



# DUI Programs Standard Operating Procedures Manual

**Revised on June 20, 2025**

DSAMH provides an operating procedures manual which all DUI providers must follow. The DUI Programs Standard Operating Procedures Manual is governed by DSAMH. Questions regarding all procedures in this manual should be addressed to Stephanie Stachoni, DUI Services Coordinator: [Stephanie.Stachoni@delaware.gov](mailto:Stephanie.Stachoni@delaware.gov).

## **Table of Content:**

**[Chapter 1](#)** - Introduction and Regulatory Background

**[Chapter 2](#)** - Definitions

**[Chapter 3](#)** - Other DUI Equivalent Programs

**[Chapter 4](#)** - DUI Programs Overview

**[Chapter 5](#)** - DUI Provider Agencies

**[Chapter 6](#)** - Telehealth

**[Chapter 7](#)** - DUI Screening and Referral Program (DRS)

**[Chapter 8](#)** - Out of State DUI Participants

**[Chapter 9](#)** - DUI Education Program

**[Chapter 10](#)** - DUI Treatment Program

**[Chapter 11](#)** - DUI Extended (Intensive) Outpatient Treatment

**[Chapter 12](#)** - Urine Drug Screening

**[Chapter 13](#)** - Failure to Comply or Succeed in DUI Program

**[Chapter 14](#)** - Participant Conduct

**[Chapter 15](#)** - Attendance

**[Chapter 16](#)** - Disciplinary Actions

**[Chapter 17](#)** - Appeals

**[Chapter 18](#)** - Fees

## **CHAPTER 1- INTRODUCTION AND REGULATORY BACKGROUND**

Driving under the influence is a serious public health hazard that affects the lives of thousands of Americans and Delawareans every year.

The Delaware code prohibits driving under the influence and imposes penalties on individuals found guilty of DUI. These penalties range in severity based on factors including the number of DUI arrests and or convictions, the impairment level, and the age of the offender. Additionally, under 21 Del. C 4177 (f), a court sentencing an individual for a DUI offense must order the individual to complete a substance use disorder screening and subsequently complete either DUI education or treatment program.

Individuals can be found not guilty by the Delaware court system yet be required to be screened and complete a DUI program by the Delaware DMV under what is known as “Probable Cause.” The Delaware DMV will hold an Administrative Hearing to determine whether a probable cause exists to mandate a completion of DUI education or treatment program. This occurs in addition to the legal/court hearing. If the individual either fails to appear or receives unfavorable resolution of the DMV Administrative Hearing, a Probable Cause will be noted on the individual’s DMV driver’s license record. In order for the individual to get his or her driver’s license reinstated, the individual is required to complete the DUI alcohol and drug screening and follow the recommended results by completing a DUI education or DUI treatment program. The DMV’s Probable Cause hearing and determination have no bearing on the legal case in the criminal court system. The legal case and the DMV case are two separate processes that both need to be successfully resolved in order for an individual to be eligible to get their driver’s license reinstated.

Under the authority granted by 21 Del. C 4177D, the Division of Substance Abuse and Mental Health has promulgated regulations for DUI programs under Title 16 Del. Admin C. 6003. The purpose of this manual is to provide guidance on DUI drug and alcohol programs to be in compliance with the Title 16 Del. Admin C. 6003 regulations. The Division of Substance Abuse and Mental Health will continuously review and update the contents of this manual to promote compliance, efficiency and best practices on DUI alcohol and drug programs.

An individual convicted of either Driving Under the Influence, Reckless Driving Alcohol Related, Zero Tolerance, or determination of Probable Cause status, is required to complete a substance use disorder screening. Based on the results of the screening, the individual must enter and complete either a DUI educational or a treatment program.

To become a DUI program provider in Delaware, agencies must be licensed by DSAMH under Title 16 Del. Admin C. 6001; they must respond to an RFP for DUI services; and subsequently be awarded a contract to provide such services from DSAMH.

## **CHAPTER 2 – DEFINITIONS**

**Absence** means the DUI program participant fails to appear for scheduled appointment, is late for the appointment or fails to comply with the cancellation policy of the program. An absence may also occur if the participant appears for a service unprepared.

**Administrator** refers to the person in charge of the contracted provider's DUI program.

**Administrative Discharge** also known as **leave of absence**. This occurs when a temporary pause of DUI provider services is requested by the DUI program participant and granted by the DUI provider.

**ASAM Criteria** is a set of standards based on the American Society of Addiction Medicine assessment tools for placement, continued service, and transfer of patients with addiction and co-occurring conditions. It considers the patient's biomedical, psychological, and social needs across a continuum of care levels.

**Alcohol concentration** (sometimes referred to as **BAC**) means the grams of alcohol per 100 milliliters of blood or 210 liters of breath in a sample taken from an individual during a chemical test. It is a measure of intoxication.

**Case Management** means the process of coordinating and monitoring DUI program services.

**Defamatory language** means language that is defamatory towards a person or group based on age, creed, disability, familial status, ethnicity, gender, gender identity, national origin, sexual orientation, race, religion, or other protected classification.

**DERP** means DUI Evaluation and Referral Program (prior to 2022). This was the former name of the DUI Screening And Referral Program when it was managed by SODAT.

**Disciplinary action** means a sanction or adverse action against a participant as a result of a violation.

**Dismissal** means an inactive status of participant's case with the DUI education or treatment program. Dismissal typically results if a participant fails to participate in programming for a period of more than 21 days without just cause.

**Division/DSAMH** means the Division of Substance Abuse and Mental Health within the Department of Health and Social Services.

**Driving under the influence** or **DUI** means a criminal offense subject to punishment under 21 *Del. C. §§ 4177, 4177B, 4177L, 4177M*, or 23 *Del. C. §§ 2305(2), 2305(3), or 2305(4)*. The violation involves operating a vehicle while impaired by alcohol or drugs. DUI convictions may include related charges such as Reckless Driving Alcohol Related.

**DRS** means the DUI Referral Services managed by Treatment Access Center (TASC), a DSAMH program as of 1/1/2026. (Previously this was DERP-SODAT and DSARP-BCCS).

