a client at a rate lower than the program's maximum published fee.
- (47) "Treatment" is defined by KRS 222.005(14).
- (48) "Treatment plan" means the written product of the process by which a client and a clinician identify and rank a client's problems needing resolution, establish agreed-upon immediate and long-term specific and measurable goals, and decide on a treatment process and the resources to be utilized.
- (49) "Twenty (20) hour education" means an education curriculum:
- (a) For first offenders assessed as low risk, that do not have an alcohol or other drug problem requiring treatment; or
 - (b) As a supplement to treatment for a first or multiple offender assessed as needing treatment.
- (50) "Uniform citation" is defined by KRS 431.450.

Section 2. Licensing Requirements.

(1) An individual or other entity shall not provide DUI assessment, education, or treatment services unless the service is in a program or facility:

(a) Licensed by the cabinet in accordance with 908 KAR 1:370;

(b) Conducted in a licensed federal hospital subject to federal licensure and regulatory requirements pursuant to 38 U.S.C. 301, 38 U.S.C. 1720(a), 38 U.S.C. 7333, or 38 U.S.C. 7334; or

(c) Conducted on the grounds of a hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180.

(2) A hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180 that operates a DUI program in a facility off the grounds of the hospital shall have the separate facility in which the DUI program is located licensed by the cabinet in accordance with subsection (1) of this section.

(3) A DUI program established, conducted, and maintained in a jail, prison, or correctional facility shall be licensed by the cabinet in accordance with subsection (1) of this section.

Section 3. Program Certification Requirements.

(1) General requirements.

(a) A licensed entity desiring to provide DUI assessment or education services shall be certified by the division as a DUI program before providing a service at any location.

(b) A certified DUI program may deliver assessment, education, or treatment services statewide if the program is:

1. Licensed in accordance with Section 2 of this administrative regulation; and

2. Certified by the division at each service location.

(c) A program may be certified to provide only assessment or only education services or both assessment and education services at a location.

(d) The division shall not certify a program desiring to provide only education at all locations.

(e) A treatment program or facility licensed by the cabinet to provide treatment pursuant to 902 KAR 20:160, 902 KAR 20:180, or 908 KAR 1:370, an out-of-state treatment facility licensed by the state where the facility is located, or a federally-licensed hospital may provide treatment services to a client referred by a certified DUI program without receiving DUI program certification from the division.

(f) The division shall notify a program, in writing, if certification is issued, renewed, or revoked.

(g) The division shall notify the Transportation Cabinet, in writing, if an action is taken to revoke a DUI program's certification or if an action by the division is appealed by a program.

(h) If more than one (1) certified DUI program is operated at the same location, each program shall maintain a separate organizational identity by:

1. Conspicuously posting in a public area:

a. Each program's license;

b. Each program's DUI Program Certification Certificate; and

c. A sign showing the name of each program;

2. Using a separate logo or letterhead on written materials;

3. Maintaining client records in a separate and secure cabinet; and

4. Conducting DUI services separate from another DUI program located at the same location.

(i) A certified DUI program shall conspicuously post, in a public area of each facility where DUI services are delivered by the program, its license and DUI Program Certification Certificate.

(j) A certified DUI program shall:

1. Deliver education and treatment services in a facility that provides at least seven (7) square feet of individual space for a client while receiving a service;
2. Maintain an alcohol and other drug-free work place;
3. Obtain a criminal background check from the Administrative Office of the Court's Courtnet Disposition System for the administrator, and all clinical or certified staff, that begin working in the program after April 12, 2000;
4. Ensure that an owner, program administrator, and all clinical or certified staff that begin working in a program after April 12, 2000 have not been released from incarceration or probation or parole for the conviction of a violent crime, hate crime, or sex crime within two (2) years from his or her date of employment with the program; and
5. Maintain professional malpractice insurance to cover all clinical or certified staff in the minimum amount of \$100,000 per occurrence.

(2) Staffing requirements.

(a) General requirements.

1. A program shall have staff certified by the division in accordance with Section 4 of this administrative regulation to deliver assessment and education services.
2. Certified, clinical or administrative staff shall not currently be employed as:
 - a. A law enforcement officer;
 - b. A correctional officer, other than in a certified DUI program that is located in a jail, prison or correctional facility;
 - c. A probation and parole officer;
 - d. An attorney;
 - e. An employee of the Administrative Office of the Courts;
 - f. An employee of the division; or
 - g. A judge.

(b) Program administrator.

1. A program administrator shall be responsible for the services delivered in a program and knowledgeable of:
 - a. The requirements established in this administrative regulation, and KRS 189A.040 and 189A.045;
 - b. In a federally assisted program, the requirements for confidentiality established in 908 KAR 1:320; and
 - c. In a nonfederally assisted program, the requirements for confidentiality established in KRS 222.271(1).
2. A program administrator shall ensure:
 - a. A program implements and complies with all applicable administrative regulations and statutes;
 - b. Staff having primary responsibility for delivering DUI services, including regional program managers, comply with:
 - (i) The requirements established in this administrative regulation, and KRS 189A.040 and 189A.045;
 - (ii) In a federally assisted program, the requirements for confidentiality established in 908 KAR 1:320; and
 - (iii) In a nonfederally assisted program, the requirements for confidentiality established in KRS 222.271(1);
 - c. An individual involved in the operation of the program or in the delivery of client services engages in ethical practices and abides by the Code of Ethics contained on the Application for DUI Program Certification or the Application for DUI Program Recertification, whichever is applicable;
 - d. A program shall not accept a client if a conflict of interest exists between the program and the client;

- e. Staff providing assessment and education services are certified by the division and that they complete training required by the division; and
 - f. Attendance by a client is documented in the client's record.
3. A program administrator shall:
- a. Investigate a complaint received from the division and shall, upon request, provide the division with records pertaining to the complaint;
 - b. Personally attend, or have a representative of the program attend, at least one (1) statewide DUI meeting annually. The division shall conduct statewide DUI meetings on a semiannual basis; and
 - c. Maintain a written record of quarterly face to face meetings with the clinical services supervisor to document review of the clinical supervision notes.
- (c) Clinical services supervisor. There shall be clinical supervision provided at all locations by a clinical services supervisor who meets the requirements established in paragraph (d) or (f) of this subsection.
- (d) Except as provided in paragraph (f) of this subsection, the clinical services supervisor shall be:
- 1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, who has 4,000 hours of clinical work experience postcertification; or
 - 2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (e) of this subsection:
 - a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;
 - d. Certified psychologist with autonomous functioning certified to function without supervision in an area specified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;
 - e. Certified psychologist with 6,000hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.056;
 - f. Psychological associate with 6,000hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.064;
 - g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;
 - h. Certified social worker with 6,000hours of postcertification clinical practice in psychiatric social work licensed by the Kentucky Board of Social Work in accordance with KRS 335.080;
 - i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a master's degree in psychiatric nursing from an accredited college or university and 6,000hours of clinical experience in psychiatric nursing;
 - j. Registered nurse who:
 - (i) Is licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university;

