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**IDAPA 16
TITLE 06
CHAPTER 08**

16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS

000. LEGAL AUTHORITY.

Under authority vested in the Idaho State Board of Health and Welfare by Title 18, Chapter 80, Section 18-8005(5) and by Title 39, Chapter 3, Idaho Code, the Board adopts the following rules for DUI evaluators in the state of Idaho. (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.06.08, "Rules and Minimum Standards for DUI Evaluators". (4-5-00)

02. Scope. It is the purpose of these rules to establish minimum standards for the approval, issuance, renewal, denial, suspension or revocation of the DUI evaluator license, to establish licensing fees charged by the Department for applicants seeking approval, evaluators seeking renewal, and to set forth rules for conducting evaluations by licensed evaluators. (4-5-00)

03. Approved Services. DUI evaluators shall be considered by the Department, pursuant to these rules, to provide DUI evaluations of persons who plead guilty to, or are found guilty of, a violation of Section 18-8004 or Section 18-8006, Idaho Code. (4-5-00)

002. ADMINISTRATIVE APPEALS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 600, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings". (4-5-00)

003. -- 099. (RESERVED).

100. DEFINITIONS.

01. Department. The state of Idaho Department of Health and Welfare. (12-31-91)

02. Director. The Director of the state of Idaho Department of Health and Welfare or his designee. (12-31-91)

03. DUI. Driving while under the influence of alcohol, drugs or intoxicating substances. (12-31-91)

04. DUI Evaluation. The process of obtaining information in order to determine the nature and the extent of the offender's use of alcohol or drugs and to recommend appropriate services. (12-31-91)

05. Licensed DUI Evaluator. The licensed person qualified to provide diagnostic impression, assessment, or evaluation services to DUI offenders in the state of Idaho. For the purposes of these rules and regulations, a licensed DUI evaluator may constitute a facility. (4-5-00)

06. Licensee. The person who has been approved and issued a license pursuant to Subsection 200.02. (12-31-91)

07. Licensing Agency. The state of Idaho Department of Health and Welfare. (12-31-91)

08. Operating License. A one (1) year license issued by the licensing agency to DUI evaluators complying with these rules. (12-31-91)

09. Peer Review. The process by which all DUI evaluators submit samples of their evaluations for an annual quality assurance review by a team of DUI evaluators and Substance Abuse Program staff. (4-5-00)

10. Quality Assurance. The combination of technical and peer reviews of evaluations conducted by a licensed DUI evaluator to assure the evaluations consistently meet minimum standards. (4-5-00)

11. Substance Abuse Related Continuing Education. Department approved course work from an accredited university or college in alcohol and drug abuse studies, social work, psychology, or counseling and guidance; workshops or seminars on the subjects of alcohol and drug evaluation, treatment or prevention issues sponsored by state licensed facilities, state or federal government or other accredited educational institutions. (4-5-00)

12. Substance Related Violation. Any withheld judgment or conviction in which substance use is identified as a contributing factor. (4-5-00)

13. Technical Review. The process of evaluating the accuracy, legibility, appropriateness, and completeness of Department required forms and reporting formats used during DUI evaluations. (4-5-00)

101. -- 199. (RESERVED).

200. LICENSURE.

01. Application For An Operating License. An individual seeking approval as a DUI Evaluator must submit a completed application on forms provided by the Department, accompanied by the documents noted in Subsection 400.02. In addition, the applicant must submit a statement of fees to be charged for services and an application fee of twenty-five dollars (\$25). (4-5-00)

02. Application Review And Issuance Of Operating License. The Department must initiate a review including an investigation within fifteen (15) days of receipt of the forms, documents, and fee described in Subsection 200.01. The result of the review as to whether an applicant has complied with this chapter must be rendered within forty-five (45) days from the date of receipt. The Department will arrange testing for applicants found to have complied with this chapter. Upon successful completion of testing, the Department will issue an operating licence. (4-5-00)