**DSARP** means DUI Evaluation and Referral Program (from 2022 to 2025). This was the former name of the DUI Screening And Referral Program when it was managed by BCCS.

**Driver's License** means a license issued under a governmental authority that permits the holder to operate a motor vehicle.

**DUI Avoidance Plan** means a written plan of tasks and behaviors to avoid using of intoxicating substance that could result in a DUI arrest.

**DUI Tracking System**, also known as **DUIT** or **DTS**, means the system used by the Delaware courts, the Delaware DMV, the Department of Correction, DSAMH, and the contracted DUI programs to track the progress of DUI program participants.

**DUI Program** refers to the contracted providers' DUI programming.

**DUI Provider** refers to the licensed substance use agency contracted with DSAMH to operate DUI programs.

**Education program** means a 16-hour non-clinical DUI program delivering DUI education to participants referred by DRS.

**Extended (intensive) treatment program** means a 27-hour substance use disorder treatment program.

**Leave of absence** means a temporary pause of DUI provider services requested by the DUI program participant and granted by the DUI provider. This is known as **administrative discharge** in DTS.

**Level of Care** means an intensity of services based on the treatment needs of the participant to meet the obligations of their treatment plan. DSAMH providers are required to utilize ASAM criteria to determine level of care needs.

**Non-Compliance** means dismissal, as defined above. The term non-compliance is used in DTS to refer to dismissal.

**Nonresident** means an individual that does not reside in the state of Delaware.

**Participant** means an individual who has contacted DRS to initiate DUI screening and/or has progressed through DUI Program Education or Treatment up until successful completion of the program.

**Probable Cause** in DMV context refers to a status determining reasonable suspicion of DUI.

**Resident** means an individual living or attending school in Delaware or living within one hour's travel time of Delaware.

**Regulation** means 16 *Del. Admin. C.* § 6003 DUI Programs.

**Satisfactory Discharge** means a participant has completed all DUI program requirements.

**SUD** means substance use disorder.

**Treatment program** means a 16-hour substance use disorder treatment program to fulfill DUI treatment requirements.

**UDS** means urine drug screen. A technical laboratory test used to analyze urine for the presence of alcohol or drugs.

## **CHAPTER 3 - OTHER DUI EQUIVALENT PROGRAMS**

**Delaware CCP DUI Treatment Program** – managed by the Court of Common Pleas: participants are assessed, receive, and complete a substance abuse treatment through the court-monitored treatment program.

**Delaware Veteran’s Court** – managed by the Superior Court: participants are assessed, receive, and complete a substance abuse program through the specialized court program.

**Delaware Superior Court and the Delaware Department of Correction** for third and subsequent DUI offenses - Individuals may be eligible to complete an approved intensive outpatient program (IOP) while under community supervision of the Department of Correction (on probation).

## **CHAPTER 4 - DUI PROGRAMS OVERVIEW**

**Except for the three other DUI equivalent programs listed above, the general DUI Program Standard Operating Procedures (SOPs) are outlined in the subsequent sections below:**

**The DUI Program general progression is as follows:**

1. Upon adjudication of a guilty DUI charge or a Probable Cause, individuals are either sentenced by the court or required by the DMV to complete the DUI Education or Treatment Program.
2. To initiate the process, the individual must contact DRS to be screened and subsequently be referred to either DUI Education or DUI Treatment. The three screening results for the DUI Program are either:
  - I. 16 hours of DUI education
  - II. 16 hours of DUI treatment
  - III. 27 hours of DUI extended (intensive) treatment
3. During the screening process, the individual is presented with a choice of all Delaware DUI provider agencies and their locations. The participant selects one education provider and one treatment provider of their choice. Once referred to either education or treatment, the participant must enroll with the selected DUI provider agency.
5. To enroll in education or treatment, the participant completes intake/orientation with the DUI provider agency to which they were referred and complete all requirements of that program.
6. Once the participant has successfully completed the assigned program, the DUI provider agency staff will enter the satisfactory completion in the DUI Tracking System. At this point the participant has satisfied the DUI program requirements.

## **CHAPTER 5 - DUI PROVIDER AGENCIES**

DUI Treatment Provider Agencies must have a valid SUD license issued by the DSAMH under Title 16 Del. Admin C. 6001 AND a contract with DSAMH to provide DUI services.

Each DUI program agrees to have written rules and policies for all the following:

1. Protecting the participants rights, including informed consent.
2. Submitting grievances.
3. Confidentiality of participant records.
4. Required participant conduct and disciplinary actions for violating conduct rules.
5. Attendance, as well as requesting and excusing of absences and leave of absence.
6. Rescheduling procedures.
7. Payment arrangement rules and all fee disclosures.
8. General program rules and guidelines.
9. Prescription medication policy.
10. Urine drug screen policy and dilute screen policy (treatment only).
11. Internal DUI appeal policy and instructions.
12. DSAMH appeals participant responsibilities and instructions for appealing.
13. Out of state referral policies, rules, and procedures (treatment providers only).

**All written policies must be shared with participants at orientation to establish expectations for a successful program completion and avoid misunderstandings. All DUI program participants must sign a copy of each policy. One copy is expected to be kept in the participant's file and the other given to the participant.**

## **CHAPTER 6 - TELEHEALTH**

The use of Telehealth (virtual platforms such as Zoom, Teams, Google Meet etc.):

**DUI screening** conducted by DRS may be completed virtually.

**DUI education** activities may be conducted virtually. It is recommended that, at minimum, the orientation session is conducted in person to allow for exchange of paperwork and review and acknowledgement of program expectations and policies.

**DUI treatment and extended (intensive) treatment** activities should be ideally conducted in person. All providers must be able to offer in person participation in treatment programming to all active participants. Virtual options must be driven by participant's treatment needs, not by provider's needs or convenience and shall not be used as an attractive perk of the program. It is highly recommended to begin treatment for all participants in person for the first few weeks of the program, then evaluate appropriateness of virtual treatment thereafter.

Each program should set appropriate expectations for virtual standards of conduct and participation and address any violations to this conduct with each participant as appropriate.