- (ii) Is certified as a psychiatric and mental health nurse by the American Nurses Association; and
 - (iii) Has 6,000 hours of clinical experience in psychiatric nursing;
 - k. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS 335.330;
 - l. Licensed professional clinical counselor licensed by the Kentucky Board of Licensed Professional Counselors in accordance with the provisions of KRS 335.525(1); or
 - m. Licensed professional art therapist licensed by the Kentucky Board of Licensure for Professional Art Therapists in accordance with the provisions of KRS 309.130.
- (e) A certified or licensed professional meeting the requirements established in paragraph (d)2 of this subsection shall have:
 - 1. Completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinical services supervisor in a DUI program or within two (2) years immediately after assuming responsibility as a clinical services supervisor in a DUI program; and
 - 2. 4,000 hours of work experience in the alcohol and other drug treatment field postdegree.
- (f) A person shall qualify as a clinical services supervisor under this administrative regulation if, on April 12, 2000, the person:
 - 1. Met the requirements for clinical services supervisor as established in 908 KAR 1:050 and 908 KAR 1:190;
 - 2. Had been a clinical services supervisor for at least five (5) years; and
 - 3. Was employed as a clinical services supervisor in a DUI program certified by the division.
- (g) A clinical services supervisor shall complete:
 - 1. A division approved twelve (12) hour training in clinical supervision, within six (6) months of assuming responsibility as the clinical services supervisor in a DUI program; and
 - 2. Twenty (20) hours of training in alcohol and other drug abuse treatment annually.
- (h) A clinical services supervisor shall:
 - 1. Assist a program administrator in the investigation of a complaint against a program if a complaint concerns an assessment, education, or treatment service;
 - 2. Provide clinical supervision to no more than six (6) staff delivering assessment and treatment services to clients convicted of DUI; and
 - 3. Maintain clinical supervision notes to document each supervisory session including the length of the session, content of the session, all observations of assessment and treatment services, and recommendations for improvement of knowledge base and facilitation skills.
- (3) Application for program certification.
 - (a) An individual or other entity seeking DUI program certification shall:
 - 1. Submit a completed Application for DUI Program Certification to the division;
 - 2. Submit a Program Survey Form for each location where the applicant desires to provide DUI assessment, education or treatment services and all documentation required by the division; and
 - 3. Sign the application, with his or her signature certifying compliance with:
 - a. The Code of Ethics contained on the Application for DUI Program Certification;

- b. The requirements established in this administrative regulation, and KRS 189A.040, and 189A.045; and
 - c. The requirements for confidentiality established in:
 - (i) 908 KAR 1:320 for a federally-assisted program; or
 - (ii) KRS 222.271(1) for a nonfederally-assisted program.
 - (b) A Program Survey Form shall be completed for each location:
 - 1. At the time of application for program certification or recertification; or
 - 2. If a program opens a new location.
 - (c) A Program Survey Form shall contain the:
 - 1. Type of services provided;
 - 2. Maximum fee for a service;
 - 3. Name of the curriculum delivered at the location;
 - 4. Name and telephone number of the contact person for the location;
 - 5. Hours of operation when an office is staffed;
 - 6. Address of the office where the client files for the location are maintained and stored;
 - 7. Name and title of each certified staff person providing assessment or education services at the location; and
 - 8. Name of the clinical services supervisor for the location.
 - (d) The division shall review an application, verify the information, and certify a program if the program:
 - 1. Submits a completed Application for DUI Program Certification to the division;
 - 2. Is a licensed entity in accordance with Section 2 of this administrative regulation; and
 - 3. Has staff certified by the division to deliver the required services.
 - (e) The division shall assign a program code and issue a letter and DUI Program Certification Certificate if a program is certified. The program code shall be used for verification of program certification on correspondence to the court, the Transportation Cabinet, and the division.
 - (f) Each program location shall have an additional location code issued by the division that shall be used in conjunction with a program code to identify a program and the exact location where a service is delivered.
 - (g) Program certification shall be issued by the division for a period of two (2) years, and shall be renewable unless previously revoked.
 - (h) Program certification shall not be transferred and shall apply to the individual or other entity named in the Application for DUI Program Certification or the Application for DUI Program Recertification, whichever is applicable, approved by the division.
 - (i) If there is a change of ownership, the new owner shall apply for program certification in accordance with the requirements established in this subsection.
- (4) Application for DUI program recertification.
- (a) A program administrator shall request program recertification on a completed Application for DUI Program Recertification at least thirty (30) calendar days prior to the expiration of the program's certification.
 - (b) If program certification expires, a program administrator shall submit a completed Application for DUI Program Recertification within sixty (60) calendar days of the expiration date. The program shall be considered a new applicant if the Application for DUI Program Recertification is not made within sixty (60) calendar days of the expiration date.
 - (c) If program certification lapses for sixty (60) calendar days or more, the division shall notify a program administrator, in writing, that the program is not eligible to deliver DUI services and the program shall:
 - 1. Notify active clients in writing;

2. Refer a client and transfer case coordination responsibility of a client's case to a program of the client's choice; and
 3. Submit to the division a list of active clients with a copy of each client's referral form stating the name of the program to which each client was referred.
- (d) A program administrator shall meet the requirements established in paragraph (a) of this subsection before a program is recertified.
- (5) Denial of program certification and recertification. The division shall deny a program's application for certification or recertification if:
- (a) A program fails to meet certification requirements;
 - (b) Program certification has been denied or revoked by the division within the last three (3) years;
 - (c) A current owner, program administrator, clinical services supervisor, or other principal had his or her assessor, instructor, or program administrator certification revoked by the division within the last three (3) years; or
 - (d) The division is in the administrative hearing process to revoke the assessor, instructor, or program administrator certification of a current owner, program administrator, or clinical services supervisor.
- (6) Program changes.
- (a) A program administrator shall notify the division and the cabinet, in writing, if there is a change in ownership, program name, or program location.
 - (b) A program administrator shall notify the division, in writing, on a Report of Change Form if there is a change at a location in:
 1. Services delivered;
 2. Maximum fee charged for a service;
 3. Hours of operation when an office is staffed;
 4. Location of client records;
 5. Scheduling telephone number;
 6. Contact person;
 7. Clinical services supervisor; or
 8. Other program information printed in the DUI directory.
- (7) Records.
- (a) General requirements.
 1. A program shall designate on a Program Survey Form, at the time of application for program certification, where the client records for each location and the administrative records for the program will be maintained and stored.
 2. A program administrator shall notify the division, in writing, on a Report of Change Form, if the program changes the location where client or administrative records are maintained and stored.
 3. A program administrator shall ensure that written and electronic client and administrative records are:
 - a. Stored in a locked cabinet or computer only accessible to authorized staff;
 - b. Kept confidential:
 - (i) In a federally assisted program pursuant to 908 KAR 1:320; or
 - (ii) In a nonfederally assisted program pursuant to KRS 222.271(1);
 - c. Retained for at least five (5) years from the last date of service or action taken; and
 - d. If destroyed after a five (5) year period of retention, either burned, shredded or deleted electronically in a manner that is unrecoverable.
 4. A program shall maintain a record of fees paid by a client.
 - (b) Administrative records. A program shall maintain administrative records that include:
 1. Policy and procedure manual;

2. Copies of curricula, handouts, and videos;
3. Hours of operation for each location;
4. Fee schedule and means test for determining indigency;
5. Cabinet report from most recent licensure inspection;
6. Memoranda of understanding;
7. Copies of the division's certification letters for assessors, instructors, and program administrators on staff;
8. Complaint file;
9. Assessment, education, and treatment rosters or sign in sheets; and
10. Clinical supervision notes.

(c) Client records.

