

**CERTIFICATE OF MAILING**

**NOTICE OF INTENT TO AMEND RULES CHAPTER 290-4-13, ENTITLED  
"CLINICAL EVALUATION AND SUBSTANCE ABUSE TREATMENT FOR DUI  
OFFENDERS"**

**DOCKET NO. MH-269**

The undersigned hereby certifies that on this date copies of the notice of intent to amend Rules in the above matter, with copies of the proposed Rules and synopses enclosed with each, were mailed to each party on the attached list, addressed as shown, by delivery to the Department of Human Resources' Mail Room for delivery by inter-office or inter-departmental mail where possible; and, otherwise for deposit with adequate postage affixed in the United States Mail.

DEPARTMENT OF HUMAN RESOURCES  
Division of Mental Health, Developmental Disabilities and Addictive

Diseases

By: *Onaje Salim*  
Onaje Salim

Title: Addictive Diseases Director

Date: 2-3-09





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Docket No. MH-269

Notice Date: February 2, 2009

**CLINICAL EVALUATION AND SUBSTANCE ABUSE  
TREATMENT FOR DUI OFFENDERS  
RULES CHAPTER 290-4-13**

Dear Sir or Madam:

Please find enclosed a copy of proposed Rules Chapter 290-4-13 entitled "Clinical Evaluation and Substance Abuse Treatment for DUI Offenders." The Board of Human Resources is considering formally adopting the enclosure in lieu of the current Rules Chapter of the same number and title. A synopsis of the proposed changes from the current Rules Chapter is also enclosed. An electronic version of the Rules text may be found on the agency's web site at <http://mhddad.dhr.georgia.gov/portal/site/DHR-MHDDAD/>.

**Questions concerning these changes should be directed to Onaje Salim, Addictive Diseases Director, at telephone number (404) 657-2331.**

**Written comments and other written materials regarding the rules should be sent to Marion W. Cornett, Jr., Administrative Hearing Officer, at the above mailing address or by e-mail to [mwcornett@dhr.state.ga.us](mailto:mwcornett@dhr.state.ga.us).**

The Department solicits your comments, data or argument for or against this action. Your comments may be made in writing by mail or other delivery to the undersigned Hearing Officer within thirty (30) days of the above notice date, or orally at a public hearing starting at 11:00 AM on Tuesday, March 3, 2009, in the DHR Board Room 29.250, 2 Peachtree Street, Atlanta, Georgia 30303. **Please be assured that comments made by either method will be given equal consideration.**

All comments received will be summarized in a report to the Board which will consider final adoption of these proposed Rules at its regular meeting starting at 1:00 PM on Wednesday, March 18, 2009, in the DHR Board Room 29.250, 2 Peachtree Street, Atlanta, Georgia 30303.

If due to a disability you need this notice in an alternate format or if you plan to offer oral comment and will need auxiliary aids or services, please call the undersigned Hearing Officer as soon as possible but no later than ten (10) days before the above oral comment date.

This Notice is issued pursuant to O.C.G.A. §§ 50-13-4; 37-7-2; 40-5-1; 40-5-63.1; 16-10-8; and 16-10-20.

Marion W. Cornett, Jr.  
Administrative Hearing Officer  
Tel. (404) 656-4421 (Procedural questions only)



**RULES OF  
DEPARTMENT OF HUMAN RESOURCES  
DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES  
AND ADDICTIVE DISEASES**