In limited circumstances, treatment activities may be conducted virtually when participation in person is not advised or is justified by a participant's needs. *(Examples of extenuating circumstance include situations such as a snowstorm, a State of Emergency, an infectious disease outbreak, a handicap or injury of a participant which requires home care. Utilizing virtual platforms will allow such participants to continue to receive services when otherwise they could not, due to extenuating circumstances.)*

## **CHAPTER 7 – DUI REFERRAL SERVICES (DRS)**

The DUI Referral Services (DRS) is a screening and referral program operated by a DSAMH's Treatment Access Center (TASC).

DRS staffing levels:

Screening staff – Screening staff provide DUI screening services and make an initial recommendation for level of care.

Supervisory staff – Supervisory staff confirm or revise the level care recommended by screening staff and enter the results into DTS. All supervisory staff must be designated as such with DSAMH.

Participants are instructed to contact DRS after their court or DMV resolution to schedule a DUI screening appointment. Participants may also contact DRS prior to being convicted and begin the process. This is known as a self-referral.

DRS is responsible for downloading DUI court "referrals" into DTS each business day.

When the participant contacts DRS, staff will check the DTS for the participant's file, DUI arrest data **and** driving record. DRS will only require the participant to provide a copy of their court order, DMV referral paperwork or DUI citation (ticket), showing the DUI arrest data, if the DUI arrest data is not appearing in DTS or on the participant's Delaware driving record. DRS will create a record in DTS for any participant not found already in the system.

DRS staff will confirm that **ALL** DUI, Reckless Driving Alcohol related, Probable Cause and Zero Tolerance charges listed on the participant's driving record, and any additional citations provided by the participant are entered into DTS, **prior to the DUI screening**. DRS will confirm all necessary documents, such as consent forms, have been received prior to the screening. Providing all documentation prior to the screening allows the participant to be referred to the DUI provider in a timely manner, with no delays.

A DSAMH approved testing tool will be used for DRS screenings.

After the screening is completed, the level of care screening results will be entered into the DUI Tracking System (DTS) by DRS staff. DRS will then issue a referral letter to the participant. This letter will direct the participant to contact the preselected provider and enroll in either a DUI education or treatment program as indicated by the screening results. Should the participant request a change in the selected DUI provider, a new referral letter will be issued by DRS.

### **Determining level of care for DRS screening results:**

**I. DUI education referral: 16-hour program.** DRS refers to **education** when the following conditions exist:

- This is the participant's first DUI.
- The participant's BAC was less than .15.
- The participant did not refuse the BAC test or alcohol blood test.
- The screening report identifies a low risk of substance use disorder.

**II. DUI outpatient treatment referral: 16-hour program.** DRS refers to **outpatient treatment** when the following conditions exist:

1. It is the participant's **first** DUI **and any** of the following criteria exist:

- The participant's BAC was .15 or more.
- The participant refused the BAC test or alcohol blood test.
- The participant's DUI involved drugs.
- The screening report identifies moderate to high risk of a substance use disorder. *(Examples of moderate to high-risk behaviors or situations may include prior drug or alcohol charges or arrests, causing death of another person through vehicular homicide during the DUI incident, causing injury (vehicular assault) of another person during the DUI incident, being involved in prior drug and alcohol treatment, receiving the DUI at age 21 or younger, and the participant self-reporting having a substance use problem).*

2. The DUI is the participant's **second** within 10 years **and** the participant's BAC was .15 or less.

**III. DUI extended (intensive) outpatient treatment referral:** 27-hour program. DRS refers to extended outpatient treatment when the following conditions exist:

1. It is the participant's **second** DUI within 10 years **and any** of the following conditions exist:

- The participant's BAC was .15 or more.
- The participant refused to submit to a BAC test or blood test.
- The participant's DUI involved the use of drugs.

2. It is the participant's **third** or **subsequent** DUI.

### **Special provisions:**

**Mental health or medical conditions** – Whenever a participant's screening report indicates co-occurring mental health and/or medical conditions, DRS must provide the participant with a referral to appropriate services in addition to referral to the appropriate DUI level of care.

**Youth** – DRS must refer a participant younger than 18 years of age to a treatment program approved by the Department of Services for Children, Youth, and Their Families. Information is available by calling the prevention helpline: 302-633-2680 which is staffed Monday-Friday 8am-4:30pm or emailing the prevention mailbox [PBHS Prevention Inquiries@delaware.gov](mailto:PBHS_Prevention_Inquiries@delaware.gov).

**DUI Screening expiration periods:**

**DUI screenings do not expire, however, a new conviction for DUI, Reckless Driving Alcohol Related, Probable Cause or a Zero Tolerance requires a new DUI screening.**

Participant's DRS screening results and level of care recommendation remain the same for the original DUI case for which the screening was performed. The participant's need to complete education based on a DUI case does not change over time.

A participant's need to complete a certain level of treatment may change over a period of time, which will be identified by the DUI treatment provider and the participant's progression through the originally indicated treatment recommendation. In instances where higher level of treatment is warranted, the treatment provider must indicate this by treatment planning and goals to be met for a successful discharge.

**A participant's case may return to DRS for three reasons:**

- 1. Change of DUI provider selection:** If, after the screening is completed and prior to education or treatment started, a participant decides to change the DRS selected provider agency for his or her DUI education or treatment that is different from the original choice, this is considered a DUI provider change. The participant must contact DRS to request a change in their selected DUI education or treatment provider. The request must be made in writing by the participant (by email, or letter). DRS will change the selected provider in DTS and issue a new referral letter. (Should the participant wish to stay with the originally selected provider at a different office site, no action needs to be taken by the participant or DRS.)
- 2. DUI Program transfer:** *(A program transfer is not recommended for DUI Education due to varied educational courses between providers.)* Transfer of program allows a participant to continue treatment with a new provider, rather than starting from the beginning. A program transfer may occur when a participant has enrolled with a DUI treatment provider and has begun treatment, then later requests to transfer to another provider due to various reasons. The participant is responsible to discuss the desired transfer with the current provider while also selecting a new provider of their choice and ensuring the current and new provider both agree to conduct the transfer of treatment. The responsibility to ensure that both the current and the new provider are willing to conduct the transfer falls on the participant. After successfully confirming both providers are willing to do the transfer, the participant must notify DRS in writing to request the transfer (by email, letter). DRS will then confirm with the current provider that the participant has no remaining obligation to the provider prior to the change being made in DTS (all fees have been paid to the original provider, etc.). DRS will then

refer the participant to the new provider in DTS and issue a new referral letter. (DRS is not responsible to check with the newly selected provider about this transfer).