1. A program shall release a client's record or disclose confidential information about the client in accordance with the client's written permission through a signed authorization for release of information.
2. A program shall release a client's record, with the client's written authorization for release of information, if:
 - a. The division or its designee requests release of a record; or
 - b. A client is referred to another program for education or treatment services.
3. A program shall release a client's record upon receipt of a court order.
4. A program shall open a separate written or electronic record for a client at the time of assessment, or upon enrollment in education or admission to treatment, if the client is referred to another program after receiving an assessment.
5. Client records shall include the following forms developed by the program and signed by the client:
 - a. Client rights statement;
 - b. Client notice of confidentiality and confidentiality agreement;
 - c. Fee agreement;
 - d. Authorization for release or disclosure of information; and
 - e. As applicable, the information required by subparagraphs 6, 7, or 8 of this paragraph.
6. If a client receives an assessment, his or her record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. An AOC 494 form (Notice to Attend Alcohol Driver Education Program) or a court order;
 - c. Uniform citation;
 - d. Kentucky DUI Assessment Instrument printout;
 - e. Clinical interview and interview notes;
 - f. Freedom of choice statement;
 - g. Confirmation and acceptance of assessment statement;
 - h. Referral agreement, if applicable;
 - i. Certificate of enrollment;
 - j. Case coordination contacts; and
 - k. Certificate of completion or notice of noncompliance.
7. If a client receives education, his or her record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. An education agreement signed by the client; and
 - c. A record of attendance.
8. If a client receives treatment, his or her record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. A treatment plan signed by the client and the clinician and treatment plan reviews signed by the clinician;

- c. Progress notes signed and dated by the clinician, recorded after each client contact documenting the type of contact or service provided, and the client's participation; and
 - d. A discharge summary documenting completion or noncompliance signed and dated by the clinician.
- (8) Fees. The fee for assessment, education, or treatment shall be established by a program and paid by a client pursuant to KRS 189A.040 in accordance with this subsection.
 - (a) A fee for assessment shall include all fees associated with screening, intake, clinical interview, client transfers, monitoring of client progress, and all other case coordination activities including exit or discharge interviews.
 - (b) A fee for education shall include only those costs associated with the delivery of the Prime for Life Risk Reduction Program (PRI) Twenty (20) Hour Curriculum including any cost for participant manuals.
 - (c) A fee for treatment shall:
 - 1. Include those costs involved in delivering individual or group counseling and the fee for treatment plan reviews; and
 - 2. Not include a separate fee for case coordination activities.
 - (d) A DUI program shall not charge a fee for group outpatient sessions not attended.
 - (e) The fee schedule published in the DUI directory shall be posted in a public area of each facility visible to a client.
 - (f) The fee a client is charged shall not exceed a program's maximum published fee.
 - (g) A program shall explain the program's fee and payment requirements to the client at the time of the assessment or upon enrollment in education or admission to treatment, if the client is referred to another program after receiving an assessment.
 - (h) A program shall not charge a client a fee unless the client has signed a fee agreement.
 - (i) A program's sliding fee scale shall be based on a means test and applied objectively to a client to determine a client's ability to pay.
 - (j) If a client states that he or she is an indigent person, a program shall refer the client to the court to have an affidavit of indigency executed by the court. A program shall:
 - 1. Accept a client determined indigent by the court; and
 - 2. Deliver services free of charge or for the amount specified by the court.
- (9) DUI directory.
 - (a) The division shall:
 - 1. Publish annually on July 1 of each year a directory of all certified DUI programs; and
 - 2. Issue additions, revisions, and corrections quarterly on October 1, January 1, and April 1, of each year as changes occur.
 - (b) The directory shall include DUI programs certified to provide DUI assessments and shall be distributed upon request to the following:
 - 1. District court judges;
 - 2. Circuit clerks;
 - 3. Certified DUI programs; and
 - 4. The public.
 - (c) The directory shall have a county section that includes:
 - 1. The location of each program having an assessment center in a county;
 - 2. The services provided at each program location;
 - 3. The maximum fee for a service; and
 - 4. Specific terms and conditions related to DUI services that are required by a program.

(d) A program administrator shall report changes for the directory to the division, on a Report of Change Form, at least thirty (30) calendar days prior to the publication dates established in paragraph (a) of this subsection. If the division does not receive a Report of Change Form by the deadline date, the division shall hold a change until the next scheduled publication of the directory.

Section 4. Assessor, Instructor, and Program Administrator Certification Requirements.

(1) General requirements.

(a) Only an individual holding valid certification from the division shall provide DUI assessment or education services. An individual certified by the division shall not provide DUI assessment or education services except in a program that is certified by the division.

(b) An individual desiring to provide assessment, program administration, or education services shall apply for certification to the division. To be certified, an individual shall:

1. Meet the requirements for certification established in this section; and
2. Complete the training required by subsection (3) of this section.

(c)

1. Certification for an assessor, program administrator, or instructor shall be for a period of five (5) years from the date of an individual's initial certification as an assessor, program administrator, or instructor.

2. An assessor, program administrator, or instructor shall renew his or her certification in accordance with subsection (4) of this section every five (5) years.

3. Certification that is not renewed or revoked prior to the end of the five (5) year period shall automatically expire at the end of that time period.

(2) Credentials for assessors, program administrators, and instructors.

(a) Assessors. An individual desiring certification as an assessor shall complete twenty (20) hours of training in alcohol and other drug abuse counseling annually and, except as provided in paragraph (c) of this subsection, shall be:

1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;

2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) of this subsection:

a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

d. Certified psychologist with autonomous functioning certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

e. Certified psychologist certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

f. Psychological associate certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.064;

g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;

h. Certified social worker certified by the Kentucky Board of Social Work in accordance with KRS 335.080;

- i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a master's degree in nursing from an accredited college or university;
 - j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with one (1) of the following combinations of education and work experience:
 - (i) Bachelor of science in nursing from a four (4) year program from an accredited college or university and 2,000 hours of clinical work experience in the substance abuse or mental health field;
 - (ii) Diploma graduate in nursing from a three (3) year program and 4,000 hours of clinical work experience in the substance abuse or mental health field; or
 - (iii) Associate degree in nursing from a two (2) year program from an accredited college or university and 6,000 hours of clinical work experience in the substance abuse or mental health field;
 - k. Advanced practice registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;
 - l. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS 335.330;
 - m. Licensed professional clinical counselor licensed by the Kentucky Board of Licensed Professional Counselors in accordance with the provisions of KRS 335.525(1); or
 - n. Licensed professional art therapist licensed by the Kentucky Board of Licensure for Professional Art Therapists in accordance with the provisions of KRS 309.130; or
3. An individual who will meet the requirements of a licensed or certified professional established in subparagraph 1 or 2 of this paragraph within three (3) years of the date of his or her application for certification as a DUI assessor and who has:
- a. A master's degree from an accredited college or university in a program that required completion of a clinical practicum; or
 - b. A bachelors degree or greater from an accredited college or university, plus one (1) year full-time supervised clinical work experience in the licensed treatment program where the individual is currently employed.
- (b) A certified or licensed professional meeting the requirements established in paragraph (a)2 of this subsection shall have completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of his or her application for DUI assessor certification.
- (c) A person shall qualify as a DUI assessor under this administrative regulation if, on April 12, 2000, the person:
1. Met the requirements for a certified DUI assessor established in this administrative regulation as those requirements existed on January 1, 2000;
 2. Had been a certified DUI assessor for at least five (5) years; and
 3. Was employed as a certified assessor in a DUI program certified by the division.
- (d) Instructors. An individual desiring certification as an instructor shall meet one (1) of the following requirements:
1. Have a bachelors degree or greater from an accredited college or university;
 2. Have an associate degree from an accredited college or university, with 4,000 hours of supervised work experience in direct client services in the substance abuse field;
 3. Have a high school diploma or a general education development equivalency certificate from a state board of education, with 8,000 hours of supervised work

experience in direct client services in the substance abuse field;

4. Meet the requirements for a certified assessor established in paragraph (a) or (c) of this subsection; or

5. Meet the requirements for a clinical services supervisor established in Section 3(2)(d) or (f) of this administrative regulation.

