

HEALTH

(a)

**INTEGRATED HEALTH SERVICES BRANCH
DIVISION OF MENTAL HEALTH AND ADDICTION
SERVICES**

Intoxicated Driving Program

Readoption with Amendments: N.J.A.C. 10:162

Adopted Repeals and New Rules: N.J.A.C. 10:162-2.8, 2.9, 2.10, 4.5, and 5.7

Adopted Repeals: N.J.A.C. 10:162-5.2 through 5.6, 6.6, 6.7, 6.8, 6.10, and 6.15, and 10:162

Appendices A and B

Adopted Recodification: N.J.A.C. 10:162-5.7 as 5.2

Proposed: September 5, 2017, at 49 N.J.R. 2868(a).

Adopted: June 5, 2018, by Shereef M. Elnahal, MD, MBA, Commissioner, Department of Health.

Filed: June 5, 2018, as R. 2018 d.130, with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 26:2B-9.2 et seq., 30:1-12, 39:4-50 et seq., especially 39:4-50(b), (d), and (f); and Reorganization Plan Nos. 002-2004 and 001-2017.

Effective Dates: June 5, 2018, Readoption;
July 2, 2018, Amendments, Recodification,
Repeals, and New Rules.

Expiration Date: June 5, 2025.

Take notice that Reorganization Plan No. 001-2017, “A Plan for the Transfer of Mental Health and Addiction Functions from the Department of Human Services to the Department of Health,” effective August 28, 2017, transferred the Division of Mental Health and Addiction Services (DMHAS) from within the Department of Human Services (DHS) to the Department of Health (Department). N.J.A.C. 10:162 will remain codified within Title 10 of the Administrative Code, pending the development and promulgation of an anticipated notice of global administrative recodification of the chapters that DMHAS administers from within Title 10 to Title 8, which will appear in a future issue of the New Jersey Register.

Although the Department ordinarily would make non-substantial changes on adoption to delete any references in N.J.A.C. 10:162 to DHS policies and replace them with corresponding Department policies, the Department is retaining these policies on readoption to allow the Department an opportunity to review and evaluate the need to establish policies that correspond to DHS policies. See, for example, N.J.A.C. 10:162-10.1. Therefore, pending this review and evaluation, the regulated community should continue to comply with the DHS policies to which N.J.A.C. 10:162 refers.

Summary of Public Comment and Agency Response:

A comment was received from Debra L. Wentz, Ph.D., President and Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.

COMMENT: The commenter “do[es] not have any concerns related to the proposed amendments, new rules and repeals.” The commenter suggests including gambling disorder prevention in the educational curriculum that is to be used by the Intoxicated Driver Resource Centers (IDRCs).

RESPONSE: The Department acknowledges the commenter’s lack of concerns relating to the notice of proposal. With respect to the commenter’s suggestion that gambling disorder prevention be included in the educational curriculum, this suggestion is beyond the scope of the curriculum requirements at proposed new N.J.A.C. 10:162-2.8. Notably, the proposed new rule does not define the specific contents of the educational curriculum prescribed by the Chief of the Intoxicated Driving Program (IDP) and used by the IDRCs. Moreover, the inclusion

of gambling disorder prevention within the educational curriculum would exceed the scope of N.J.S.A. 39:4-50(b) and (f), which require the IDP to establish “a program of alcohol and drug education.” Thus, for the foregoing reasons, the Department will make no change on adoption in response to the comment.

Summary of Agency-Initiated Changes:

The Department is making the following non-substantial changes on adoption:

1. The Department is updating agency references and contact information throughout the chapter to reflect the transfer of the DMHAS from the DHS to the Department pursuant to Reorganization Plan No. 001-2017. Additionally, the Department is deleting references to the former Division of Addiction Services and replacing these with references to, and updating contact information for, DMHAS, consistent with Reorganization Plan Nos. 002-2004 and 001-2017.

2. The Department is making changes throughout the chapter to improve readability and grammar, and to ensure consistency with respect to internal subchapter cross-references. The Department is making changes at N.J.A.C. 10:162-1.2 and 10.3 to update cross-references to substance use disorder treatment program licensure standards and statutes. Existing N.J.A.C. 10:162 contains outdated cross-references to defunct substance use disorder treatment program licensure standards at N.J.A.C. 8:42A and 8:42B, which N.J.A.C. 10:161A and 10:161B superseded, applying, respectively, to the licensure of residential and outpatient substance use disorder treatment programs. Thus, the Department is deleting references to N.J.A.C. 8:42A and 8:42B and adding references to the successor licensure standards at N.J.A.C. 10:161A and 10:161B. In addition, the Department is adding references to two statutes, N.J.S.A. 26:2B-14 and 26:2G-23, which apply to the licensure of substance use disorder treatment programs.