3. **A transfer fee may be collected by the original provider to facilitate the transfer of services to the new provider by printing, emailing and documenting progress in treatment such as summary of services, treatment notes, UDS results, assessment copies etc. The new provider shall accept completed treatment hours required by the DRS assessment results (16-hrs or 27-hrs of treatment). The new provider will determine any treatment goals that must be met prior to successful discharge from the program.**
4. **Participant wants to restart their entire DUI program voluntarily**: If a participant incurs new DUI charges or reemerges after a long period of absence from education or treatment **and doesn't want to** return to the previous provider to continue the treatment, a NEW assessment must be done by DRS. **New DRS assessment MUST be done whenever new DUI charges exist.** In the absence of new DUI charges, participants who previously started education or treatment and did not successfully complete, must resolve all obligations to the previous provider prior to DRS conducting a new assessment. If the previous provider agrees to reinstate the participant in the program, DRS assessment does not need to be done, however the provider should complete an updated assessment to determine new treatment goals. If the participant doesn't want to continue with the previously started provider, a new DRS assessment must be done **after** the participant fulfilled all obligations to the previous provider. The former provider must "discharge" the participant from their program in DTS prior to DRS conducting a new screening.

### **Acceptance of Prior Treatment**

There are times a DUI participant may have been proactive and enrolled and completed a substance abuse treatment program prior to having the DRS screening and being referred to a DUI program. Acceptance of any prior treatment completed after the DUI arrest date, but prior to DRS screening, will be evaluated on a case-by-case basis by a DRS in coordination with DSAMH.

If the participant never completed screening in the past, they must be screened by DRS to determine what DUI program requirements exist. If prior screening was completed, but the education or treatment completion is missing, no new screening needs to be done.

All prior treatment must meet or exceed the requirements of the Delaware DUI program as set forth in this manual to be accepted as satisfactory DUI program. Any previously completed programs must align or exceed the level / type of program determined by the DRS screening.

Withdrawal management programs or inpatient and residential treatment will not be considered as prior treatment due to their high intensity and choice-controlled environment that doesn't provide real life self-management of recovery and abstinence. All prior treatment

must be completed on outpatient basis in an environment that resembles free choices. Residing in supportive recovery housing while participating in outpatient level of care treatment is permitted and may be considered for prior treatment acceptance.

Participants who failed to enroll, be screened and/or complete their DUI adjudicated requirements for an extended period of time, such as years or decades, who may have participated in other SUD programming or abstained from alcohol and drug use during any length of time since their DUI charge, still need to meet the requirements of the existing Delaware DUI legislation and complete the steps outlined in this manual.

Participants will be required to submit completion documentation to the program's administrator for review. All completion documentation just be attached to the participant's file in DTS. Any new substance related arrests occurring after the education or treatment which is being considered was competed, will negate acceptance of prior treatment.

## **CHAPTER 8 – OUT-OF-STATE DUI PARTICIPANTS**

Out-of-state participants follow the same process for DUI Program completion as in-state participants. Nonresidents are required to contact DRS to initiate their DUI Program in Delaware. DRS will process all necessary paperwork for out-of-state participants and schedule a screening appointment. After DRS screening is completed for an out-of-state participant, the participant will be referred to a selected Delaware DUI education or treatment provider (depending on their DRS results). Out-of-state participants will be directed to contact their Delaware DUI provider for further steps.

Delaware DUI education or treatment providers will manage the cases of out-of-state participants until successful completion of all requirements. Delaware DUI providers shall charge a fee for management of out-of-state participants' DUI education or treatment. Out-of-state DUI participants are subject to all Delaware DUI program policies and procedures and must acknowledge their understanding of expectations and rules.

Delaware DUI providers shall create an out-of-state DUI referral by utilizing the Substance Abuse and Mental Health Services Administration (SAMSHA) Treatment Locator on the SAMSHA webpage [SAMHSA - Substance Abuse and Mental Health Services Administration](#). The Delaware DUI provider will sufficiently vet the out-of-state DUI agency in the participant's preferred location (state, city, county) to ensure the out-of-state program can meet Delaware's DUI program requirements. The Delaware DUI provider shall provide the participant with a referral letter for the out-of-state agency detailing what components of treatment and other criteria are required for successful completion of the Delaware DUI program. If the selected out-of-state agency cannot provide the services requested, a new referral must be made by the Delaware DUI provider.

Delaware DUI providers are not responsible for any cost of education, treatment, or other fees which may be required by out-of-state DUI providers.

Out-of-state participants are required to sign a consent to release information form for their selected DUI provider in another state and ensure that communication and coordination of services is facilitated. The out-of-state provider shall manage the participant's education and treatment needs throughout the length of participation.

Upon completion, the out-of-state provider must forward the participant's paperwork, including all urine drug and alcohol screen results to the assigned Delaware DUI provider agency. Completion certificates alone will not suffice as a proof of out-of-state DUI program completion. Delaware DUI providers will review the submitted completion documentation and if all requirements are met, the participant's satisfactory completion status will be entered into the DUI Tracking System under the Delaware DUI provider's name. Delaware DUI providers will issue a completion certificate of the DUI program to out-of-state participants in the same manner as they do to in-state participants.

## **CHAPTER 9 - DUI EDUCATION PROGRAM**

The DUI education program consists of 16 hours of instruction, plus an orientation session (orientation does not count towards the 16 hours of education). The education program will not require an intake assessment or UDS and shall not be part of ASAM level of care treatment. *(DUI Education must be facilitated by DSAMH licensed provider agencies, but not within their licensed treatment programming. DUI providers do not need to maintain SUD treatment-compliant charts for DUI education participants. The DUI education programming documentation can be maintained separately but must still be HIPAA compliant and well maintained).*

The program must utilize a DUI education curriculum approved by DSAMH.