(e) Program administrator. An individual applying for certification as a program administrator shall meet one (1) or more of the following requirements:

1. Have a bachelors degree or greater from an accredited college or university with 2,000 hours of work experience in the alcohol and other drug treatment field;

2. Have an associate degree from an accredited college or university with 4,000 hours of supervised work experience in the direct client services in the alcohol and other drug treatment field;

3. Have a high school diploma or a general education development equivalency certificate from a state board of education with 8,000 hours of supervised work experience in direct client services in the alcohol and other drug treatment field;

4. Meet the requirements for a certified DUI assessor established in paragraph (a) of this subsection; or

5. Be an individual who, on the effective date of this administrative regulation:

a. Had been a program administrator for at least five (5) years; and

b. Was employed as a program administrator in a DUI program certified by the division.

(3) Assessor, instructor, and program administrator certification and recertification training.

(a) General training requirements.

1. Only training approved by the division shall suffice as acceptable training for DUI assessor, instructor, and program administrator certification or recertification.

2. An individual desiring certification or recertification as an assessor, instructor, or program administrator shall submit a completed DUI Assessor Certification Application, DUI Assessor Recertification Application, DUI Instructor Certification Application, or DUI Instructor Recertification Application, DUI Program Administrator Certification Application, or DUI Program Administrator Recertification Application, whichever is applicable, to the division no later than the deadline date indicated on the training announcement issued by the division.

3. The application shall be accompanied by a copy of the following:

a. Official transcripts;

b. Diplomas;

c. Certificates;

d. Documentation of certification or licensure; and

e. Documentation of work experience.

4. Assessor, instructor, or program administrator certification or recertification shall not be issued by the division until the fee for training is paid in full.

5. If an individual making application for an assessor, instructor, or program administrator certification or recertification training fails to meet the established requirements, the division shall deny the application and notify the applicant, in writing, of the reason for the denial.

6. Within thirty (30) calendar days after completion of an assessor, instructor, or program administrator training, the division shall notify the program and the individual, in writing:

a. That the individual has:

(i) Satisfactorily completed a training;

(ii) Met the requirements for certification or recertification; and

(iii) Been certified or recertified; or

- b.
 - (i) Of an observed deficiency as it relates to assessor, instructor, or program administrator certification; and
 - (ii) The reason for withholding certification or recertification.
- (b) Training requirements for assessors. An individual desiring certification as an assessor who has the necessary education and work experience shall:
 - 1. Attend and participate in all sessions of an assessor certification training offered by the division;
 - 2. Obtain an overall score of eighty (80) percent or better on performance in each of the following areas:
 - a. A written posttest on general course content;
 - b. A written posttest on the Kentucky DUI Assessment Instrument; and
 - c. A demonstration of ability to make an appropriate client referral based on a written case study;
 - 3. Receive a written recommendation from both the trainer and the division representative; and
 - 4. Sign the application, with his or her signature certifying compliance with:
 - a. The Code of Ethics contained on the application; and
 - b. The requirements established in this administrative regulation.
- (c) Training requirements for instructors. An individual desiring certification as an instructor who has the necessary education and work experience shall:
 - 1. Attend and participate in all sessions of a division approved instructor certification training;
 - 2. Complete training in the Prime for Life Risk Reduction Program (PRI) Twenty (20) Hour Curriculum approved by the division;
 - 3. Obtain a score of eighty (80) percent or better on a written posttest;
 - 4. Demonstrate ability to make an oral presentation of assigned material;
 - 5. Receive a written recommendation from both the trainer and the division representative; and
 - 6. Sign the application, with his or her signature certifying compliance with:
 - a. The Code of Ethics contained on the application; and
 - b. The requirements established in this administrative regulation.
- (d) Training requirements for program administrator certification. An individual applying for initial certification as a program administrator, who has the necessary education and work experience in accordance with subsection (2)(e) of this section, shall:
 - 1. Sign the application, with his or her signature in the Applicant's Statement portion certifying compliance with:
 - a. The Code of Ethics contained on the application; and
 - b. The requirements established in this administrative regulation; and
 - 2. Complete six (6) hours of training conducted by the division within one (1) year of signing the Applicant's Statement.
- (4) Assessor, instructor, and program administrator recertification.
 - (a) An individual desiring recertification as an assessor shall:
 - 1. Meet the requirements for a DUI assessor established in subsection (2)(a) or (c) of this section, on the date of his or her application for assessor recertification; and
 - 2. Submit to the division a DUI Assessor Recertification Application and the other forms required by subsection (3)(a)3. of this section by October 1 of the calendar year in which his or her certification expires.
 - (b) An individual desiring recertification as an instructor shall:
 - 1. Meet the requirements for a DUI instructor established in subsection (2)(d) of this section;

2. Submit to the division a DUI Instructor Recertification Application and the other forms required by subsection (3)(a)3. of this section by October 1 of the calendar year in which his or her certification expires; and
 3. Complete a training authorized by the division.
- (c) An individual desiring recertification as a program administrator shall:
1. Meet the education, work experience, and credentialing requirements in accordance with subsection (2)(e) of this section; and
 2. Submit to the division a completed DUI Program Administrator Recertification Application and the other forms required by subsection (3)(a)3. of this section by October 1 of the calendar year in which his or her certification expires.
- (d) If an individual's assessor, instructor, or program administrator certification lapses for sixty (60) days or more, the individual's application for assessor, instructor, or program administrator recertification shall be processed as a new application and the individual shall complete the requirements for initial certification established in subsections (2) and (3) of this section.
- (e) If an individual does not meet the requirements for an assessor, instructor, or program administrator at the time of his or her application for recertification:
1. The division shall deny the application for recertification and notify the individual and the program, in writing, of the reason for denial; and
 2. The individual's currently held certification shall expire pursuant to subsection (1)(c)3 of this section.
- (5) Revocation of assessor, instructor, or program administrator certification.
- (a) The division shall revoke assessor, instructor, or program administrator certification if an individual:
1. Fails to comply with the requirements established in this administrative regulation;
 2. Violates the Code of Ethics contained on the application for assessor, instructor, or program administrator certification;
 3. Is convicted while holding certification from the division of a violent crime, hate crime, or sex crime;
 4. Falsifies information on an application for DUI certification or recertification; or
 5. Engages in behavior that would lead the division to determine that the safety of a client is threatened.
- (b) The revocation of an individual's assessor, instructor, or program administrator certification shall be for a period of three (3) years and shall be effective on the date stated in the notice sent to the individual assessor, instructor, or program administrator by the division.

Section 5. Certified Program, Assessor, Instructor, or Program Administrator Complaints and Program Monitoring.

(1) Complaints.

- (a) An individual may submit a complaint related to a certified program, a certified assessor, a certified instructor, or a program administrator that is not resolved by a program through its grievance procedure to the division.
- (b) A program shall be responsive and make an effort to resolve a client's complaint through its grievance procedure.
- (c) A complaint shall be submitted to the division, in writing, on a DUI Complaint Form or in a letter.
- (d) The division shall investigate a complaint, notify the complainant and the program, in writing, of the results of the investigation and take any necessary action.
- (e) The division shall notify a professional licensing or certification board, in writing, at the conclusion of an investigation of the results of the investigation if a complaint is

related to a violation of a standard established by a professional board or a statutory violation relating to the board's jurisdiction.