**CHAPTER 290-4-13**

**RULES AND REGULATIONS FOR CLINICAL EVALUATION  
AND SUBSTANCE ABUSE TREATMENT FOR DUI OFFENDERS**

**SYNOPSIS OF PROPOSED RULES CHANGE**

**PURPOSE:** The 2008 Georgia General Assembly enacted a change in O.C.G.A. § 40-6-391 which permits DUI first offenders to be clinically evaluated for possible need for substance abuse treatment, and if recommended, to be required to undergo substance abuse treatment. The Rules and Regulations for Clinical Evaluation and Substance Abuse Treatment for DUI Offenders, Chapter 290-4-13, are proposed to be amended to so as to: expand the evaluation and substance abuse treatment of persons convicted of a DUI offense to include a persons with only a first DUI conviction under O.C.G.A. § 40-6-391; to provide for a new short-term length of treatment option; to establish ongoing qualifications and an active registry for clinical evaluators and treatment providers; to allow treatment providers in their clinical discretion to require an offender to stay in treatment for a longer time period than recommended by the clinical evaluator; to prohibit treatment providers from collecting from offenders any fees that are not authorized by the Department; to permit electronic filing, transmission, or viewing of certain documents; and to provide for new and amended definitions. These rules are the product of the efforts of the Division of Mental Health, Developmental Disabilities and Addictive Diseases, and were developed with input from representatives of the Office of Regulatory Services. These rules are proposed pursuant to the authority granted the Department of Human Resources in O.C.G.A. § 37-2-2. In the formulation of the proposed rules, the Department has considered the economic costs associated with the regulations and the impact on small businesses in the state. To the extent possible, the proposed rules do not impose excessive regulatory costs on the regulated entities while keeping in mind the health and safety of the participants receiving care.

**MAIN FEATURES OF THE PROPOSED RULES:** The proposed changes to the Rules and Regulations for Clinical Evaluation and Substance Abuse Treatment for DUI Offenders, Chapter 290-4-13, include the following main components:

- Add provisions and procedures for the clinical evaluation and treatment of offenders with a first conviction only pursuant to O.C.G.A. § 40-6-391, for consistency with change in that statutory law now allowing clinical evaluation and treatment of first offenders.
- Add a new short-term treatment recommendation option for persons requiring no higher than ASAM Level 1 services.
- Add provisions that require an offender to attend treatment for at least the length of time recommended by the clinical evaluator.
- Add provisions allowing a treatment provider, in his or her clinical discretion, to require an offender to attend treatment for a longer period of time than was recommended by the clinical evaluator.
- Create "Ongoing Qualifications" and an "Active Registry Status" to clarify and strengthen requirements for clinical evaluators and for treatment providers, and add "Reinstatement"

provisions for those who lose approval and wish to request to be reinstated, including the optional requirement of a corrective action plan. Require treatment providers to ensure that supervisees are trained and supervised appropriately.

- Add provisions allowing, and procedures for, electronic submission of applications for clinical evaluators and for treatment providers, for certificates of treatment completion, and for certain reports made by clinical evaluators or treatment providers to the department.
- Change the frequency of clinical evaluators' and treatment providers' submission of certain reports to the department, from quarterly to monthly.
- Add provision prohibiting treatment providers from collecting from a client any fee which is not authorized by the department, and specifying that no one other than the department, the clinical evaluator, the treatment provider, or the accountability court's treatment team may control any aspect of treatment services.
- For clarification, add definitions of "clinical evaluator," "multiple or habitual offender," "risk reduction program," and "treatment provider," and clarify definitions of "registry of clinical evaluators" and "registry of treatment providers" (formerly "treatment programs").
- Allow treatment providers to issue replacement certificates of treatment completion, at a fee of \$15 to the client.
- Clarify that contracts with clients must be maintained for a period of six years, and not five, in order for this rule to be consistent with HIPAA record retention rules.

## **SUMMARY OF THE PROPOSED RULES**

**290-4-13-.02 Title and Purposes.** Deletes the word "certain," to indicate that evaluation and treatment are available for all DUI offenders.

**290-4-13-.03 Definitions.** Words and terms such as "multiple or habitual offender" and "risk reduction program" as they relate to the clinical evaluation and substance abuse treatment for DUI offenders are defined. "Clinical evaluator" and "treatment provider" are defined to include duties regarding first-time offenders, and "treatment provider" is defined as an individual.

**290-4-13-.04 Registry of Clinical Evaluators.** New or amended provisions apply for Clinical Evaluators of all DUI offenders.