An instructor presenting a DUI education class must have all the following:

- a. Necessary training or certification on the curriculum.
- b. Relevant knowledge of the criminal justice system.
- c. Training or experience as an instructor.

*The education program's Director shall review and approve each instructor's qualifications.*

**Satisfactory Discharge** – A satisfactory discharge will be granted when the participant:

- attended 16 hours of required sessions,
- paid all fees to the program.

The provider will enter the satisfactory completion status in DTS when all the above requirements are met.

## **CHAPTER 10 - DUI TREATMENT PROGRAM**

The DUI Treatment Program consists of drug and alcohol treatment within an appropriate ASAM level of care. The program consists of a minimum of 16 hours of treatment, over a minimum of 6 weeks. The DUI program may include up to 1.5 hours of intake assessment and treatment planning. The time to conduct orientation and urine drug screening shall not count towards the 16 hours of treatment. Participants shall be informed of all program policies and acknowledge their understanding during orientation and prior to an intake assessment.

Participants will have an individualized outcome-oriented treatment plan. The treatment plan should state specific interventions recommended by the program and the evidence supporting these interventions. Requirements and expectations for satisfactory completion as well as consequences of failing to complete the treatment program should be included.

During DUI treatment, all participants will be given urine drug and alcohol screens (UDS). It is required that the participant abstains from using drugs and alcohol, while enrolled. Provisions will be made for valid prescriptions for any legally prescribed controlled substances or has a valid card for medical marijuana program. A minimum of two (2) random urine drug and alcohol screens are required during the course of treatment. Breathalyzer tests are not allowed as a substitute for urine drug and alcohol screens.

**Satisfactory Discharge** – A satisfactory discharge will be granted when the participant has met **all** of the following:

- Attended the minimum 16 required hours of outpatient treatment,
- Has met the goals of his/her treatment plan,
- Has 2 negative random UDS results,
- Completed a DUI Avoidance Plan,
- Attended at least two addiction-focused support groups, and
- Paid all fees to the program.

The provider will enter the satisfactory completion status in DTS when all the above requirements are met.

## **CHAPTER 11 - DUI EXTENDED (INTENSIVE) OUTPATIENT TREATMENT**

The DUI Extended (Intensive) Outpatient Treatment program consists of drug and alcohol treatment within an appropriate ASAM level of care. The program consists of a minimum of 27 hours of treatment, over a minimum of 12 weeks. The DUI program may include up to 1.5 hours for an intake assessment and treatment planning. Time to conduct an orientation and urine drug screening should not be included in the 27 hours of treatment. Participants shall be informed of all program policies and acknowledge their understanding during orientation and prior to an intake assessment.

Participants will have an individualized outcome-oriented treatment plan. The treatment plan should state specific interventions recommend by the program and the evidence supporting these interventions. Participant requirements and expectations for satisfactory completion, as well as consequences of failing to compete the treatment program should be included.

During DUI treatment, all participants will be given urine drug and alcohol screens (UDS). It is required that the participant abstains from using drugs and alcohol while enrolled. Provisions will be made for valid prescriptions for any legally prescribed controlled substances and medical marijuana card. A minimum of six (6) random urine drug and alcohol screens are required during the course of treatment. Breathalyzer tests are not allowed as a substitute for urine drug and alcohol screens.

**Satisfactory Discharge** – A satisfactory discharge will be granted when the participant has met **all** of the following:

- Attended the minimum 27 required hours of outpatient treatment,
- Has met the goals of his/her treatment plan,
- Has 6 negative random UDS results,
- Completed a DUI Avoidance Plan,
- Attended at least two addiction-focused support groups, and
- Paid all fees to the program.

The provider will enter the satisfactory completion status in DTS when all the above requirements are met.

## **CHAPTER 12 - URINE DRUG SCREENING GUIDELINES**

DUI treatment participants are subject to random urine drug screening (UDS) as a condition of the program. UDS should be conducted randomly during the course of treatment. Participants must be informed of all policies and procedures of UDS by DUI treatment providers and must acknowledge an understanding of those policies in writing. Treatment providers shall require each participant to submit to at least the minimum number of UDSs necessary for the successful completion of the program. If all the random UDS results submitted by a participant are negative, the provider should cease any additional mandates for UDS unless circumstances exist that would justify additional screening (i.e. participant appears under the influence of substances, the participant admitted to substance use, or a reasonable suspicion exists of participant's use of alcohol or drugs). If a participant submits UDS with positive results, the treatment provider shall continue to request additional UDS until the minimum required number of random negative results is obtained **within** the minimum length of treatment period (6 weeks for outpatient and 12 weeks for extended outpatient).

*If a participant's UDS result is positive for alcohol or drugs during treatment, the participant's length in treatment shall be extended.*

Positive UDS constitutes a violation of the DUI program and may result in adverse action and imposing of sanctions.

## **CHAPTER 13 – FAILURE TO COMPLY OR SUCCEED IN DUI TREATMENT PROGRAM**

Participants who experience difficulty with meeting the expectations of the DUI treatment program shall meet with their DUI provider to discuss their difficulties and make effective adjustments to their treatment plan. DUI providers should deal with participants' inability to meet expectations by adjusting treatment intensity and interventions to meet the participants' needs.

Following are some examples of possible failure to comply or succeed in DUI treatment:

1. Failure to remain abstinent while participating in the program.
2. Submitting positive urine drug screen(s).
3. Tampering with a urine drug screen.
4. Submitting dilute urine drug screen(s).
5. Engages in behaviors or conduct that seem therapeutically concerning.
6. Being arrested for any drug or alcohol related offense while in the program.

**\*Participants shall not be discharged by DUI providers for failure to meet expectations unless there are reasons to justify disqualification.**

## **CHAPTER 14 - PARTICIPANT CONDUCT**

DUI Education and/or Treatment provider agencies shall have the following expectations regarding the participants' conduct:

### **Participants must:**

1. Be respectful to staff and other participants.
2. Attend all scheduled program activities.
3. Submit to urine drug screenings as required.
4. Actively participate.