(2) Program reviews.

(a) The division shall conduct periodic program reviews to determine if a program is in compliance with the requirements established in this administrative regulation, and KRS 189A.040 and 189A.045.

(b) A program review shall consist of one (1) or more of the following:

1. An interview with either a program administrator or a clinical services supervisor;
2. Completion of a Comprehensive DUI Program Review Form;
3. A review of administrative records;
4. A review of client records using the Client Record Review form;
5. Off-site monitoring by division staff of assessment records submitted by a program;
6. Observation of an assessment, education, or treatment service using the Assessment Observation Form, Education Observation Form, or Treatment Observation Form, as indicated by the type of service observed;
7. Client interviews using the Client Evaluation of Assessment Program, the Client Evaluation of Treatment Program, or the PRI Client's Evaluation of Education Services Received;
8. The review of other materials necessary to determine compliance with this administrative regulation, and KRS 189A.040 and 189A.045; or
9. Physical inspection of a program's facility.

(c) The division shall notify a program, in writing, at least two (2) weeks prior to the date of an announced program review.

(d) A program review may be made at any of a program's locations and may be unannounced.

(e) A program shall:

1. Allow a division representative access to a facility;
2. Provide a copy of records and materials requested; and
3. Allow a division representative to attend and observe an assessment, education class, or treatment session conducted by the program.

(f) The division shall issue a written report of findings and provide a copy of the results of its program review to the program within ninety (90) calendar days after completion of a program review.

(3) Plan of correction.

(a) The division shall require a program that is not in compliance with the requirements established in this administrative regulation, and KRS 189A.040 or 189A.045 to submit an acceptable plan of correction to the division within thirty (30) calendar days from the date a program receives a report of findings from the division.

(b) The plan of correction shall:

1. Be developed with participation of the program administrator, the clinical services supervisor, and any staff responsible for the implementation of the corrective action for the deficiencies noted in the program review;
2. Contain a descriptive plan of action including a time schedule for achieving implementation of the corrective actions for the deficiencies;
3. Be accompanied by copies of any forms developed and utilized to bring the program into compliance, including those forms required by Section 3(7)(c)5. to 8. of this administrative regulation; and
4. Be signed by the DUI Program Administrator and any staff involved in the development of the plan of correction and for the implementation of the corrective action for the deficiencies.

(c) The division may conduct a follow-up program review to ensure:

1. The plan of correction has been implemented; and
2. The program is in compliance with this administrative regulation, and KRS 189A.040 and 189A.045.

(d) If the division conducts a follow-up program review, a copy of the Follow-up DUI Program Review form shall be issued to the program within ninety (90) calendar days of the completion of the follow-up program review.

(e) If a plan of correction has not been implemented, the division shall take action to revoke program certification.

(4) Voluntary closure.

(a) A program desiring to close voluntarily shall:

1. Notify the division, in writing, that it will voluntarily surrender its program certification by mailing to the division its DUI Program Certification Certificate;
2. Stop accepting client referrals;
3. Notify active clients in writing;
4. Refer a client and transfer case coordination responsibility of a client's case to a program of his or her choice; and
5. Submit to the division, within ten (10) calendar days of the notification made under subparagraph 1 of this paragraph, a list of active clients and a copy of the following information for each client:
 - a. Name, address and telephone number;
 - b. Date of birth and either the client's Social Security or driver's license number;
 - c. DUI conviction number;
 - d. Date of assessment and referral information including level of care and agency to which a client is referred;
 - e. Number of sessions completed;
 - f. Date of last attendance; and
 - g. Reason for noncompliance if a client is noncompliant.

(b)

1. A program that voluntarily surrenders its certification in compliance with the requirements established in paragraph (a) of this subsection may reapply for program certification at any time.
2. The division shall revoke the program certification of a program that voluntarily surrenders its certification if the program fails to comply with the requirements established in paragraph (a) of this subsection. The revocation shall be in accordance with the requirements established in subsection (5)(d) of this section.
3. If a program voluntarily surrenders its certification following an action by the division to revoke the program's certification, revocation shall be in accordance with subsection (5)(d) of this section.

(5) Revocation of program certification.

(a) The division shall revoke the certification of a program that is not in compliance with the requirements established in this administrative regulation, and KRS 189A.040 or 189A.045.

(b) The division shall immediately revoke a program's certification if it determines there is an immediate danger to clients.

(c) The division shall revoke the certification of a program that has failed to implement the plan of correction submitted to the division as a result of a program review.

(d) The revocation of program certification shall be:

1. For a period of three (3) years; and
2. Effective on the date stated in the notice sent to the program by the division.

(e) If the division revokes program certification, a program shall:

1. Stop providing DUI services;
2. Stop accepting client referrals;

3. Notify active clients in writing;
4. Refer a client and transfer case coordination responsibility of a client's case to a program of his or her choice; and
5. Submit to the division, within ten (10) calendar days of the notification from the division, a list of active clients and a copy of the following information for each client:
 - a. Name, address and telephone number;
 - b. Date of birth and either the client's Social Security or driver's license number;
 - c. DUI conviction number;
 - d. Date of assessment and referral information including level of care and the name of the program to which a client is referred;
 - e. Number of sessions completed;
 - f. Date of last attendance; and
 - g. Reason for noncompliance if a client is noncompliant.

Section 6. Assessment Requirements.

(1) Assessment process.

(a)

1. Except as provided in subparagraph 2 of this paragraph, a program providing assessment services shall administer the Kentucky DUI Assessment Instrument to a client receiving a DUI assessment. A program may use supplemental assessments in addition to the Kentucky DUI Assessment Instrument.
2. A program shall have six (6) months from the 2011 effective date of this administrative regulation to comply with the requirement that the Web-based Kentucky DUI Assessment Instrument be administered in every DUI assessment. During this six (6) month transitional period, a program shall:
 - a. Meet the requirements for a DUI assessment established in this administrative regulation; and
 - b. Enter all new assessment records via the Internet.
3. For users of the PC-based Kentucky DUI Assessment Instrument, the Kentucky DUI Assessment Instrument records and the completion and noncompliance reports shall be electronically downloaded and sent either on removable computer media, or via email to the division, or its designee, on a monthly basis. Written notification shall be sent to the division or its designee, in lieu of electronic records if records or reports are not available for download.
4. For users of the Web-based Kentucky DUI Assessment Instrument, new assessment records shall be entered via the internet within three (3) business days of the assessment. Completion and noncompliance information shall be entered within three (3) business days of a client's completion or noncompliance.

(b) The Kentucky DUI Assessment Instrument printout generated at a client's assessment shall:

1. Be signed and dated by the assessor and client;
2. Contain comments by the assessor explaining the referral decision; and
3. Be placed in the client's file at least thirty (30) calendar days after the client's assessment.

(c) An assessment shall be conducted:

1. At a program's certified location; or
2. If a court orders an assessment of an individual that is incarcerated, in a jail or a prison.

(d) A DUI assessment shall be conducted in person, and shall include:

1. Administration of the Kentucky DUI Assessment Instrument;

2. A private face-to-face clinical interview conducted by a certified DUI assessor, using the assessor's own clinical interview with the findings of the interview recorded on the check list provided in the Kentucky DUI Assessment Instrument;
3. Consideration of referral options and the client's resources that are documented in the Kentucky DUI Assessment Instrument;
4. A determination of the severity of the client's problem;
5. Referral to a program of the client's choice that offers a service at the level of care appropriate to the severity of the client's problem; and
6. The cosigning by the client and assessor of the following forms developed by the program:
 - a. Fee agreement;
 - b. Client rights statement;
 - c. Confidentiality statement;
 - d. Freedom of choice statement and a referral agreement;
 - e. Confirmation that a client received an assessment statement;
 - f. Authorization for release of information;
 - g. Certificate of enrollment; and
 - h. Kentucky DUI Assessment Instrument printout.