3. The Department is making changes throughout the chapter to ensure consistency with the adopted amendments at N.J.A.C. 10:162-1.2. The adopted amendments at N.J.A.C. 10:162-1.2 remove the outdated terms “alcohol abuser” and “drug abuser,” and add “substance use disorder” to better reflect updates in terminology in the substance use disorder field. In keeping with the adopted amendments at N.J.A.C. 10:162-1.2 and in recognition of person-first language, the Department is deleting references to “abusers” and adding references to “person(s) with a substance use disorder” and replacing references to “abuse” or “problems” related to substance use with “use.” Relatedly, the Department is deleting the reference to “offender” at N.J.A.C. 10:162-4.2(b)10 and adding a reference to “client” to ensure consistency in the use of terminology throughout the chapter.

4. The Department is recodifying proposed new N.J.A.C. 10:162-5.7 as 5.2 because of the repeal of existing N.J.A.C. 10:162-5.2 through 5.6.

5. The Department is adding a definition of “Department” at N.J.A.C. 10:162-1.2 to mean the New Jersey Department of Health.

Federal Standards Statement

Although there are Federal confidentiality laws and regulations, such as HIPAA and 42 CFR Part 2, which may apply to the IDRCs and affiliated treatment agencies, the readopted rules and the adopted amendments, new rules, and repeals do not exceed those Federal standards.

Further, with respect to the operation and provision of services by the IDP or the IDRCs, the readopted rules and the adopted amendments, new rules, and repeals do not impose standards on the IDP or IDRCs in New Jersey that exceed those contained in any Federal regulations as there are no Federal laws that are analogous to these State rules. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:162.

Full text of the adopted amendments, new rules, and recodification follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. INTOXICATED DRIVING
PROGRAM/INTOXICATED DRIVER
RESOURCE CENTER

10:162-1.1 Purpose and scope

The purpose of this chapter is to improve the driving behavior of individuals who have been identified as having some alcohol or drug involvement in connection with the operation of a motor vehicle or vessel. The chapter applies to all county Intoxicated Driver Resource Centers, all affiliated treatment programs, and the Department of *Human Services* *Health*, and all individuals convicted in New Jersey or New Jersey licensees convicted in other *[States]* *states* of a drug or alcohol offense related to the operation of a motor vehicle or vessel after May 25, 1977*,* and individuals subject to N.J.A.C. 13:20-31, adopted December 15, 1972.

10:162-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise*[*]**:

“Affiliated treatment agency” means a *[DHS-licensed]* *Department-licensed* substance use disorder treatment agency or a licensed healthcare practitioner or professional affiliated with an Intoxicated Driver Resource Center to provide substance use disorder treatment services for the education, rehabilitation, and treatment of clients.

“Affiliation agreement” means a written agreement between *[the]* *an* Intoxicated Driver Resource Center and a *[DHS-licensed]* *Department-licensed* substance use disorder treatment agency or a licensed healthcare practitioner or professional establishing the terms of the relationship and provision of treatment services for individuals with driving under the influence convictions or driving under the influence-related convictions.

“ASAM Criteria” means the criteria developed by the American Society of Addiction Medicine as contained in the ASAM Criteria, Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, Third Edition, 2013, which is incorporated herein by reference, as amended and supplemented, which can be obtained from the ASAM Publications Center, Tel: 1-800-844-8948, www.asam.org.

“Coordinating grantee” means an entity authorized by the Division *[of Addiction Services]* to administer the distribution of funds to approved sub-grantees or to itself to provide services and receive payment pursuant to N.J.A.C. 10:162-6.13(c) and (d) and 10:162-10.

“**Department**” means the New Jersey Department of Health.*

“Detoxification” means the provision of care, usually short-term, prescribed by a physician and conducted under medical supervision, for the purpose of withdrawing a person from a specific psychoactive substance in a safe and effective manner according to established written medical protocols and the ASAM Criteria. This term is synonymous with “withdrawal management” as referenced in the ASAM Criteria.

“Director” means the Assistant Commissioner or successor official who serves as head of the Division *[of Mental Health and Addiction Services in the Department of Human Services]*.

“Division” means the Division of Mental Health and Addiction Services in the Department *[of Human Services]*.

“Eligible applicant” means an entity qualified to administer the distribution of funds to approved sub-grantees for achieving the purpose of this chapter and/or an entity providing inpatient, intensive outpatient*,* or outpatient treatment licensed pursuant to N.J.S.A. *26:2B-14, 26:2G-23, and/or* 26:2H-1 et seq., and N.J.A.C. *[8:42A et seq. or N.J.A.C. 8:42B or]* 8:43A-26*, *10:161A, and/or 10:161B,* and affiliated in good standing with the Intoxicated Driver Resource *[centers]* *Center* pursuant to N.J.S.A. 39:4-50(f) and N.J.A.C. 10:162-5.