### **Participants must not:**

1. Engage in aggressive, hostile, harassing, threatening, or violent behavior.
2. Act in a manner that endangers the health and safety of staff or other participants.
3. Communicate using profanity or defamatory language.
4. Commit drug or alcohol-related criminal or traffic offenses while enrolled.
5. Use or consume any alcohol or drugs except for medications taken according to a valid prescription or permitted by medical Marijuana card.

## **CHAPTER 15 - ATTENDANCE**

### **Scheduling of program activities:**

Whenever a program schedules a participant to attend an activity, the program must provide the participant with a minimum of 5 days' notice before the activity date. *This excludes random drug and alcohol screening (treatment programs only)*. The notice must include the activity's start time and location. Providing the participant with a schedule of all the participant's required activities throughout the program enrollment fulfills this requirement.

Participants are expected to:

1. Arrive on time.
2. Sign in when requested to do so.
3. Be present during the entire activity.
4. Actively participate.

Failure to abide by the above expectations may be considered a violation of the program. (more information about violations in Chapter 14 of this manual)

### **Absences:**

Except if excused (per below), a participant is **absent** whenever the participant does not attend a scheduled activity.

A participant's absence is **excused from an activity whenever any of the following occurs:**

1. The participant notifies a DUI provider at least 24 hours before the start of an activity. Participants may request one excused absence for any reason during enrollment.
2. The participant's absence is due to events that are wholly beyond the participant's control, or the participant otherwise demonstrates good cause.
3. The DUI provider activity does not begin less than one hour after the scheduled start time.
4. The program cancels the activity.

**If the DUI provider excuses the participant from an activity, the provider cannot charge the participant a missed appointment fee.**

A participant is allowed one absence from the DRS screening activity and two absences from an educational or treatment activity without incurring a violation. Any additional absences shall be considered violations of the program. (more info about violations, see Chapter 14)

### **Leave of Absence**

A DUI program participant may request a leave of absence. This is known as an Administrative Discharge in DTS. DUI provider agency Administrator may grant a participant's request for a Leave of Absence if the participant does all the following:

1. Requests the leave in advance.
2. Demonstrates good cause.
3. Provides reasonable documentation to support the request.

A leave of absence is intended to temporarily pause a participant's enrollment in DUI education or treatment services due to extenuating circumstances. A leave of absence (aka administrative discharge) may be warranted if the individual must attend a situation such as a family emergency, a death in the family, jury duty, military duty, or medical treatment.

## **CHAPTER 16 - DISCIPLINARY ACTIONS**

### **Dismissal**

Participants shall be dismissed from DUI Program if they failed to participate in programming for more than 21 consecutive days without being granted a Leave of Absence or notifying the program to justify the interruption of regular attendance. In general, dismissal shall be utilized when a participant stops attending activities and there is a loss of contact with the participant to complete the program.

The participant remains active with the current DUI provider while in dismissal status. If and once the participant re-engages in services with the provider, a reinstatement fee may be charged, and the dismissal status is lifted in DTS by clearing the completions status and deleting the dismissal date under the Treatment tab. The participant can then resume services with the current provider.

### **Violations**

#### **Behavior:**

6.1 A participant must comply with rules and policies adopted by a program and the requirements of this regulation.

6.2 Whenever participating in a program, a participant must do all of the following:

6.2.1 Be respectful of staff and other participants.

6.2.2 Attend scheduled program activities.

6.2.3 Pass required urine drug screenings.

6.2.4 Actively participate during program activities.

6.2.5 Dress and groom in a manner that falls within generally accepted definitions of neatness and cleanliness.

6.3 A participant must not do any of the following:

6.3.1 Engage in aggressive, hostile, harassing, threatening, or violent behavior.

6.3.2 Act in a manner that endangers the health and safety of staff or other participants.

6.3.3 Be disruptive or distracting.

6.3.4 Communicate using profanity or defamatory language.

6.3.5 Commit a criminal or traffic offense.

6.3.6 Except for prescribed medication taken according to a prescription, use or consume alcohol or drugs.

#### **Absences:**

A participant is allowed one absence from the DRS screening activity and two absences from an educational or treatment activity without incurring a violation.

One incident may incur multiple violations. Violations must be documented. Participant must be informed in writing. Participants may appeal violations.

A participant commits a violation whenever the participant does not comply with the requirements of participant conduct or exceeds the allowed number of absences. A DUI program may determine that a participant has committed multiple violations as part of one

incident. Whenever a participant commits a violation, a program **may** impose sanctions on the participant but is not required to do so. A program must maintain a record of a participant's violations.

**SANCTIONS / ADVERSE ACTIONS**

Providers should impose appropriate and related sanctions to address or correct the behavior of the participant rather than punish the individual in ways that won't result in a positive change. Some possible adverse actions or sanctions as a result of a violation may include:

<b>VIOLATION</b>	<b>SANCTION / ADVERSE ACTION</b>
Excessive absences (2 or more)	Missed appointment fee
Positive UDS	Extend the length of treatment
Failure to comply with behavioral and active participation policies	Requirement to attend an additional educational or treatment session, or loss of telehealth privileges
Any adversarial conduct	Requirement to complete anger management or conflict resolution module or session

Providers are encouraged to discuss their proposed sanctions with DSAMH ahead of time, and also disclose possible sanctions to participants during orientation.

DUI providers must define the process for determining whether a violation occurred, establish supervisory approval for documenting and communicating a violation to the participant, and determining whether an adverse action or sanction shall be imposed. Each violation resulting in an adverse action must be documented in the participant's file or chart, must be communicated to the participant in writing, and must inform the participant of his/her right to file an internal appeal with the provider.

Denial of internal appeal may be appealed to DSAMH for final resolution. Participation in the DUI program should not be ended or interrupted by the provider during the appeal process.

**Disqualification**

Disqualification should be reserved for situations and circumstances that lead the provider to not want to serve the participant at this time and/or in the future. If a provider is willing to continue serving a participant who has incurred multiple violations, providers should document each violation, sanction, and adverse action accordingly, but continue active service.