(e)

1. Except as provided in subparagraph 2 of this paragraph, a DUI assessment shall be conducted by an assessor holding valid certification from the division.
2. The screening instrument portion of the Kentucky DUI Assessment Instrument shall be either self-administered via a hard copy of the paper and pencil version of the AUDIT/DAST or administered by a certified or noncertified individual.

(f) The screening instrument portion of the Kentucky DUI Assessment Instrument shall be administered individually or in a group.

(g) A program shall maintain a Roster of Assessments that includes:

1. Client name, date of birth and Social Security or driver's license number;
2. Assessment date; and
3. Type of referral and referral program.

(h) A certified DUI assessor shall demonstrate knowledge, skills, and competence in the following essential clinical areas:

1. Classifying mental or substance abuse disorders using the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
2. Progression and characteristic of substance abuse disorder;
3. Range of life areas to be assessed and the effects of substance use on those areas;
4. Continuum of care, the available range of treatment modalities, and referral resources;
5. Administration and interpretation of screening instruments;
6. Assessment of a client's readiness and motivation to take responsibility and address substance abuse issues; and
7. Communication of recommendations to the client and accurate documentation of the referral process.

(2) Client referrals. A DUI program shall accept a client referral from another program or a court.

(a) Court referral of DUI offenders.

1. An individual convicted of DUI in Kentucky shall obtain an assessment at a certified program of his choice or her listed in a directory published by the division in accordance with Section 3(9) of this administrative regulation.
2. Before accepting a client for an assessment, a program shall:
 - a. Obtain an AOC 494 form or a court order; or

- b. Document the client's file to show the reason one (1) of these forms could not be obtained.
 3. If a client has received an assessment for a conviction at another DUI program, a program shall not conduct a subsequent assessment for the client without obtaining a new court order.
- (b) Program referral of DUI offenders.
 1. A program desiring to make or receive a client referral shall execute a written Memorandum of Understanding with the in-state or out-of-state programs with which it will make or receive referrals.
 2. A memorandum of understanding shall include the:
 - a. Name of both programs;
 - b. Date it is executed;
 - c. Duties and responsibilities of each program to include the requirements for case coordination contacts between the programs;
 - d. Purpose of the agreement;
 - e. Terms for termination of the agreement; and
 - f. Signatures of each program's program administrator.
 3. A program may refuse a client referral because of:
 - a. Inadequate staff;
 - b. Lack of an appropriate service;
 - c. A client waiting list; or
 - d. A program's previous unsuccessful attempt to treat a client.
 4. A program shall not accept a client referral from another program without first obtaining a copy of the client's assessment and other available records pertinent to the client's assessment, education, or treatment.
 5. A program shall inform a client at the time of the assessment that if the client fails to disclose all outstanding DUI convictions, the services the client receives will not meet the requirements for reinstatement of a driver's license.
 6. A program shall refer a client to a program of the client's choice, at an appropriate level of care based on the client's assessment. A program shall have a client sign a referral agreement stating the client has been given freedom of choice in the selection of a program.
 7. A program shall:
 - a. Allow a client freedom of choice in the selection of a program in which the client will receive education or treatment services; and
 - b. Not allow a client to select the level of care or type of service, which shall be based on the results of the client's assessment and the availability of services.
 8. A program shall transfer a client's assessment results and the referral form generated by the Kentucky DUI Assessment Instrument to a program of the client's choice offering service at the level of care needed by the client.
- (3) Case coordination requirements.
 - (a) A program that conducts a client's assessment shall be responsible for case coordination whether the client receives education or treatment services at the program that conducted the assessment or at another program.
 - (b) . To determine if a client is compliant or noncompliant, case coordination shall be conducted and include:
 1. Having regular contact with the program receiving a client referral to determine a client's compliance with the recommended education or treatment;
 2. Documentation in an assessment record of actions and contacts related to follow up on a client;
 3. Sending a certificate of enrollment to the court after a client is assessed pursuant to KRS 189A.045;

4. Providing information on a client's progress to the court upon request;
 5. Notifying the circuit clerk of the court within three (3) working days after making a determination or receiving notice that a client is noncompliant of the need to schedule a show-cause hearing;
 6. Sending a completion report to the Transportation Cabinet and the court within three (3) working days after making a determination or receiving notice that a client is compliant;
 7. Providing a certificate of completion to a client who satisfactorily completes the required services; and
 8. Sending completed Kentucky DUI assessment records in accordance with subsection (1)(a)3. and 4. of this section on a monthly basis to the division or its designee on removable computer media or via online submission.
- (c) A program administrator shall notify the court within three (3) working days of the date specified in the client's fee agreement, if a client fails to pay for an assessment within the time stated in the fee agreement.

Section 7. Additional Client Considerations.

(1) Out of state clients and program.

(a) A non-Kentucky licensee convicted of DUI in Kentucky may attend an out of state program without referral. Notification to or approval by the division shall not be required. The client shall bear the burden of demonstrating to the satisfaction of the court and Kentucky Transportation Cabinet that the out of state program:

1. Is licensed or otherwise authorized to provide DUI services;
2. Complies at a minimum with the requirements of this administrative regulation;
- and
3. Satisfies the requirements of KRS Chapter 189A.

(b) If a client receives an assessment from the Kentucky Certified DUI Program and chooses education or treatment services in another state, the Kentucky Certified DUI Program shall:

1. Locate an out of state program;
2. Contact the out of state program to arrange the client's enrollment;
3. Send the program receiving the referral a DUI Referral Report Form and a Case Coordination Form, which are part of the Kentucky DUI Assessment Instrument;
- and
4. Provide case coordination.

(c) A Kentucky licensed driver and resident convicted of DUI pursuant to KRS 189A.010(1)(a) through (f) shall receive a DUI assessment in Kentucky. Referral to an out of state program may be allowed if the program is licensed to provide services at the level of care necessary to satisfy Kentucky's requirements.

(d) If a non-Kentucky licensee with an out of state conviction attends a Kentucky Certified DUI Program, compliance reporting and case coordination shall be in accordance with the requirements of the convicting state.

(2) Clients with special needs.

(a) If a client is identified as having a special need at the time of assessment, a program shall provide services either directly or through referral according to the following:

1. Questions and instructions shall be read orally to a client who is unable to read and responses shall be recorded for a client who is unable to write;
2. A qualified interpreter shall be provided for a deaf client;
3. Reasonable accommodations shall be made for a client who is unable to communicate in English; and
4. A pregnant client shall be referred for prenatal care.