“Inpatient treatment” means treatment for alcohol and/or drug dependence within a short-term or long-term residential substance use disorder treatment facility licensed by the Department *[of Human Services]*.

“Intensive outpatient treatment” means the type of treatment that approximates ASAM Criteria Level 2.1.

“Intoxicated Driver Resource Center” or “IDRC” means the personnel and facilities designated and established by the county, and approved by the Intoxicated Driving Program, that detain and determine, on the basis of an evaluation instrument and counselor evaluation and other information, the extent, if any, of a client’s substance use disorder-related problem and that monitor and report on referrals to approved treatment programs.

“Intoxicated Driving Program” or “IDP” means the unit within the Division of Mental Health and Addiction Services responsible for managing and coordinating court-mandated requirements for individuals with driving under the influence convictions or driving under the influence-related convictions and monitoring services provided by IDRCs.

“Outpatient treatment” means the type of substance use disorder treatment that approximates ASAM Criteria Level 1.

“Sub-grantee” means an entity licensed pursuant to N.J.S.A. *26:2B-14, 26:2G-23, and/or* 26:2H-1 et seq., and N.J.A.C. *[8:42A or]* 8:43A-26*, *10:161A, and/or 10:161B,* or any successor rules governing the operation of substance *[abuse]* *use disorder* treatment facilities that provides direct treatment services as defined in this chapter to eligible recipients through a subcontract with a coordinating grantee.

“Substance use disorder” is evidenced by a cluster of cognitive, behavioral, and physiological symptoms that indicate that the person continues to use a substance (for example, alcohol, drugs) despite the presence of significant substance-related impairments and problems. See American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, fifth edition, Arlington, VA, American Psychiatric Association, 2013. The Diagnostic and Statistical Manual of Mental Disorders (DSM), fifth edition, published by the American Psychiatric Association, which is incorporated herein by reference, as amended and supplemented, shall be used as a guide in evaluating persons under this definition.

“Treatment” means a structured intervention into *, and care for,* a client’s *[drinking or drug use, care for alcohol or drug abuse]* *substance use disorder* or related problems *with the use of alcohol or drugs*.

“Z client” means a New Jersey licensed driver convicted of an alcohol or drug-related offense in another state or country who has been ordered to attend alcohol or drug *[abuse]* education*[*]** *and/or substance use disorder* evaluation *[or]* *and/or* treatment.

10:162-1.3 Establishment of an Intoxicated Driver Resource Center (IDRC)

(a) Subject to the approval of the Division of Mental Health and Addiction Services, the counties shall, with its cooperation, designate and establish Intoxicated Driver Resource Centers on a county or regional basis as required by N.J.S.A. 39:4-50(f). The counties may establish such a center themselves or in cooperation with other counties. The counties may either operate the IDRCs themselves, or they may contract for the operation of the IDRCs.

1. Each county shall designate and establish a 12-hour IDRC and a 48-hour IDRC.

i. The 12-hour IDRC shall detain assigned clients for no less than six hours each day during two consecutive days.

ii. The 48-hour IDRC shall detain assigned clients for 48-consecutive hours.

2. The Division of Mental Health and Addiction Services shall review county designations of 12-hour and 48-hour IDRCs every two years.

3. During the Division of Mental Health and Addictions Services review and approval process for the county-designated 12-hour IDRCs, each county shall submit the following information to the Intoxicated Driving Program:

- i. Name and address of the IDRC;
- ii. Name and qualifications of the IDRC administrator. Documentation verifying the appropriate qualifications shall include, but are not limited to, copies of a current resume and any professional certifications and licenses;
- iii. Copy of any resolution designating the IDRC;
- iv. Copy of the contract between the county and the IDRC;
- v. Written notification regarding conflict of interest determinations as required by N.J.A.C. 10:162-2.6;
- vi. Copy of the IDRC's table of organization;
- vii. List of IDRC staff, IDRC contracted staff, and IDRC consultants with titles, qualifications, and job descriptions;
- viii. Copy of the IDRC class schedule with dates, times, and locations of classes for at least six months and maximum number of attendees for classes;
- ix. Description of public transportation to the IDRC, including type and proximity to transportation sites;
- x. List of affiliated treatment agencies; and
- xi. Copies of written policies pertaining to the following:
 - (1) Class access for the following special populations: individuals with communication disabilities (for example, vision, hearing, or speech), individuals with physical or mental disabilities, and individuals with limited English proficiency;
 - (2) Maintenance and safeguarding of client records and information; and
 - (3) Handling of referrals to affiliated treatment agencies.