03. License Period, Posting Requirement, And Notification Of Changes. The license, unless suspended or revoked, will be in effect for a period not to exceed one (1) calendar year from the date of issue printed on the license. The license will apply only to the person named therein and is not transferable. The license must be posted in a conspicuous location for client observation. The Department shall be notified by a licensee in writing of any changes in address, phone number or fees within thirty (30) days. (4-5-00)

04. Expiration And Renewal Of License. No license will be renewed, except as provided in Subsections 200.04 and 400.04. (4-5-00)

a. At least sixty (60) days prior to the expiration of the license, the licensee will apply for a renewal of the license on forms provided by the Department. The application shall be accompanied by a twenty-five dollar (\$25) renewal fee payable to the Department. (3-10-88)

b. The licensee must attend a minimum of twelve (12) hours of substance abuse related continuing education each year, and will provide verification of attendance with the renewal application. (4-5-00)

c. Following the application review, the licensee meeting the requirements of this chapter, will have their licenses renewed for a period not to exceed one (1) year. (3-10-88)

05. Denial, Suspension Or Revocation Of License. The Department may deny, suspend or revoke the license of a DUI evaluator for any of the following reasons: (3-10-88)

a. If an applicant has a substance-related violation within the past two (2) years. (4-5-00)

b. If a licensee has a substance-related violation, the license shall be revoked for a period of two (2) years. (4-5-00)

- c. If the licensee has failed to comply with any portion of this chapter. (4-5-00)
 - d. If the licensee demonstrates a conflict of interest by providing both the DUI evaluation and treatment or by referring the client to the licensee's employer or business associate, unless this requirement is waived in writing by the sentencing court. (4-5-00)
 - e. If there has been a criminal, civil, or administrative determination that the licensee has committed misrepresentation in the preparation of the application or other documents required by the Department. (3-10-88)
 - f. If there has been a criminal, civil, or administrative determination that the licensee has committed fraud or gross negligence while operating as a licensed DUI evaluator. (3-10-88)
 - g. If an applicant or licensee has been convicted of a felony within the past three (3) years. (4-5-00)
 - h. If there has been a criminal, civil, or administrative determination that the licensee has committed, permitted, or aided and abetted the commission of any illegal act while holding a DUI Evaluator license. (4-5-00)
 - i. If the licensee demonstrates inadequate knowledge and/or performance by repeated substandard peer and quality assurance reviews. (4-5-00)
 - j. If the licensee fails to furnish any data, information or records as requested. (3-10-88)
 - k. If the licensee refuses or fails to participate in the peer review and quality assurance process. (4-5-00)
 - l. If the licensee was first issued an operating license prior to June 30, 2000 and fails to meet minimum qualification standards within the sunset provision under Section 400.04. (4-5-00)
 - m. Upon a second revocation, no further licenses shall be issued. (4-5-00)
- 06. Notice And Hearing.** The Department must give the licensee notice of intent to suspend, deny, or revoke approval, the right to appeal in accordance with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 600, et seq., "Rules Governing Contested Cases and Declaratory Rulings".(4-5-00)
- 07. Return Of License.** The DUI evaluator license is the property of the state of Idaho and must be returned to the Department immediately upon the denial, suspension, or revocation of the license, or if the operation is discontinued by the voluntary action of the licensee. (3-10-88)
- 201. -- 299. (RESERVED).**
- 300. INSPECTIONS.**
The Department reserves the right to inspect any office, files, client records, or other materials of any licensee to ascertain compliance with these rules, and with Section 18-8004(4), Idaho Code. (3-10-88)
- 301. -- 399. (RESERVED).**
- 400. QUALIFICATIONS.**
- 01. Qualifications Of Staff.** In order for the applicant to be licensed as a DUI evaluator, the applicant shall meet the following criteria: (3-10-88)
 - a. Has professional experience in which a minimum of seven hundred twenty (720) cumulative hours were spent in the performance of alcohol/drug evaluation or treatment over the three (3) year period immediately prior to the application date; and (4-5-00)
 - b. Holds a baccalaureate or higher degree in an allied health field; or (4-5-00)

