

DUI SERVICES
WORKGROUP MEETING NOTES
June 26, 2012

Regular text = paraphrased discussion

Italics=Department's response

Bold, italics and indented=rule change

R9-20-101

A **question** was raised regarding the addition of a definition – can we add a definition of “face-to-face” so that DUI screening and DUI education cannot be provided through electronic means? Concerns - How can you validate the identity of client? How clinically effective is education when you cannot directly see the behavior of a client? Individuals will present themselves differently online than in person. Quality and efficacy of services will diminish. *The Department believes the proposed rules should consider service delivery for the future. There is current interest from the Maricopa County Adult Probation Department in having web-based education. Additionally, the Department recognizes that rural counties frequently express interest in secure online applications such as Telemedicine. Because of this, the Department recently developed rules that permit the delivery of certain services through electronic means, with precautionary standards. The Department plans to change the rule as follows:*

R9-20-103. Application and Renewal

A. An applicant applying to become a provider shall submit to the Department an application packet that contains:

- 1. An application form provided by the Department that is signed, and dated that includes:**
 - a. The applicant’s name;**
 - b. The applicant’s address and telephone number;**
 - c. The applicant’s e-mail address;**
 - d. The name, telephone number, and e-mail address of the individual acting on behalf of the applicant according to R9-20-102, if applicable;**
 - e. The name under which the applicant plans to do business, if different from the applicant;**
 - f. The address and telephone number of the facility; and**
 - g. Whether the applicant is seeking approval to provide:**
 - i. DUI screening,**
 - ii. DUI screening electronically,**
 - iii. DUI education,**
 - iv. DUI education electronically, or**
 - v. DUI treatment;**

R9-20-108. Requirements for DUI Screening

A. An administrator shall ensure that policies and procedures are developed, documented, and implemented for:

- 1. Conducting DUI screening;**
- 2. If applicable, performing DUI screening electronically including:**
 - a. Using a secure connection,**
 - b. Having direct and immediate interaction between the individual conducting the DUI screening and the individual being screened, and**
 - c. Verifying the identities of the individual conducting and the individual receiving the DUI screening before DUI screening is conducted;**
- 3. Tracking and referring a client to DUI education or DUI treatment; and**
- 4. Communicating with and reporting information to a referring court.**

R9-20-109. Requirements for DUI Education

A. An administrator shall ensure that policies and procedures are developed, documented, and implemented for:

- 1. Conducting DUI education,**
- 2. If applicable, performing DUI screening electronically including:**

- a. Using a secure connection, and
 - b. Verifying the identity of the individual receiving the DUI education; and
3. Communicating with and reporting information to a provider that conducted an individual's DUI screening and, if applicable the referring court.

A discussion was held on the statutory definition of “screening.”

It was explained that the statute is cited in rules rather than rewriting the statutory text. Also, the statutory definition of screening includes an assessment and therefore, a paraprofessional cannot perform this activity because it is a licensable service. Only a licensed professional can perform an assessment. This change is required because DUI service agencies will no longer be licensed. DUI service agencies do not meet the statutory definition of Health Care Institutions. All licensed Health Care Institutions will be under Chapter 10. DUI service agencies will remain in Chapter 20 and will only apply for an “approval” through the Department. Without facility licensure, any licensable service must be performed by a licensed individual.

A discussion was held on the use of interns in a DUI service agency. If non-licensed individuals are not allowed to perform certain direct-service activities, how can they obtain their required hours for licensure? Also, the Arizona Board of Behavioral Health Examiners (Board) may not recognize hours performed at an agency that is not considered a Health Care Institution.

The Department met with the Board's representative to inform them of the proposed rules, particularly pertaining to Behavioral Health Technicians. The Board only considers services that are defined in statute for hours.

R9-20-103(3)(b)

What materials are required of the applicant?

The Department wants to ensure the educational curriculum covers the requirements in R9-20-109(D)(2). Therefore, materials such as hand-outs and other supporting documents need to be submitted to the Department for verification. No change to the rule.

R9-20-103(6)

Who needs to submit this information?

The Department is requesting that the applicant, who is an individual or the individual representing the business entity, to submit the required information. No change to the rule.

R9-20-104

How long is an approval for?

The Department plans to issue an approval for two years if Departmental electronic processes can accommodate this change.

R9-20-104

Will all “branches” or separate facilities used by the DUI service provider need to be licensed?

The Department will require the applicant to list all locations used for DUI services on the application. Separate licenses will not be required if the applicant operates a location using the same materials, policies and procedures submitted with the application.

R9-20-105(A)(2)

Would the provider be required to submit a Notification of Change when they buy other DUI businesses? Meaning, they would inform the Department of additional locations to provide DUI services?

The Department would require this notice.

R9-20-106(A)

Will the Department inform the provider that it may rescind an approval and offer a time period for “correction” before a rescindment happens?

Because the Department does not have a history of revoking licenses from DUI service providers and typical complaints received by consumers of DUI services would not warrant a rescindment, it is not anticipated that rescindments will readily occur in the future. However, if a serious complaint is received or non-compliance with

the Article occurs, it is expected that communication with the provider would take place prior to a rescindment. No change to the rule.

R9-20-106(B)(3)

If the provider contracts with multiple courts, will each jurisdiction be notified of the rescindment? What about out-of-state courts?

The Department anticipates informing all appropriate in-state courts. In addition, the provider would be removed from the Department's list of approved providers. Because these rules are only applicable to the State of Arizona, out-of-state courts would not be contacted by the Department. No change to the rule.