4. During the Division of Mental Health and Addictions Services review and approval process for the county-designated 48-hour IDRCs, each county shall submit the information listed at (a)3 above and the following additional information to the Intoxicated Driving Program:

- i. Description of overnight accommodations;
 - ii. Written acknowledgement that the 48-hour IDRC facility is in compliance with all applicable codes governing building, fire, safety, and health requirements in the State, county, and municipality in which it resides; and
 - iii. Copies of written policies pertaining to the following:
 - (1) Handling of medical emergencies and medication storage; and
 - (2) Supervision and security measures provided during the 48-hour time period.
5. The IDRC must be administered by a certified alcohol and drug counselor or other certified or licensed healthcare practitioner or professional with a minimum of five years experience in the treatment of substance use disorders.
6. The IDRC must make every effort to schedule classes as frequently as necessary in order to ensure that clients have an opportunity to attend class prior to the expiration of their license suspension.
- (b)-(c) (No change.)

SUBCHAPTER 2. ACTIONS SUBSEQUENT TO CONVICTION
FOR N.J.S.A. 39:4-50 ET SEQ., OR 39:4-50.4(A)
OR 39:4-50.14 OR 12:7-57 OR 12:7-34.19 OR
12:7-46 OR 39:3-10.24 OR 39:4-14.3G

10:162-2.4 Fees

Fees shall be paid as provided for at N.J.S.A. 39:4-50, 39:4-50.4, 39:4-50.14, 39:4-14.3g, 12:7-57, 12:7-34.19, 12:7-46, and 39:3-10.24 or any amendment thereto and shall be payable as designated by the Division from every person each time the person is convicted of a relevant alcohol or drug-related offense. These fees are owed and due upon conviction, pursuant to N.J.S.A. 39:4-50 if the conviction occurred on or after October 9, 1986, and upon referral or evaluation to the Intoxicated Driver Resource Center and the Intoxicated Driving Program if the conviction occurred prior to October 9, 1986.

10:162-2.6 Conflict of interest

The county freeholders, through the county counsel or solicitor, shall be responsible for making an initial determination of whether a conflict of interest exists with respect to the management and staff of an Intoxicated Driver Resource Center. The county shall be responsible for eliminating such a conflict of interest, in accordance with N.J.S.A. 40A:9-22.1 et seq.*,* and/or county conflict of interest standards. The county counsel or solicitor shall notify the Intoxicated Driving Program in writing that the Intoxicated Driver Resource Center treatment referral process is not in conflict of interest. Should there be a change in the treatment referral process, it shall be approved by the county counsel or solicitor and a new letter provided to the Intoxicated Driving Program prior to initiating the change. If an Intoxicated Driver Resource Center wishes to employ staff who are also working for an affiliated treatment program, a procedure to avoid conflict of interest shall be established by the Intoxicated Driver Resource Center and approved by the county counsel or solicitor. If, in its discretion, the Intoxicated Driving Program determines that a conflict of interest still exists after county review and action, it may refer the matter to the Commissioner of *[Human Services]* *Health*, to the Local Finance Board in the Department of Community Affairs*,* or to the Attorney General for advice or action, as appropriate.

10:162-2.7 Intoxicated Driver Resource Center Income and Expenditure Report

(a) No later than April 1 of each calendar year, each Intoxicated Driver Resource Center shall submit to the Intoxicated Driving Program and their county-designating authority (for example, Board of Freeholders) a detailed income and expenditure report for the previous calendar year, which shall include:

- 1.-14. (No change.)

10:162-2.8 Curriculum

(a) The Chief of the Intoxicated Driving Program shall prescribe the educational curriculum for use by the Intoxicated Driver Resource Center.

1. In order to make changes to the prescribed educational curriculum or to use an alternate educational curriculum, the Intoxicated Driver Resource Center must seek and obtain the approval of the Chief of the Intoxicated Driving Program.

2. Suggestions for changes to the prescribed educational curriculum or requests to use an alternate educational curriculum shall be submitted in writing by the Intoxicated Driver Resource Center Director with approval of the county designating authority to the Chief of the Intoxicated Driving Program.

3. The Chief of the Intoxicated Driving Program shall have the authority to alter and approve the proposed changes to the prescribed educational curriculum or alternate educational curriculum after consultation with the Intoxicated Driver Resource Center Director(s).

(b) The Intoxicated Driver Resource Center Director shall identify staff responsible for instructing clients on the educational curriculum.

1. The Intoxicated Driver Resource Center Director and identified education staff shall be certified by the IDP, or its designee, to provide the educational curriculum used by the Intoxicated Driver Resource Center.

2. The Intoxicated Driver Resource Center Director and identified education staff shall attend educational curriculum training(s) provided by the Intoxicated Driving Program or its designee.

