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3793:4-1-01 Driver intervention program certification process.

- (A) The purpose of this rule is to state the procedures for certification of driver intervention programs in Ohio.
- (B) The provisions of this rule are applicable to all driver intervention programs in Ohio, public or private, regardless of whether they receive any state or federal funds.
- (C) A driver intervention program is a program of screening, education and referral for individuals who are arrested and/or convicted of operation of a vehicle or water craft under the influence of alcohol and/or a drug of abuse under section 4511.19 or 1547.11 of the Revised Code or a substantially similar municipal ordinance or other alcohol-related traffic statute or ordinance.
- (D) No entity may operate, or purport to operate, a driver intervention program in Ohio unless it has received driver intervention program certification from the Ohio department of alcohol and drug addiction services.
- (E) Procedures for processing an application for certification for programs not currently certified:
 - (1) Any driver intervention program subject to and/or seeking program certification pursuant to section 3793.10 of the Revised Code shall apply to the Ohio department of alcohol and drug addiction services by filing an application that includes, but is not limited to, the following information for each program site for which certification by the Ohio department of alcohol and drug addiction services is sought:
 - (a) Primary location for conducting business (street address, city and county). Driver intervention programming may or may not be conducted at this location.
 - (b) Name, street address, city, zip code, county and telephone number of the program site(s) (location where driver intervention programming is conducted) to be certified.
 - (c) Total number of hours of operation for the driver intervention program, including the total number of program hours.
 - (d) Driver intervention program fee.
 - (e) Copy of an Ohio food services operator's license if required by the Ohio department of health.
 - (f) A copy of an occupancy and use certificate issued by the division of construction compliance of the Ohio department of commerce or issued by an Ohio-certified building department of a municipal corporation, township or county which has been established in conformity with law for the purpose of enforcing the "Ohio Basic Building Code" where the program will be conducted.
 - (g) If a driver intervention program provides services at a camp, a copy of the "Permission to Operate a Camp" issued by the local county/city health department pursuant to rule 3701:25-43 of the Administrative Code.
 - (h) If a driver intervention program provides services at a hotel or motel, a copy of the hotel/motel license from the division of the state fire marshal of the Ohio department of commerce will be accepted in lieu of a copy of a occupancy and use certificate and annual fire inspection.
 - (i) A copy of the current annual fire inspection by an Ohio-certified fire authority or by the division of the state fire marshal of the ohio department of commerce for each location where services will be provided.

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- (j) A copy of the owner's current registration for doing business in Ohio that has been filed with the Ohio secretary of state.
 - (k) If the owner is an out-of-state corporation, a copy of the license for doing business in Ohio from the Ohio secretary of state.
 - (l) If the program is a non-profit organization, a copy of the approved statement of continued existence approved by the Ohio secretary of state.
 - (m) Programs requesting a variance, or an extension of a variance for one or more program certification standards shall include a copy of the request with the certification application. Each variance request shall be prepared and submitted in accordance with this rule.
 - (n) The application shall be signed and dated by the executive director, CEO or president of the organization.
- (2) Upon receipt of an application, the Ohio department of alcohol and drug addiction services shall review the materials to determine if they are complete.
- (a) If an application is incomplete, the department shall notify the applicant of corrections or additions needed and/or may return the application to the applicant.
 - (b) The department's return of the materials to the applicant or failure of the department to take further action to issue a certificate shall not constitute denial of an application for program certification.
- (3) Upon acceptance of an application, the Ohio department of alcohol and drug addiction services shall contact the program to schedule an on-site inspection of the program. The department shall send the program a letter confirming the date of the on-site inspection.
- (4) The Ohio department of alcohol and drug addiction services shall conduct an on-site inspection of the program at the time of the application, with official written notice to the program, or at any other time for cause as determined by the department, with or without official written notice to the program.
- (5) The Ohio department of alcohol and drug addiction services shall have access to all program related records to verify compliance with driver intervention program certification standards. The department may conduct interviews with members of the program's governing authority, program staff, others in the community and/or clients with the clients' permission.
- (6) The Ohio department of alcohol and drug addiction services shall prepare a follow-up inspection report for the on-site inspection of the program.
- (a) The inspection report shall cite any standards with which the program was not in compliance at the time of the on-site inspection.
 - (b) The department shall provide a copy of the on-site inspection report to the program.
 - (c) Programs shall correct deficiencies identified during a program certification inspection conducted by the department and documentation of correction of the deficiencies shall be sent to the department within the time frame specified in the follow-up inspection report.
- (7) The Ohio department of alcohol and drug addiction services shall issue a certificate to each applicant complying with the program certification standards.

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- (a) Certificates for driver intervention programs shall not exceed three years.
- (b) The Ohio department of alcohol and drug addiction services shall provide the program with the original certificate.
- (c) The program shall display the certificate in a prominent location where services are provided during program hours.

