DUI SERVICES
WORKGROUP MEETING NOTES
October 16, 2012

Regular text = paraphrased discussion
Italics=Department's response
Bold, italics and indented=rule change

R9-20-108 (A)(2)(a)
A suggestion was made to define "secure connection" otherwise agencies will implement technologies that do not meet a standard that was intended.
The Department will include the following definition of "secure connection":

> ***"Secure connection" means a system through which information can be exchanged without unauthorized third party interception or corruption of the signals.***

R9-20-108 (A)(2)(b)(c)
Given the new rule allows for electronic DUI screening, is it the responsibility of the screening agency to verify the identity of the person who is being screened?
Yes, the screening agency is responsible and should indicate through policy and procedure how the verification will be performed.

A question was raised regarding why the new rule allows for electronic DUI screening. Concerns were expressed over the effectiveness of this type of screening. Without performing a face-to-face screening it was felt that an assessment would not pick up behavioral and verbal cues of the client.
The Department made this change because Maricopa County has an interest in automating this process, and in smaller counties it is more feasible and economical to perform this function electronically. With telemedicine becoming more commonplace, it is believed an accurate assessment of the DUI services client can be obtained. However the Department will amend the drafted language to include a visual component in R9-20-108(A)(2)(b). The Department plans to change the rule as follows:

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,
<u>2. If applicable, performing DUI screening electronically including:</u>
<u>a. Using a secure connection,</u>
<u>b. Having direct, visual, and immediate interaction between the individual conducting the DUI screening and the individual being screened, and</u>
<u>c. Verifying the identities of the individual conducting and the individual receiving the DUI screening before DUI screening is conducted;</u>

A discussion was held regarding the number of treatment hours a client receives when they have a "high" BAC. It was suggested that the number of minimum hours required for treatment should be raised in the new rules. Other state requirements for DUI treatment were mentioned as a comparison to the state of Arizona.
The Department believes comprehensive data and research is needed to justify this type of change. Evidence demonstrating benefit to the client and community would be needed. Absent such information, any change would be considered an arbitrary increase in regulation.

A question was raised regarding treatment – can treatment be offered electronically?
No, treatment cannot be offered electronically. Only screening and education can be offered electronically.

A question was raised regarding interns – will the Arizona Board of Behavioral Health Examiners (Board) accept training hours at DUI service agencies?
The Board only has jurisdiction over an intern if they are an applicant to the Board. If an applicant, the Board considers only those services defined in statute for hours.

A question was raised regarding the approval process - will I receive an approval number?
Yes, an agency will receive an approval number for all sites providing DUI services; however, all addresses must be indicated on the approval application.

A question was raised regarding Behavioral Health Technicians (BHT's) and Behavioral Health Paraprofessionals (BHPP's) – because my agency offers other services, can I apply for a Health Care Institution (HCI) license and have my BHT's and BHPP's perform DUI services?
If you have a licensed outpatient facility that chooses to offer DUI services, then yes, your BHT's and BHPP's can perform DUI services under the supervision or clinical oversight of a Behavioral Health Professional.

A question was raised regarding upcoming renewals and audits – because a license fee will no longer be required, will I still need to apply and pay for a renewal if due prior to the July 1st 2013 effective date of the new rules? What about annual audits?
Because the Department is still working on transition plans, at this point in time please continue "business as usual" until further notice.

A question was raised regarding the approval period – how long is our agency approved for?
The Department will issue an approval for a two year period.

A question was raised regarding the Universal rules – will Universal Rules still apply?
No. Universal Rules will not exist in Chapter 20.

A question was raised regarding the Universal rules – What do we do if personnel files are requested by the Board, yet we are no longer required by rule to have them?
Regulatory rules are distinct from Board requirements; therefore, it is the agency's responsibility to adhere to all applicable conditions required by multiple entities.

A question was raised regarding approvals - Why should an agency be approved by DHS?
Statute requires the Department to issue approvals to facilities that want to be on a court-approved list. The DHS approval is not the same as a license to operate. A DUI service agency may elect not to go through the approval process. If this is done, the agency is ineligible to be on the court-approved listing. However, it does not impede their ability to operate.

R9-20-108(C)(4)(a) through (j)
Is subsection (j) considered an "other" option?
Yes. If one of the screening instruments listed in subsections (a) through (i) is not selected, then subsection (j) is an alternative. However, the Department will clarify the language for better understanding.

Please see posted draft for revised language.

R9-20-109
What would DUI electronic education look like?
The rules will not prescribe electronic or technological constructs, except for a description or definition of "secure connection."

Please see posted draft for revised language.

A question was raised regarding the time periods to complete treatment – Can we include time requirements for the completion of treatment? Some clinicians seem to "rush through" their clients, which is not therapeutic.
The Department feels the clinician should retain the discretion to set timelines for the completion of treatment. If clinical approaches to treatment appear to be unprofessional, it is recommended that this concern be referred to the Board.

A discussion was held on the Board's lack of a definition for "counseling." It appears DUI treatment is not considered "counseling."
The Department understands that because a DUI service agency will no longer be licensed, the Board may not recognize "counseling hours" performed at an agency that is not considered a Health Care Institution.

A discussion was held on new rules that require licensed professionals to provide DUI screening and treatment - A letter was read from an employee at a DUI service agency who will no longer be able to provide screening or treatment on July 1, 2013 because she is not a licensed professional; however, she had an extensive career in this field as a previously licensed/certified professional, yet due to personal circumstances her licensed lapsed several years ago but has continued to provide DUI services. She recently applied to the Board for reinstatement of her license in anticipation of the rule changes. She was denied by the Board.
The Department recognizes the circumstance of this employee; however, it cannot effect Board decisions. The new rules will require all unlicensed facilities to have licensed professionals perform "licensable services" such as client assessments and treatment. And, in licensed facilities, behavioral health technicians or paraprofessionals may perform these duties only under the supervision or clinical oversight of a Behavioral Health Professional. DUI service agencies will no longer be licensed, and therefore, the general applicability of these rules must be upheld. This individual may be able to provide DUI education in an unlicensed DUI service agency, or if the DUI services are provided by a licensed agency (see 8th paragraph of meeting notes), this individual may be able to provide DUI screening and treatment services.

R9-20-108(E)(1)(b)
Can the rules address DUI's specific to drugs other than alcohol? Our referrals for prescription drug abuse are increasing.

Please see posted draft for revised language.

A discussion was held on the acceptance of partially completed education and treatment hours by in-state or out-of-state DUI service agencies – will the new rules prohibit this?
The Department will not establish rules that outline this practice.

A question was raised regarding fees – will fee schedules for all agencies be online?
No. The Department will not continue to post this information online.