10:162-2.9 Confidentiality

(a) The Intoxicated Driver Resource Center shall keep client information and records confidential in accordance with any and all applicable Federal and State laws, rules, and regulations including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 and 164, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2.

(b) The Intoxicated Driver Resource Center shall establish and implement policies and procedures for the maintenance, preservation, and safeguarding of client records and information, which shall be reviewed at least bi-annually by the Director. These policies and procedures shall address, at a minimum, the following: protection of

client records and information from loss, tampering, alteration, and unauthorized use or disclosure; retention and destruction of client records and information; and the transfer of client records and information to other Intoxicated Driver Resource Centers, affiliated providers, or other health care entities.

10:162-2.10 Data collection and reporting

The Intoxicated Driver Resource Centers shall input and report client information and status, and such additional client and service data as the Intoxicated Driving Program may require, through a Division-approved and designated computer system.

SUBCHAPTER 4. EVALUATION AND TREATMENT PROCEDURES

10:162-4.1 Evaluation procedures

(a)-(b) (No change.)

(c) If a client is referred to a treatment program, a packet shall be prepared for transmittal to the treatment program, which shall include the following information:

1.-8. (No change.)

(d) The records release authorization form shall be filled out to allow information to be released to the court, Intoxicated Driving Program, and the Division, the treatment program, the Division of Motor Vehicles, the Intoxicated Driver Resource Centers, and the client's attorney. In addition, the client may authorize any other persons to receive protected information by so indicating on the form.

10:162-4.2 Criteria for client referral

(a) The purpose of ***the*** Intoxicated Driver Resource Center screening is to identify clients who may ***[be alcohol or drug abusers]*** ***have a substance use disorder*** or who need a structured intervention into their alcohol or drug use.

(b) A referral for further evaluation by the Intoxicated Driver Resource Center or Intoxicated Driving Program shall take into consideration the following facts as relevant to a client's need for further evaluation:

1.-2. (No change.)

3. A counselor's evaluation of the answers recorded on the evaluation instrument based on the definition of ***[alcohol or drug abuser]*** ***substance use disorder***;

4. Any prior outpatient or inpatient ***substance use disorder*** treatment ***[for alcohol or drug abuse]***;

5. Any prior ***[self help]*** ***self-help*** group attendance for ***[an]*** ***a substance use disorder or related to*** alcohol or drug ***[abuse problem]*** ***use***;

6. (No change.)

7. Counselor interview and observations. All counselor observations and data used to determine treatment appropriateness shall be documented. They may include symptoms of substance use disorder including voluntary admission by the client that an alcohol or drug problem exists. A counselor's evaluation based on documented observations and data that a client has, or may have, a substance use disorder is sufficient to refer a client for further evaluation;

8. Outside information. The Intoxicated Driver Resource Center/Intoxicated Driving Program staff may receive information from outside sources such as a client's family, treatment facilities, counselors, or physicians. Such information may be utilized if the source of the information is disclosed to the client and he or she is given the opportunity to review and comment on the information;

9. Age. The age of an offender may be considered as a factor, but only in addition to other criteria listed in this subsection indicating the appropriateness of a referral for further evaluation;

10. Test results. The results of any current or prior alcohol and/or drug tests indicating the presence of alcohol and/or drugs in the ***[offender's]*** ***client's*** system (for example, blood, hair, saliva, urine); or

11. As otherwise clinically indicated, with documentation supporting the need for further evaluation.

10:162-4.5 Determining need for substance use disorder treatment and level of care

(a) In determining the need for substance use disorder treatment and identifying the appropriate level of care, the affiliated treatment agency shall:

1. Make a determination based upon the ASAM criteria and a DSM diagnosis;

2. Utilize a SAMHSA-approved, evidence-based, validated assessment tool; and

3. Ensure that only affiliated treatment agency staff possessing the appropriate clinical background, education, and qualifications perform and provide the diagnosis and assessment.

10:162-4.6 Referral procedures

(a) The Intoxicated Driver Resource Center shall provide each client referred for evaluation with a list of affiliated treatment agencies. The list shall reflect the following items:

1.-2. (No change.)

3. Days/times of operation;

4. Type of treatment and type of counseling; and

5. (No change.)

(b) Clients shall choose a program from the list and sign the appropriate form indicating that he or she was shown the list and selected a program. Any refusal, unwillingness, or failure by a client to choose a program shall be cause for a finding of non-compliance.

(c) (No change in text.)

(d) All clients referred to treatment shall sign a records release authorization prior to leaving the Intoxicated Driver ***Resource*** Center in order to allow the Court, the Intoxicated Driver Resource Center, the Intoxicated Driving Program, the Division ***[of Addiction Services]***, the Division of Motor Vehicles, the client's attorney, the treatment program^{*}, and other specifically named individuals or entities to exchange information.