(F) Conditional program certification:

- (1) Conditional program certification may be granted by the Ohio department of alcohol and drug addiction services to enable the program to obtain clients, to establish and maintain client records, to implement quality improvement activities or to correct deficiencies identified during an on-site program certification inspection.
- (2) The Ohio department of alcohol and drug addiction services may issue a conditional program certification for a maximum period of ninety days.
- (3) Conditional certification expires on the last day of a calendar month.
- (4) Failure to comply with the terms of the conditional certification shall result in non-certified status.

(G) Relocation of a certified program shall render the certification void. Void certificates shall be returned to the Ohio department of alcohol and drug addiction services.

- (1) A program shall submit an application for program certification of a new site to the Ohio department of alcohol and drug addiction services at least thirty days prior to relocation to avoid possible non-certified status of the program.
- (2) Upon acceptance of an application, the Ohio department of alcohol and drug addiction services may conduct an on-site inspection of the new program site location for compliance with certification standards for physical plant and safety and any program certification standards deemed appropriate by the Ohio department of alcohol and drug addiction services.
- (3) Certificates issued as a result of a relocation of a program site shall have the same expiration date as the certification of the original program site.

(H) Procedure for renewal of program certification for currently certified programs:

- (1) Any Ohio driver intervention program seeking renewal of program certification pursuant to section 3793.10 of the Revised Code shall submit a renewal application, upon receipt, to the Ohio department of alcohol and drug addiction services that includes, but is not limited to, verification of the following information for each program site to be certified by the department:
 - (a) Primary location for conducting business (street address, city and county). Driver intervention programming may or may not be conducted at this location.
 - (b) Name, street address, city, zip code, county and telephone number of the program site(s) (location where driver intervention programming is conducted) to be certified.
 - (c) A copy of a current annual fire inspection by an Ohio-certified fire authority or by the division of the state fire marshal of the Ohio department of commerce for the location where services will be

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provided.

- (d) Programs requesting a variance or an extension of a variance for one or more of the program certification standards shall include a copy of the request with the program certification application. Each variance request shall be prepared and submitted in accordance with this rule.
 - (e) An assurance statement, signed and dated by the executive director, CEO or president of the organization, and president of the governing authority or member of the driver intervention program advisory board, which states that the agency shall comply with the certification standards for each certified program site for the duration of its three-year certification period.
 - (f) The application shall be signed and dated by the executive director, CEO or president of the organization.
- (2) Upon receipt of a renewal application, the Ohio department of alcohol and drug addiction services shall review the materials to determine if they are complete.
- (a) If an application is incomplete, the department shall notify the applicant of corrections or additions needed and/or may return the materials to the applicant.
 - (b) The department's return of the materials to the applicant or failure of the department to take further action to issue a certificate shall not constitute denial of an application for program certification.
- (3) Upon approval of the renewal application, the department shall issue a certificate valid for up to a three-year period beginning from the date of issue.
- (a) The department shall provide the program with the original certificate.
 - (b) The program shall display the certificate in a prominent location where services are provided during program hours.
- (4) The Ohio department of alcohol and drug addiction services shall contact the program to schedule an on-site inspection of the program within the three-year certification period. Reviews will be scheduled with a minimum ninety-day notice. The department shall send the program a letter confirming the date of the on-site inspection.
- (5) The Ohio department of alcohol and drug addiction services shall conduct an on-site inspection within the three-year certification period with official written notice to the program, or at any other time for cause as determined by the department, with or without official written notice to the program.
- (6) The Ohio department of alcohol and drug addiction services shall have access to all program-related records to verify compliance with program certification standards. The department may conduct interviews with members of the program's governing authority, program staff, others in the community and/or clients with the client's permission.
- (7) The Ohio department of alcohol and drug addiction services shall prepare a follow-up inspection report for the on-site inspection of the program.
- (a) The inspection report shall cite any standards with which the program was not in compliance at the time of the on-site inspection.
 - (b) Programs shall correct deficiencies identified during a program certification inspection conducted the

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Ohio department of alcohol and drug addiction services. Documentation of correction of the deficiencies shall be sent to the department within the time frame specified from the date in the follow-up inspection report.

- (I) The Ohio department of alcohol and drug addiction services certifies program sites. Each program certification issued by the department is for a specific address. Certificates are not transferable to any other program entity or to other program site locations.
- (J) Relocation of a certified program shall render the certification void. Void certificates shall be returned to the Ohio department of alcohol and drug addiction services.
 - (1) A program shall submit an application for program certification of a new site location to the Ohio department of alcohol and drug addiction services at least thirty days prior to relocation to avoid possible non-certified or non-licensure status of the program.
 - (2) Upon acceptance of an application, the Ohio department of alcohol and drug addiction services may conduct an on-site inspection of the new program site location for compliance with certification standards for physical plant and safety and any program certification standards deemed appropriate by the department.
 - (3) Certificates/licenses issued as a result of a relocation of a program site shall have the same expiration date as the certification or licensure of the original program site.
- (K) Variances:
 - (1) The Ohio department of alcohol and drug addiction services may grant a variance from any certification standard, or portion thereof, for the period during which the certification is in effect.
 - (2) "Variance" means written permission granted by the Ohio department of alcohol and drug addiction services to a program to be exempted from or meet a modified requirement of a rule or specific provision of a rule of the administrative code or other program certification standard.
 - (3) Requests for variances of certification standards shall be in writing to the Ohio department of alcohol and drug addiction services and shall include:
 - (a) The administrative rule number and standard for which a variance is sought.
 - (b) The rationale for requesting the variance.
 - (c) Documentation by the program that assures the Ohio department of alcohol and drug addiction services that the quality of services and client safety shall not be jeopardized if the variance is granted.
 - (d) The consequences of not receiving approval of the requested variance.
 - (4) The Ohio department of alcohol and drug addiction services shall issue a written statement to the program granting or denying requests for variance of program certification standards.
 - (5) The program shall maintain a file copy of all request for variances and the approval or denial or requests for the period during which the certification is in effect.
- (L) The Ohio department of alcohol and drug addiction services may deny or revoke a driver intervention