- (b) A program shall document in a client's record special needs services the client receives.
- (c) Responsibility for payment of a special need service shall be according to the following:
1. A program shall be responsible for payment of interpreter services pursuant to KRS 30A.415; and
 2. A client shall be responsible for payment of other services required because of a special need pursuant to KRS 189A.040.
- (d) A program shall comply with the rules of confidentiality established in:
1. 908 KAR 1:320 if providing interpreter services to a client in a federally-assisted program; or
 2. KRS 222.271(1) if providing interpreter services to a client in a nonfederally-assisted program.
- (3) A client that receives treatment before an assessment. If a client receives treatment after being charged with DUI, without first receiving an assessment, a program shall:
- (a) Obtain a copy of a court order from the court and a copy of the client's uniform citation;
 - (b) Conduct an assessment and case coordination in accordance with Section 6(1) and (3) of this administrative regulation; and
 - (c) Give the client credit for treatment received since his or her DUI arrest if it can be documented that the treatment was at the level of care needed by the client based on the assessment conducted pursuant to paragraph (b) of this subsection.
- (4) A client with multiple DUI convictions. If a client presents for an assessment with multiple unresolved DUI convictions, a program shall:
- (a) Obtain a copy of the client's uniform citation and an AOC 494 form or court order for each conviction;
 - (b) Conduct one (1) assessment and case coordination in accordance with Section 6(1) and (3) of this administrative regulation;
 - (c) Refer the client to treatment at a level of care appropriate to satisfy the client's clinical needs and all of the client's DUI convictions; and
 - (d) Complete a separate completion report for each of the client's convictions.
- (5) A client convicted of DUI while enrolled in a program. If a client receives a subsequent conviction for DUI while enrolled in an education or treatment program, a program shall:
- (a) Obtain a copy of the client's uniform citation and an AOC 494 form or court order for the subsequent conviction;
 - (b) Conduct another assessment and case coordination in accordance with Section 6(1) and (3) of this administrative regulation;
 - (c) Refer the client to a level of care appropriate to satisfy the client's clinical needs and all of the client's DUI convictions;
 - (d) Document the client's file to show that the client's admission to treatment began at the time the client was reassessed; and
 - (e) Complete a separate completion report for each of the client's convictions.
- (6) Prior services received by a client. If a client requests services after being reported noncompliant, a program shall:
- (a) Refer the client back to the court for a new court order;
 - (b) Conduct a DUI assessment; and
 - (c) Give the client credit for prior services if it can be documented that:
 1. The services were at the level of care indicated by the assessment;
 2. The services were received within the last six (6) months; and
 3. The client is progressing in accordance with the completion requirements.

(7) Early release of a second offender. If the program responsible for a client's case coordination determines a second offender, who has completed at least six (6) months of the treatment that was recommended based on the client's assessment, has completed a program prior to the end of the one (1) year period ordered by the court, the administrator of the program shall send a written report notifying the court that the client has completed the program.

(8) A client under twenty-one (21) years of age. If a client is under twenty-one (21) years of age, a program shall deliver services:

(a) In accordance with the requirements established in this administrative regulation if the client is convicted of DUI pursuant to KRS 189A.010(1)(a) through (d); or

(b) In accordance with a court order, not subject to the requirements established in this administrative regulation, if the client is convicted pursuant to KRS 189A.010(1)(e).

(9) Early release of a first offender referred to treatment. A first offender referred to treatment may be deemed appropriate for release prior to the expiration of the ninety (90) day requirement if the offender:

(a) Has achieved all goals and objectives stated in the treatment plan;

(b) Has completed a minimum of two (2) months in treatment;

(c) Has received the recommendation of the assessor providing case coordination; and

(d) Has met all completion requirements.

(10) Clients under the influence of alcohol or other drugs. If a client presents for services under the influence of alcohol or other drugs:

(a) The DUI program staff shall protect the safety and welfare of all clients by arranging for the impaired client's removal from the facility;

(b) The DUI program administrator or the clinical services supervisor shall contact the case coordinator; and

(c) The case coordinator shall re-evaluate the level of care appropriate to address the client's problem.

Section 8. Education Requirements.

(1) Approved curriculum. A DUI program desiring to provide education services shall ensure that:

(a) The education delivered within the program is the twenty (20) hour curriculum approved by the division, the PRIME for Life Risk Reduction Program (PRI) Twenty (20) Hour Curriculum;

(b) Education is provided:

1. In person by an instructor holding valid DUI instructor certification from the division for the particular education session to be delivered; or

2. For a program that delivered education via video telecommunication equipment on the effective date of this administrative regulation, either in person or through continued use of video telecommunication equipment for education delivery, by an instructor holding valid DUI instructor certification from the division. To deliver education via video telecommunication equipment under this subparagraph, the program shall:

a. Notify the division in writing within fourteen (14) days following the effective date of this administrative regulation of its preference to continue to use video telecommunication equipment in the delivery of education; and

b. Receive written approval from the Division within thirty (30) days of the effective date of this administrative regulation;

(c) A certified instructor delivers a curriculum in accordance with the curriculum delivery standards established by subsection (2) of this section and was taught at a DUI instructor certification training conducted by the Prevention Research Institute, Inc.;

(d) A certified DUI instructor demonstrates knowledge, communication, and facilitation skills as evidenced by:

1. Delivery of key supporting points of the curriculum;
2. Exhibiting skill in processing curriculum and participant journal activities;
3. Exhibiting fluency with curriculum content;
4. Ability to maintain class focus on subject of session;
5. Ability to engage each participant in discussions;
6. Ability to manage client defense and resistance;
7. Exhibiting sensitivity to individual client learning styles; and
8. Communicating a belief in the accuracy and importance of the curriculum; and

(e) A certified DUI instructor who is observed to lack the necessary skills outlined in paragraph (d) of this subsection receives additional instructor development to elevate his or her skill level to the extent necessary to perform as required by paragraph (d) of this subsection.

(2) Delivery standards.

(a) The twenty (20) hour curriculum shall:

1. Be for a first offender assessed as needing only education or as a supplement to treatment if delivered to a first or multiple offender assessed as needing treatment;
2. Consist of twenty (20) hours of instruction and group interaction that increases a client's awareness and knowledge about the risks of alcohol and other drug use and helps develop skills to change a client's attitude and behavior in relation to alcohol and other drug abuse; and
3. Be delivered no more than:
 - a. Three (3) hours per day; and
 - b. Three (3) times per week.

(b) A program may enroll first offenders and multiple offenders in the same session.

(c) A program administrator shall ensure that:

1. There are no more than twenty (20) and no less than two (2) clients in a session;
2. A curriculum is delivered in accordance with the delivery standards established in this subsection;
3. Required manuals for a curriculum are distributed to and used by a client;
4. A client is given the manual for personal use after completion of an education service;
5. Videos required in a curriculum are shown to a client;
6. Supplemental videos and speakers that are not approved as part of a curriculum are not used for an education service; and
7. Evaluation of DUI educational classes are completed by the participants and submitted to the division at the conclusion of each twenty (20) hour education course.

(3) Documentation and completion requirements for education sessions.

(a) A program shall maintain a sign-in sheet for an education session that includes the:

1. Name of the curriculum;
2. Title and number of the session;
3. Date, time, location, and name of the instructor; and
4. Client name and signature.

(b) A program shall require a client to:

1. Attend and participate in each session of a curriculum;
2.
 - a. If the client is a first offender, attend each session of the curriculum in any order; or
 - b. If the client is a multiple offender, except as provided by paragraph (c) of this subsection, attend sessions in sequence beginning with chapter 1;

3. Comply with a program's rules of conduct; and
 4. Pay required fees.
- (c) If a client who is a multiple offender cannot attend a session, due to an emergency, a program shall allow the client to attend a session out of sequence the next time the chapter is presented by a program. Documentation of the emergency shall be maintained in the client's file.
- (d) If a client is receiving education at a program other than the program from which the assessment was received, the program administrator shall notify the individual responsible for the client's case coordination if the client:
1. Demonstrates a need for service at a different level of care;
 2. Satisfactorily completes education; or
 3. Is noncompliant.
- (e) If a client is receiving education at the program from which the assessment was received, the program administrator shall:
1. Determine if the client has satisfactorily completed the DUI education service; and
 2. Report compliance or noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation.
- (f) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection.