(e) (No change in text.)

SUBCHAPTER 5. TREATMENT PROGRAM AFFILIATION REQUIREMENTS

10:162-5.1 Affiliation and treatment program standards

(a) In order for an Intoxicated Driver Resource Center client to receive substance use disorder treatment at a ***[DHS-licensed]*** ***Department-licensed*** substance use disorder treatment agency or by a licensed healthcare practitioner/professional, the IDRC and the ***[DHS-licensed]*** ***Department-licensed*** substance use disorder treatment agency or licensed health care practitioner/professional must execute ***[a written]*** ***an*** affiliation agreement.

(b) The affiliation agreement between the IDRC and ***[DHS-licensed]*** ***the Department-licensed*** substance use disorder treatment ***[program]*** ***agency*** shall include and be facilitated by the IDP.

(c) The affiliation agreement between the IDRC and a licensed health care practitioner/professional shall be the responsibility of the IDRC. The IDRC shall delineate and define the contents of the written affiliation agreement, except that the minimum requirements set forth at (c)1 below must be included within the affiliation agreement.

1. Any affiliation agreement between an Intoxicated Driver Resource Center and a healthcare practitioner/professional to provide substance use disorder treatment services to clients must, at a minimum, include the following standards:

i. Conformance with N.J.S.A. 39:4-50 et seq., 45:2D-1 et seq., 26:2H-1 et seq., and 40A:9-22.1 et seq., and this chapter, as appropriate;

- ii. Acknowledgement that the healthcare practitioner/professional possesses the appropriate educational qualifications and proper license and/or credentials to provide substance use disorder treatment services;
- iii. Maintenance of a fee schedule, including any sliding fee schedule;
- iv. Provision of the address, telephone number, hours of operation, and contact person for each office location;
- v. A written description of the treatment program vision and mission, program requirements, and treatment modalities, including ASAM criteria level of care designations for treatment services offered; and
- vi. Provision of copies of commercial liability insurance and individual or agency professional liability insurance, as appropriate.

(d) The chief of the Intoxicated Driving Program or an Intoxicated Driver Resource Center Director may approve an individual treatment plan at a non-affiliated agency or provider in or out of the State.

(e) All affiliated treatment programs and healthcare practitioners/professionals shall input and report client information and status, and such additional client and service data as the Intoxicated Driving Program may require, to the Division through a Division-approved and designated computer system.

10:162-5.7**5.2* Handling of complaints to the IDP

Upon receipt of a complaint, notification, or allegation of a violation of law, rule, or affiliation agreement by affiliated treatment agencies, the Intoxicated Driving Program shall refer and report such complaint, notification, or allegation to the applicable IDRC, county designating authority, and/or relevant Federal, State and local agencies, as appropriate.

SUBCHAPTER 6. TREATMENT PROGRAM OPERATIONAL REQUIREMENTS

10:162-6.1 Intake evaluation

(a) (No change.)

(b) The treatment program shall conduct an independent evaluation of the client's need for treatment that addresses the six ASAM criteria dimensions. Any testing tool utilized must be noted in the evaluation. The information packet received from the Intoxicated Driving Program shall also be utilized. The treatment program shall inform the client of his or her specific responsibility under the treatment plan. If a client is determined by the treatment program to need treatment, a treatment plan shall be developed and a copy of the plan shall be provided to the client. The treatment agency shall establish a written, signed contract with the client regarding the treatment plan. The client shall sign a records release authorization during the intake process. The form shall be completed to allow the court, the Intoxicated Driver Resource Center, the Intoxicated Driving Program, the Division, the Motor Vehicle Commission, the client's attorney, and the treatment program/approved grantee and coordinating grantee, as appropriate, to exchange information.

(c) (No change.)

(d) When determining whether a client is an eligible recipient, an approved grantee shall require proof of income and, when applicable, documentation of medical indigency status pursuant to N.J.A.C. 10:162-6.16(c) in the form of the prior year's tax returns, pay stubs, or other documentation deemed suitable by the Division.

10:162-6.3 Length of and level of care for substance use disorder treatment

The length of treatment shall be for a duration of time that is clinically necessary. The level of care identified for a client must be supported by ASAM criteria and a DSM diagnosis.

10:162-6.4 Treatment plan

(a) The purpose of the treatment plan is to provide information and personal insight to the client so that he or she will recognize the extent of his or her *[alcohol and/or drug abuse problems]* **substance use disorder*** and acquire the basic tools to begin recovery and maintain sobriety, if such a goal is part of the plan. *[The plan shall also educate the client about the danger of alcohol and drug use in conjunction with driving.]*

(b) A treatment plan shall include the following:

- 1. Education on **substance use disorders and** alcohol and drug **abuse problems*** **use in conjunction with driving***;
- 2. Information on the effects of **addiction*** **substance use disorders*** on families, work*,* and personal health; and
- 3. Individual and group counseling aimed at providing personal insight and information on how to recover. The information shall include:

i.-iv. (No change.)

v. A statement informing the client*[s]* of any confidentiality protection **to which*** he or she is entitled **to***.