- c.** Is a Certified Addictions Counselor as issued through the Idaho Board of Alcohol and Drug Counselor's Certification; or (4-5-00)
- d.** Is an Idaho Licensed, Licensed Clinical, or Licensed Masters Social Worker; or (5-3-03)
- e.** Is an Idaho Licensed Professional Counselor. (4-5-00)
- f.** Applicants must successfully complete the competency-based DUI Evaluator examination. (4-5-00)

02. Documentation. The application submitted to the Department for licensure as a DUI evaluator shall be accompanied by: (3-10-88)

- a.** A certified copy of all college transcripts; professional licenses, or certifications. (4-5-00)
- b.** A detailed employment history showing dates and hours of employment experience in an alcohol/drug evaluation or treatment program, the name of the program, the name of the direct supervisor, and the nature of the duties performed. (4-5-00)

03. Examination. The examination required by Subsection 400.01.f. shall be administered a minimum of twice per year under the direction of the Department at times and locations to be announced by the Department. (4-5-00)

04. Sunset Provision. Licensees issued an operating license prior to June 30, 2000 must meet minimum qualification standards set in Subsection 400.01 before June 30, 2003. This includes educational and examination requirements. Licensees qualifying under this provision will provide verification on progress toward meeting the minimum education and examination standards with their annual application for renewal. (4-5-00)

401. -- 499. (RESERVED).

500. DUI EVALUATIONS.

01. Record System. The DUI evaluator must maintain a record system of client files for a minimum of three (3) years. Client files will minimally include the written evaluation and supporting documents identified in Subsections 500.02 and 500.03. (4-5-00)

02. Individual DUI Evaluation. The DUI evaluation conducted by the licensee shall be composed of the minimum following items: (3-10-88)

- a.** Face sheet. All DUI evaluations shall have a one (1) page typed summary sheet attached to the report consistent with Idaho Supreme Court Misdemeanor Criminal Rule 9.4. (4-5-00)
- b.** Evaluation report. All DUI evaluations shall conform to Idaho Supreme Court Misdemeanor Criminal Rule 9.4. (4-5-00)

03. Distribution Of The DUI Evaluation. (3-10-88)

- a.** With the client's written consent, the evaluator will forward the original evaluation directly to the court. (3-10-88)
- b.** The defendant shall be provided with a copy of the DUI evaluation. (3-10-88)
- c.** The DUI evaluator is prohibited from releasing the evaluation to anyone other than the Department for the purposes of compliance inspection and peer review without the written authorization of the defendant. (4-5-00)

d. One (1) copy of the original evaluation, including all supporting documentation and associated Department required forms, must be maintained in the licensee's files. (4-5-00)

e. Photocopies of evaluations required for peer review and quality assurance will have personal identification data rendered illegible and replaced by the client number. (4-5-00)

501. -- 599. (RESERVED).

600. STATISTICAL REPORTING.

All licensees shall submit individual client data on forms supplied by the Department. (3-10-88)

601. -- 699. (RESERVED).

700. QUALITY ASSURANCE, PEER AND TECHNICAL REVIEW.

The Department shall develop policies concerning the composition of peer review teams, standardized assessment tools, standardized formats, scoring scales, and recommendations for quality and performance improvements. (4-5-00)

701. -- 799. (RESERVED).

800. ADVISORY BOARD.

The Department shall convene an advisory board. The advisory board consists of members from the community and the Department. The board will provide feedback on program performance and suggestions for program improvement. The board will meet at least quarterly and provide minutes of all meetings to the State Substance Abuse Executive Council. (4-5-00)

801. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings". (12-31-91)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records". (12-31-91)

998. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (3-10-88)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, IDAPA 16.06.08, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (1-1-84)

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