A participant is subject to disqualification from receiving services from a provider whenever the participant does any of the following:

- Commits three or more violations.
- Commits a criminal offense.
- Threatens or engages in violence toward DUI provider or other participants in the provider's programs.
- Acts in a manner that the program believes requires the participant's disqualification.

If a DUI program provider recommends a participant for disqualification, the DUI provider must notify the participant and DSAMH in writing. Whenever a DUI program informs the participant about his/her recommended disqualification, the participant shall not attend any further activities with the DUI provider.

Any participant who is recommended for disqualification by a provider must appeal this decision internally with the provider. If the provider upholds the appeal, the participant can then appeal the disqualification to DSAMH. If the disqualification is dismissed (upheld) by DSAMH appeals committee **and** the participant demonstrates commitment to abstain from conduct that warranted the disqualification recommendation, the participant will then be required to start the DUI program process over again with another DUI program provider, starting with a new DRS screening.

If the appeal for disqualification is dismissed (upheld) by DSAMH, **and** the participant **fails** to demonstrate good faith effort to abstain from the conduct that warranted the disqualification recommendation, DSAMH may disqualify the participant from completing the DUI Program in Delaware for a minimum specified length of time, at which point the participant's ability to re-enroll in the program will be evaluated by DSAMH.

If DSAMH grants the appeal for disqualification recommendation in favor of the participant, DSAMH will work with the current provider on attempting to resolve the dispute, and if one can't be found, require the current provider to facilitate a transfer of services to another DUI provider.

In summary, these are the three possible outcomes to **disqualification** appeal to DSAMH:

1. Dismissed but participant is allowed to restart DUI Program with another provider.
2. Dismissed and ineligible to complete Delaware DUI Program for a length of time.
3. Granted – participant will continue DUI program with current or another DUI provider.

## **CHAPTER 17 – DUI PROGRAM APPEALS**

### **DUI provider internal appeals process**

When a DUI program takes an adverse action as a result of a violation against a participant, the participant may appeal the adverse action internally with the provider. The participant shall be informed about an internal appeals process at the time an adverse action or sanction is imposed by the provider, detailing steps and timeline of the appeals process.

Forms for submitting an internal appeal are established by the provider and must be approved by DSAMH. It is the provider's responsibility to facilitate an internal appeal process **first** prior to offering the participant an appeal at the DSAMH level. Internal appeals should be handled by DUI provider's Administrator.

1. The internal appeal must be submitted by the participant within ten (10) days of being notified in writing of the adverse action.
2. The provider's Administrator must review the internal appeal within five (5) days of receiving the appeal.
3. The Administrator may meet and discuss the violation with the participant.
4. After reviewing the facts of the appeal, the Administrator must furnish the participant with a written determination letter, within ten (10) days. This letter is known as an official Notice of Internal Appeals Decision Letter. This letter template is designed by the DUI provider and approved by DSAMH.

Participant who submits an internal appeal shall receive a *Notice of Internal Appeals Decision Letter* within 20 days of a notification of an adverse action. Ideally, this timeframe should be shorter to promote positive treatment retention and satisfaction.

### **The Appeals Decision Letter issued to the participant, must include:**

- A. Concise statement of the adverse action.
- B. Concise statement of the appeal.
- C. Summary of evidence, if applicable.
- D. Plan for successful continuation of services in the program, unless being recommended for disqualification.
- E. Information about appeals process to DSAMH.

### **The Administrator may take one of the following actions:**

- A. Dismiss the appeal (meaning the Administrator found just cause for the sanction/adverse action as a result of a violation)
- B. Grant the appeal (meaning the Administrator found the violation, sanction or adverse action were not justified)
- C. Partially grant the appeal and modify the adverse action (meaning the Administrator found the violation to have occurred but the sanction/adverse action was not justified as imposed)

If the Administrator does not provide the Notice of Internal Appeals letter to the participant in the time provided, the appeal is automatically granted, and the adverse action is void. All automatically granted appeals shall be documented in the participant's file as such.

If the appeal is dismissed and the participant is not satisfied with the explanation or the sanctions that were imposed, he or she may appeal the adverse action to DSAMH within ten (10) days of receiving the Notice of Internal Appeals Letter.

**No appeal is accepted by DSAMH unless the internal appeal with the DUI provider has occurred first.**

### **Appeals escalated to DSAMH**

If the DUI program participant is not satisfied with the outcome of the internal DUI program appeal, they may appeal their case with DSAMH.

DSAMH will furnish all providers with the process for DSAMH appeal, and all timelines and forms expected to be used.

### **DUI provider responsibilities:**

When an internal appeal is dismissed or partially granted by DUI provider, the provider must offer the participant an opportunity to appeal the decision to DSAMH if they are unsatisfied with the results of the internal appeal. Participants must be informed of all guidelines on submitting an appeal to DSAMH, including appropriate forms, appropriate DSAMH contact information and expected timelines. Providers should ask participants to acknowledge their understanding of the appeals process in writing during orientation and again as part of the internal appeal.

Participants must be informed that they will be required to provide a consent for release of confidential information between the DUI provider and DSAMH, and they shall be offered to complete this form at the time of the internal appeal conclusion or disqualification recommendation.

Participants must submit an appeal to DSAMH within ten (10) days from the date they were provided the *Notice of Internal Appeals Decision Letter*.

All appeals shall be submitted to DSAMH in one of two ways:

1. Email to [DHSS\\_DSAMH\\_DUI@delaware.gov](mailto:DHSS_DSAMH_DUI@delaware.gov) with subject line: "DUI Appeal"
2. Letter to DSAMH:

DSAMH  
c/o DUI Program Administrator  
203 Mitchell Lane  
DHSS Herman Holloway Campus, Springer Bld.  
New Castle, DE 19720

### **Participant Responsibilities:**

The DSAMH appeal must be submitted on DSAMH Appeal Form by email or by mail within 10 days of receiving a written notice from DUI Provider. The participant must use the form to clearly state the reason(s) for the appeal. The participant must present facts that challenge the

provider's internal appeal decision, and include desired outcome to their situation in the DUI program. The participant can include any documentation to support their claim.