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program certification for one or more of the following reasons:

- (1) The program fails to comply with any program certification standard.
 - (2) The program misuses or fails to account properly for the disbursement of public funds.
 - (3) The program knowingly permits an employee, contract staff, volunteer or student intern to falsify information on client records.
 - (4) The program is aware of an employee, contract staff, volunteer or student intern who has abused or neglected a client and has failed to take appropriate disciplinary action to correct the situation.
 - (5) The program knowingly provides to the Ohio department of alcohol and drug addiction services or any other entity false information.
 - (6) The program fails to provide access to its records as requested by the Ohio department of alcohol and drug addiction services.
 - (7) Denial, revocation or termination would be in the best interest of the citizens of Ohio.
- (M) The Ohio department of alcohol and drug addiction services shall give the program written notice by certified mail, return receipt requested, if it intends to deny or revoke certification. The notice shall include:
- (1) The standard(s) with which the program was found to be in non-compliance and/or other reason(s) for the action.
 - (2) The section(s) of the law or rule(s) involved.
 - (3) A statement informing the program that it is entitled to a hearing if requested within thirty days of the time of the mailing of the notice.
 - (4) A statement that at the hearing, the program's representative may appear in person and/or be represented by its attorney, or may present its position, arguments or comments in writing and at the hearing it may present evidence and examine witnesses appearing for and against it. A copy of the notice shall be mailed to the attorney or other representative of record representing the program.
- (N) If a program requests a hearing, the Ohio department of alcohol and drug addiction services shall set the date, time and place for the hearing within fifteen days, but not earlier than seven days, after the program has requested a hearing unless otherwise agreed upon by both the Ohio department of alcohol and drug addiction services and the program. A copy of the hearing notice shall be mailed to the program's representative or its attorney.
- (1) The Ohio department of alcohol and drug addiction services shall conduct the adjudication hearing following the procedures in section 119.09 of the Revised Code and, among other things, may appoint a referee or hearing examiner to conduct the proceedings and make recommendations as appropriate.
 - (2) The Ohio department of alcohol and drug addiction services shall provide the program a certified copy of its decision by certified mail, return receipt requested.
 - (3) If the Ohio department of alcohol and drug addiction services' decision after the hearing is to deny or revoke certification, the program shall be informed of its right to appeal and file its notice of appeal of the decision within fifteen days of the mailing of the notice of the department's order.

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- (4) If the program decides to appeal the Ohio department of alcohol and drug addiction services' decision, the program shall appeal the order of the department to the court of common pleas of the county in which the program's place of business is located. The program's notice of appeal is to be filed with the department and must state the order appealed and the grounds of the appeal. A copy of the program's appeal must be filed with the court of common pleas in the county in which the appeal is being filed.
- (5) Within thirty days after receipt of a notice of appeal, the Ohio department of alcohol and drug addiction services shall send to the common pleas court a complete record of the proceedings in the case by certified mail, return receipt requested.
- (O) Any person who violates the provisions of this chapter shall be subject to the penalties provided in section 3793.99 of the Revised Code.
 - (1) Any program which has had its certification revoked pursuant to this rule shall not be eligible to apply to the Ohio department of alcohol and drug addiction services for driver intervention program certification for at least five years from the date of revocation without the written consent of the department.
 - (2) Any program which has been denied certification pursuant to this rule shall not be eligible to apply to the Ohio department of alcohol and drug addiction services for program certification for at least three years from the date of denial without the written consent of the department.
- (P) Driver intervention program certification shall be considered void and invalid if a program: fails to reapply, voluntarily relinquishes the certificate for certification, moves to another location, goes out of business or is sold or otherwise conveyed to another entity.
- (Q) A driver intervention program shall immediately notify the Ohio department of alcohol and drug addiction services in writing of any changes in its operations that affect the program's continued compliance with the department's program certification requirements.
- (R) All programs shall be in compliance with all applicable federal, state, and local laws and regulations.
- (S) Driver intervention programs currently certified by the Ohio department of alcohol and drug addiction services at the time of the effective date of agency 3793 of the Administrative Code shall remain certified until the expiration of their current certification, unless their certification were to be revoked or terminated in accordance with this rule.