10:162-6.9 Evaluation of client progress

The progress of the client shall be monitored and recorded by the treatment program staff on a weekly basis. A client who may be in need of additional treatment, such as detoxification, intensive outpatient, or inpatient treatment, may be assigned to such treatment, with approval from the Intoxicated Driver Resource Center. Clients who continue to **abuse alcohol/drugs*** **use alcohol and/or drugs***, or otherwise fail to comply with program requirements, shall be reported to the Intoxicated Driving Program by the Intoxicated Driver Resource Center.

10:162-6.13 Final client treatment release, evaluation, and request for payment

(a) In releasing a client from treatment, the counselor is making a professional judgment about the client's alcohol/drug behavior. The client should be in control of his or her problem. For clients with a substance use disorder, this will mean abstinence; for clients who do not have a substance use disorder, this will mean the ability for the client to make rational decisions regarding alcohol/drug use and driving.

(b) (No change.)

(c) An approved sub-grantee shall present suitable documentation to a coordinating grantee designated by the Division for payment for a covered treatment episode, indicating the date or dates on which services were provided, the number of units of service provided, the modality or modalities of service provided and proof that the client was an eligible recipient.

(d) The Division may authorize provider service sub-contracts in the form of payments by a coordinating grantee to approved grantees based on the documentation provided pursuant to N.J.A.C. 10:162-10.4(a) through (c) and (c) above.

10:162-6.14 Client treatment procedures

(a) (No change.)

Recodify existing (d)-(e) as (b)-(c) (No change in text.)

10:162-6.16 Treatment costs

(a) The Division shall not be responsible for any treatment costs for any treatment or treatment agency evaluation costs for a client unless the client provides proof that he or she is an eligible recipient, and the grantee or sub-grantee providing such services indicates what percentage of the costs have been or will be paid from other sources. The Division may then make payments from the Fund on a sliding scale up to 100 percent of the costs.

(b)-(c) (No change.)

(d) A client who claims to be an eligible recipient shall provide proof of income and, when applicable, documentation of medical indigency status including, but not limited to, garnishments, alimony, child support and legal fines, to an approved grantee pursuant to N.J.A.C. 10:162-6.1(d). Proof of eligibility does not relieve the client of the responsibility to pay the Intoxicated Driving Program and Intoxicated Driver Resource Center fees required pursuant to N.J.A.C. 10:162-2.4 and 8.1, and any nominal co-payment charged by an approved grantee for therapeutic purposes, as approved by the Division.

SUBCHAPTER 8. CLIENT NON-COMPLIANCE PROCEDURES

10:162-8.6 Conditions for a request for restoration of a client's driving privileges

The Intoxicated Driver Resource Center shall receive written notice from the affiliated treatment agency of satisfactory performance of treatment before notifying the Intoxicated Driving Program to request

that the Division of Motor Vehicles restore the client's driving privileges.

SUBCHAPTER 9. MISCELLANEOUS OFFENDERS

10:162-9.1 Multiple offenders

(a) Prior to restoration of a multiple offender's driver's license, the offender shall be evaluated by the Intoxicated Driver Resource Center/Intoxicated Driving Program, and if treatment is complete, a recommendation for license restoration will be made to the Division of Motor Vehicles providing that:

1. (No change.)

2. The client has successfully completed approved treatment requirements and agrees to complete the remainder of any ordered treatment plan.

(b) (No change.)

SUBCHAPTER 10. ALCOHOL TREATMENT PROGRAM FUND GRANTS

10:162-10.1 Form and manner in which application for provider service contracts to the fund shall be made

(a) The Division shall annually publish specific application procedures, qualifications, and requirements for award of funding to a coordinating service agency and approved sub-contracted providers in the Department of Human Services Directory of Contracted Services or through a public notice in such form as may be used by the Department of Human Services for announcing other funding initiatives, based upon the availability of funding, consistent with this subchapter.

(b) Eligible applicants may apply to the Division for funding pursuant to the procedures and requirements indicated in (a) above and, upon execution of a provider service contract or sub-contract, will be considered approved grantees. Applicant programs shall apply to:

Division of Mental Health and Addiction Services
New Jersey Department of *[Human Services]* ***Health***
PO Box *[700]* ***362***
Trenton, NJ *[08625-0700]* ***08625-0362***

10:162-10.2 Length of provider service contracts

Subject to the availability of funds, the Division may contract with the coordinating grantee or grantees for a time period that is appropriate and consistent with Department of Human Services policies and procedures for the administration of provider service contracts.