All appeals for sanctions/adverse actions to the participant must include the Notice of Internal Appeal Decision Letter from the DUI provider, verifying that the participant has completed the agency's internal appeal process.

The participant should enclose a completed and signed "Consent for Release of Confidential Information Form" that complies with 42 CFR, Part 2 regulations allowing the DUI provider to disclose information to DSAMH in order to conduct appeals process investigation.

#### DSAMH Division Appeals Team responsibilities:

The Division Appeals Team shall consist of three (3) Division staff appointed by the Division Director. The Division Director is responsible for ensuring that DSAMH Appeals Team members are appropriate and actively representing staff of the Division who meet regularly (monthly) to review appeals and follow the proper process to resolve all appeals.

DSAMH Appeals Team shall acknowledge receipt of appeals from the DUI program participants by responding to the participant's preferred form of communication within 48 business hours and advise the participant of a status of the appeal submission in one of two ways:

1. Appeal NOT ACCEPTED: an appeal received later than ten (10) days from the Notice of Internal Appeal Decision Letter or Disqualification Recommendation will be returned to the appellant without further action.
2. Appeal ACCEPTED: appeals submitted within ten (10) days from the Notice of Internal Appeal Decision Letter will be accepted by DSAMH and placed on the appeals list.

Once an appeal is accepted by DSAMH, the DUI Program Coordinator will review it for completeness and correctness. If an accepted appeal is lacking information or is incorrect, the DUI Program Coordinator will reach out to the appellant to request corrected forms and/or additional information necessary for the appeal review. Appellants will be granted ten (10) days to correct and/or complete the appeal package and re-submit it to DSAMH. If an appellant fails to furnish corrected or completed information within the provided timeline, the Appeals Team will review the appeal on its merit and issue a decision accordingly.

DSAMH Appeals Team will contact the DUI provider to request documentation to support the reasons for the Sanction/Adverse Action or Disqualification Recommendations (providing the appellant signed and submitted a Release of Confidential Information Form as part of the appeal). If the DUI provider does not provide information to the DSAMH Appeals Team as requested within seven (7) days, the DSAMH Appeals Team will only consider documentation provided by the appellant and any information available to DSAMH.

DSAMH Appeals Team will consider all relevant information available at the time of the appeal process. The team will render a decision to the participant with one of possible outcomes:

- A. Dismiss the appeal (meaning DSAMH found just cause for the DUI Provider's sanction /adverse action or disqualification or the appeal information was incomplete or incorrect)

- B. Grant the appeal (meaning DSAMH found the violation, sanction/adverse action or disqualification recommendation were not justified or DUI provider failed to respond to a request for information as part of the appeal)
- C. Partially grant the appeal and modify the adverse action (meaning DSAMH found that violation to have occurred, but the sanction/adverse action or disqualification was not justified as imposed)

DSAMH Appeals Team will notify the participant and the DUI provider of the appeal decision within 30 days. As appropriate, DSAMH will work with the participant and/or the DUI provider on next steps in the process.

**All decisions are final, and no subsequent review will be held by DSAMH on the same appeal.** DSAMH appeals team will enter the appeal decision into the DUI participant's record in the DUI Tracking System.

## **CHAPTER 18 - FEES**

The participant is responsible for paying all fees associated with the DUI education or DUI treatment level program. All DUI programs must provide DUI program participants with a receipt at the time of payment and maintain a record of payments made by participants. A program must provide a copy of the record to DSAMH upon request.

All treatment providers participating in the DUI program are required to maximize the use of third-party health coverage, including but not limited to private insurance, Medicaid, and Medicare, to cover the cost of medically necessary treatment services. Providers must verify participant's eligibility and benefits, obtain necessary authorizations, and bill third-party payers for covered services before seeking any alternative funding sources.

A program must accept participant payments made via cash, cashier's check, certified check, money order, or a third-party payer. A program may accept participant payments made via credit card, debit card, or personal check. Programs may require payment before providing services. Programs may establish payment agreements and payment plans with participants.

DUI program fees are not determined by the DUI provider, but rather by the regulation. *In compliance with the Administrative Procedures Act (29 Del. C. Ch. 101) and under the authority of 21 Del. C. § 4177D, the State of Delaware Department of Health and Social Service's Division of Substance Abuse and Mental Health (DSAMH) promulgates under 16 Del. Admin. Code § 6003 regulations governing driving under the influence program, including program fees.*

Except as authorized by the regulations, a DUI program may **not** charge a participant a fee.

### **Authorized fees:**

#### **DUI Education:**

16-hour DUI education program - \$400 or less.  
Absence or missed appointment - \$50 or less.  
Reinstating after dismissal fee - \$50 or less.  
Out of State case management processing fee \$150 or less.  
Materials fee- \$50 or less.

#### **DUI Treatment:**

16-hour DUI treatment program –\$1,000 or less.  
Absence or missed appointment - \$50 or less.  
Reinstating after dismissal fee - \$50 or less.  
Urine drug screen - \$35 or less.  
Out of State case management processing fee \$150 or less.  
DUI Provider Transfer –\$50 or less. (Switching from one provider to another during the program. This fee is charged by the original provider only and covers the cost of participant's records to be sent to the new provider.)  
Materials fee- \$50 or less.

**DUI Extended (Intensive) Outpatient Treatment:**

27-hour DUI treatment program - no more than \$1,700.

Absence or missed appointment - \$50 or less.

Reinstating after dismissal fee - \$50 or less.

Urine drug screen - \$35 or less.

Out of State case management processing fee \$150 or less.

DUI Provider Transfer –\$50 or less. (Switching from one provider to another during the program. This fee is charged by the original provider only and covers the cost of participant’s records to be sent to the new provider.)

Materials fee- \$50 or less.

**Hardship and a sliding scale**

DUI Regulations set the maximum fees allowed for the DUI programs to charge. The fees quoted above are the maximum amount allowed. All DUI program providers may reduce fees at their discretion.