R9-20-106(C)(2)

If the provider contracts with multiple courts, which jurisdiction should supply the recommendation for approval after a rescindment?

At least one court needs to supply the recommendation for approval after rescindment.

A discussion was held regarding client rights and that reference to these rights are not mentioned in the draft rules. *These particular standards are associated with Health Care Institutions (HCI). DUI service agencies will no longer be HCI's. Therefore, providers need to establish policies and procedures covering client rights, or violations could be directed to the AZ Board of Behavioral Health Examiners. Courts or contractors may elect to have more oversight.*

R9-20-108(B)(1)(b)

A discussion was held regarding the identification of one or more DUI screening standardized instruments.

Because A.R.S. §36-2006 requires the Department to establish a standardized screening assessment, it was asked that all stakeholders submit recommendations for such instruments that can be considered for incorporation into the rules. The Department plans to change the rule as follows:

R9-20-108. Requirements for DUI Screening

C. An administrator shall ensure that a client's DUI screening:

4. Includes administering at least one of the following for measuring alcohol dependency or substance abuse:

- a. Driver Risk Inventory II,**
- b. Michigan Alcoholism Screening Test,**
- c. The Minnesota Multiphasic Personality Inventory MMPI-2,**
- d. Mortimer-Filkins Test,**
- e. Substance Abuse Subtle Screening Inventory (SASSI),**
- f. Drug Abuse Screening Test (DAST),**
- g. Adolescent Chemical Dependency Inventory (ACDI),**
- h. Juvenile Substance Abuse Profile (JSAP),**
- i. Reinstatement Review Inventory (RRI), and**
- j. Substance Abuse Questionnaire that contains the information in one of the stated screening assessments in subsections (C)(4)(a) through (C)(4)(i);**

R9-20-108(C)(2)

Are these the only professionals that will be allowed to conduct DUI screenings?

Yes.

R9-20-108(C)(3)

Should "face-to-face" be changed? Also should the requirement for 30 minutes be changed?

See page 1 of this document regarding R9-20-108 and requirements for electronic screening. The Department will leave the 30 minute minimum as is.

R9-20-108(E)(1)(a)(ii)

Should this rule stop at 0.15 and omit the other requirements to be identified as a Level 1 DUI client? Or, lower to 0.08?

The Department recognizes the seriousness of a DUI and the belief that a Blood Alcohol Concentration (BAC) of 0.15 could be sufficient justification for Level I education and treatment; however, the professional doing the screening should determine the needs of the client based on multiple factors, not just the BAC. No change to the rule.

A question was raised regarding Drug DUI's – Can the Department address Drug DUI's in the rules?
The rules already address DUI's related to alcohol and other drug consumption.

R9-20-108(F)(2)(a)

Can we change the hours for education or treatment? Sometimes we see addicts who need extensive education or treatment. They really aren't the same as non-addicts or first-time offenders.
The minimums for education and treatment are required by statute and therefore must remain as written. However, the provider can decide to offer separate classes for addicts and non-addicts with varying hours above the minimums.

R9-20-108(H)(1)

Can the Department ensure that providers not refer clients to their own agency? This happens when a provider has purchased another DUI service agency and it is operating under another name.
The rule requires a DUI screening provider to give a client the names of three providers at least two of which are not owned by, operated by, or affiliated with the DUI screening provider.

R9-20-109(F) and R9-20-110(E)

Can providers accept education and treatment hours from other providers, in-state and out-of-state?
The Department has reviewed processes and requirements that would need to be in place to allow a provider to accept education and treatment hours from other providers and believes that it would not be feasible for the rules to allow it at this point in time. (The education hours are supposed to include certain topics. How is it verified which topics have already been covered? A provider is not obligated to provide documentation of partial completion; if that changes what documentation would be required and how would that work with another provider's education component?) A court may order a provider to accept hours and then the provider could accept the hours.

R9-20-109(I)(1)(c)

A discussion was held regarding a provider being able to determine that a client's treatment needs cannot be met due to a disability or language barrier. It was cautioned that federal law or federal guidelines may contradict this position.
The Department believes that if a provider cannot reasonably accommodate an individual or does not provide treatment in a language accessible to an individual, the provider is not able to provide any services to the individual. The provider needs to document the specifics of each situation that demonstrate this inability to ensure that the provider is not discriminating under state and federal law.

R9-20-110(C)(2) and (C)(2)(a)

Should the Department insert "at least" before "...16 hours of DUI education..." and insert "at least 20 hours" before "...group counseling...?"
Should the Department separate education from group counseling (treatment) because education does not require a licensed behavioral health professional, yet counseling will require a licensed behavioral health professional?
Yes. The Department plans to change the rule as follows:

R9-20-110. DUI Treatment

- C. An administrator shall ensure that DUI treatment:**
- 1. Is based upon the information and results obtained from the provider that provided DUI screening or referring court; and**
 - 2. Includes at least 16 hours of DUI education and at least 20 hours of group counseling that:**

- a. ***Except for the 16 hours or more of DUI education, is provided by a behavioral health professional or a licensed substance abuse technician under the supervision of a behavioral health professional;***

A discussion was held on whether the Department should provide a definition of “counseling” since group counseling is designated as DUI treatment and, therefore, must be provided by a professional who is licensed according to Title 32.

The Department believes that the definition of “counseling” in this instance falls under the Board of Behavioral Health Examiners.