10:162-10.3 Criteria for approved sub-grantee eligibility

Eligible applicants for subcontracts shall be licensed by the Department *[of Human Services]* pursuant to N.J.S.A. ***26:2B-14, 26:2G-23, and/or*** 26:2H-1 and N.J.A.C. *[8:42A.]* 8:43A-26, ***10:161A, and/or 10:161B,*** or any successor rules governing the operation of substance *[abuse]* ***use disorder*** treatment facilities; and shall be affiliated with the Intoxicated Driver Resource Center*[s]* pursuant to N.J.S.A. 39:4-50(f) and N.J.A.C. 10:162-*[5.1 through 5.7]**5*.

10:162-10.4 Funding priorities

(a) The Division may make funding available to a coordinating grantee or grantees and approved sub-grantees for certain populations pursuant to (b) through (e) below.

(b) First priority is for residential or combined residential and detoxification services, and clinically indicated continuing care treatment services, provided to eligible recipients who, at the time of admission, meet the Level 3.5, 3.7 or 3.7-WM criteria of the ASAM Criteria on or after October 17, 2005.

(c) Second priority is for intensive outpatient clinically-indicated subsequent continuing care treatment services provided to eligible recipients who, at the time of admission, meet the Level 2.1 criteria of the ASAM Criteria, and who were referred to treatment on or after October 17, 2005.

(d) Third priority is for outpatient and other treatment services provided to eligible recipients who meet the Level 1 criteria of the ASAM Criteria, and who were referred to treatment on or after October 17, 2005.

(e) The Division may disburse funds or authorize the disbursement of any funds for others who have been convicted of an offense under N.J.S.A. 39:4-50 et seq., 39:4-50.4(a), 39:4-50.14, 12:7-46, 12:7-57, 39:3-10.24, or 39:4-14.3g no more than five years prior to October 17, 2005, and who meet the ASAM Criteria referenced in (b) through (d) above, as long as its estimates of need permit it to do so and funding is available.

SUBCHAPTER 11. INTOXICATED DRIVER RESOURCE CENTER PER DIEM FEE INCREASES

10:162-11.1 Criteria for Intoxicated Driver Resource Center per diem fee increases

(a) The Commissioner of *[Human Services]* ***Health***, in consultation with the Governor's Council on Alcoholism and Drug Abuse, may entertain and grant a request from the Division, in coordination with the Directors of the Intoxicated Driver Resource Centers, for a per diem fee increase for all Intoxicated Driver Resource Centers, when it has been determined by the Director of the Division that more than 50 percent of the Intoxicated Driver Resource Centers are operating in deficit, based upon the annual income and expenditure reports submitted pursuant to N.J.A.C. 10:162-2.7.

(b)-(c) (No change.)

(a)

**HEALTH SYSTEMS BRANCH
OFFICE OF HEALTH CARE FINANCING
OFFICE OF POPULATION HEALTH
HEALTHCARE QUALITY AND INFORMATICS
PROGRAM
HEALTH CARE QUALITY ASSESSMENT UNIT
Notice of Readoption
Hospital Financial Reporting**

Readoption with Technical Changes: N.J.A.C. 8:31B

Authorized By: Shereef M. Elnahal, MD, MBA, Commissioner,
Department of Health (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., particularly 26:2H-5, 5.1, 5.1b, 12, 18, 18.47, 18.55, 18.57, 18.58, 18.59, 18.59c, 18.59i, and 18.62.

Effective Dates: May 29, 2018, Readoption;
July 2, 2018, Technical Changes.

New Expiration Date: May 29, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Commissioner (Commissioner) of the Department of Health (Department) hereby readopts N.J.A.C. 8:31B, Hospital Financial Reporting, which was scheduled to expire June 29, 2018.

N.J.A.C. 8:31B establishes rules governing hospital reporting of uniform billing and cost data to implement the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 through 26 (Act). The Department collects uniform billing data to calculate Medicaid reimbursement rates; analyze market share, treatment patterns, and patient demographics; inform health care quality assessment activities (such as the Department's annual compilation of the "Hospital Quality Assessment" report, available at <http://www.nj.gov/health/healthcarequality/>); and conduct other public health assessment, planning, and policy development activities. The Department collects hospital cost reports and other financial information to calculate, among other disbursements, the amounts of charity care and uncompensated care disproportionate share payments from the Health Care Subsidy Fund that are due to hospitals serving a disproportionate number of low-income patients, see N.J.S.A. 26:2H-18.58, and to inform the Department's hospital financial stability oversight responsibilities, see, for example, N.J.S.A. 26:2H-5,