Section 9. Treatment Requirements.

(1) General requirements.

- (a) A DUI program desiring to provide treatment services shall:
1. Comply with the licensing requirements established in Section 2 of this administrative regulation;
 2. Employ treatment staff who meet the requirements established in 908 KAR 1:370, Section 8; and
 3. Ensure that all treatment staff have knowledge, skill, and abilities demonstrating competence as evidenced by;
 - a. Communicating in a non-judgmental and respectful attitude toward clients;
 - b. Engaging clients in the treatment process;
 - c. Ability to facilitate group interaction;
 - d. Demonstrating knowledge of substance abuse related life issues;
 - e. Demonstrating knowledge of the signs and symptoms of relapse;
 - f. Utilizing techniques to assist clients in meeting goals;
 - g. Ability to deal effectively with resistance;
 - h. Ability to address individual client differences and needs;
 - i. Demonstrating knowledge of the physical and psychological complications of alcohol and other drug abuse; and
 - j. Demonstrating the ability to develop treatment plans and document progress notes in accordance with the standards established in subsection (2) of this section.
- (b) A program shall ensure that the treatment a client receives is based on that client's assessment. A client may be referred to outpatient, intensive outpatient, inpatient, residential, residential transitional living, or detoxification treatment services in a licensed treatment program in state or out of state pursuant to the requirements established in this administrative regulation.
- (c) A program shall deliver treatment services in person according to the requirements established in this paragraph.
1. A client shall receive individual or group treatment.
 2. A treatment group may include first and multiple offenders in the same session.

3. A sign in sheet shall be maintained which contains the date and location of the services and the signature of each client in attendance.
4. The maximum number of clients in a treatment group shall not exceed fifteen (15).
5. A client may be referred to a self-help group to supplement but not to replace treatment services.
6. A client referred to outpatient treatment shall receive at least one (1) hour of individual or one and one-half (1 1/2) hours of group treatment each week.
7. A client referred to intensive outpatient treatment shall receive at least six (6) hours of treatment over a period of two (2) or more days weekly in a program licensed for intensive outpatient treatment.
8. If a client receives treatment less often than the requirements established in subparagraphs 6 and 7 of this paragraph, to meet his or her individual clinical needs, a clinical rationale shall be documented in the client's record.
9. A client referred for inpatient or residential treatment shall receive this treatment in a program licensed for inpatient or residential treatment.

(2) Treatment plan.

(a) A clinician or treatment planning team shall be responsible for developing a treatment plan for a client accepted for treatment services by the client's fourth session.

(b) A treatment plan shall:

1. Be developed with a client's participation and be individualized for the needs of the client;
2. Include a written statement of the client's problem with alcohol and other drugs and any other problem that contributes to or is related to the client's use of alcohol and other drugs;
3. Include a written statement of treatment goals and measurable objectives with a time schedule for achieving the goals and a written statement of whether the client agrees with the treatment plan;
4. Be signed by the client and the clinician if there is a change documented in the client's treatment plan; and
5. Be reviewed and signed by the clinician at least every:
 - a. Forty-five (45) calendar days for a first offender attending treatment;
 - b. 180 days for a multiple offender attending treatment; or
 - c. Thirty (30) days for a client receiving intensive outpatient treatment.

(c) A client's progress toward meeting the goals stated in the treatment plan shall be documented in the client's record by a clinician at least weekly.

(d) If the twenty (20) hour education curriculum is delivered as a supplement to treatment to a first or multiple offender assessed as needing treatment, it shall be included in a client's treatment plan.

(3) Completion requirements.

(a) To complete a treatment service, a client shall:

1. Comply with all attendance requirements;
2. Achieve the goals stated in the treatment plan;
3. Comply with a program's rules of conduct; and
4. Pay required fees.

(b) If a client is receiving treatment at a program other than the program from which the assessment was received, the program administrator of the treatment program shall notify the individual responsible for the client's case coordination if a client:

1. Demonstrates a need for service at a different level of care;
2. Satisfactorily completes treatment; or
3. Is noncompliant.

(c) If a client is receiving treatment at the program from which the assessment was received, the program administrator shall be responsible for:

1. Final approval that the client has satisfactorily completed a treatment service; and
2. Reporting compliance or noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation.

(d) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection.

Section 10. Administrative Hearing Requirements.

(1) If the division takes action to deny or revoke a DUI program's certification or an individual's assessor, instructor, or program administrator certification, the division shall:

- (a) Notify the program or individual assessor, instructor, or program administrator in writing;
- (b) State a reason for the adverse action; and
- (c) Notify the program or individual assessor, instructor, or program administrator of the right to appeal the action pursuant to KRS Chapter 13B.

(2) A program or individual assessor or instructor shall appeal a negative certification action taken by the division by notifying the division, in writing, postmarked within twenty (20) calendar days from the date of notice of action from the division.

(3) Upon receipt of an appeal, the secretary or the secretary's designee shall give notice of the hearing to a program or an individual assessor, instructor, or program administrator, in writing, not less than twenty (20) calendar days in advance of the date set for the hearing and the notice shall be sent in accordance with KRS Chapter 13B.

(4) The secretary, or the secretary's designee, shall appoint a hearing officer to conduct a hearing and the hearing shall be conducted pursuant to KRS Chapter 13B.

(5) The division shall retain all records related to a hearing for a period of at least five (5) years.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Application for DUI Program Certification", October 2011;
- (b) "Application for DUI Program Recertification", October 2011;
- (c) "Assessment Observation Form", October 2011;
- (d) "Client Evaluation of Assessment Program", October 2011;
- (e) "Client Evaluation of Treatment Program", October 2011;
- (f) "Client Record Review", October 2011;
- (g) "Comprehensive DUI Program Review Form", October 2011;
- (h) "DUI Complaint Form", October 2011;
- (i) "DUI Assessor Certification Application", October 2011;
- (j) "DUI Assessor Recertification Application", October 2011;
- (k) "DUI Program Certification Certificate", October 2011;
- (l) "DUI Instructor Certification Application", October 2011;
- (m) "DUI Instructor Recertification Application", October 2011;
- (n) "DUI Program Administrator Certification Application", October 2011;
- (o) "DUI Program Administrator Recertification Application", October 2011;
- (p) "Education Observation Form", October 2011;
- (q) "Follow-up DUI Program Review", October 2011;
- (r) "PRI Client's Evaluation of Education Services Received", October 2011;
- (s) "Program Survey Form", October 2011;
- (t) "Report of Change Form", October 2011;
- (u) "Treatment Observation Form", October 2011;
- (v) AOC-494, "Notice to Attend Alcohol Driver Education Program", May 1996;
- (w) "Memorandum of Understanding", October 1, 1998;

(x) "Roster of Assessments", October 1, 1998;

(y) "Kentucky DUI Assessment Instrument", October 2011; and

(z) "Prime for Life Risk Reduction Program (PRI) Twenty (20) Hour Curriculum", February 1, 2005.

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(18 Ky.R. 2086; Am. 2586; eff. 3-7-1992; 19 Ky.R. 2341; 2655; 20 Ky.R. 88; eff. 6-16-1993; 25 Ky.R. 2017; 2632; 26 Ky.R. 1808; eff. 4-12-2000; 38 Ky.R. 395; 970; 1147; eff. 12-7-2011; TAm eff. 4-27-2016; Crt eff. 12-18-2019.)