- Clinical evaluators may evaluate first-time DUI offenders.
- Clinical Evaluators must be on active registry status and meet the conditions therefor.
- The Department may require that applications and other documents be submitted electronically.
- Qualifications are now designated as "Initial Qualifications." An error is corrected to show that the clinical experience and continuing education requirements are required in addition to licensure, and not as an alternative to licensure.
- "Ongoing Qualifications" include maintenance of initial qualifications, and providing evidence thereof upon request. Clinical evaluators must notify the department of loss of license, certification or credentialing; failure to do so may cause revocation of approval for the registry. A clinical evaluator may not administer clinical evaluations following loss of license, certification or credentialing. Registry status may be made available on the internet.
- "Active Registry Status" is maintained unless the clinical evaluator fails to administer any clinical evaluations in any 12 month period, fails to comply with these regulations, no longer wishes to remain on the registry, ceases to meet qualifications, or provides false or misleading information. Registry status may be viewed on the Internet.
- Reinstatement requires a new application, with a fee to be set by the Board of Human Resources. The department may also require completion of a corrective action plan.

**290-4-13-.05 Clinical Evaluation Process. Amended.** Evaluators must utilize both the screening instrument utilized by the Department of Driver Services and, additionally, one or more assessment instruments which are approved by the department. For persons with a first DUI conviction only, if the clinical evaluator determines the client does not need referral for treatment, the clinical evaluator sends a summary report of the evaluation to the Department within 5 days of the evaluation. If treatment is recommended, the clinical evaluator may recommend short term treatment for persons requiring no higher than ASAM Level I services, or longer term treatment for persons requiring a higher level of services. The department will designate the hours and duration of treatment for short term and longer term services.

**290-4-13-.06 Registry of Treatment Providers** New or amended provisions apply for Treatment Providers of all DUI offenders.

- Treatment providers may provide recommended treatment to first-time DUI offenders.
- Treatment providers must be on active registry status and meet the conditions therefor.
- The Department may require that applications and other documents be submitted electronically.
- Clarification is given requiring that a treatment provider must either provide direct services or supervise the provision of services, and that a treatment provider must have either licensure or certification as described. Regarding required department-sponsored training, the number of days of training is deleted, for flexibility in the department's programs. Treatment providers must ensure the training and adequate supervision of those whom the treatment provider supervises.
- "Ongoing Qualifications" include maintenance of criteria for approval and of continuing education, and providing evidence thereof upon request. Treatment providers must notify the department of loss of license, certification or credentialing; failure to do so may cause revocation of approval for the registry. A treatment provider may not administer clinical evaluations following loss of license, certification or credentialing.
- "Active Registry Status" is maintained unless the treatment provider fails to submit treatment enrollment and completion reports for 2 consecutive quarters, fails to maintain client files as required, otherwise fails to comply with these regulations, no longer wishes to remain on the registry, ceases to meet qualifications, or provides false or misleading information. Registry status may be made available on the Internet.
- Reinstatement requires a new application, with a fee to be set by the Board of Human Resources. The department may also require completion of a corrective action plan.

**290-4-13-.07 Treatment Requirements** Treatment providers shall require that clients complete at least the same number of days and hours per week of treatment as recommended by the clinical evaluator; treatment providers have discretion to require longer treatment. Treatment providers may not collect fees from clients which fees are not authorized by the Department. No one other than the department, the clinical evaluator, the treatment provider, or the accountability court's treatment team may direct or control treatment services.

**290-4-13-.08 Records** Evaluation reports and treatment enrollment, transfer and completion reports may be submitted online. The time period is changed from quarterly to monthly. It is no longer required to maintain an alphabetical file of all treatment, enrollment and completion reports. Terms regarding withdrawal or dismissal from treatment apply only to multiple or habitual offenders.

**290-4-13-.09 Client Contracts** Contracts with clients must be in writing. They must be retained for a period of 6 years, to comply with HIPAA. A copy of the contract shall be furnished to the client prior to the delivery of services (amended from "any services").

**290-4-13-.10 Treatment Enrollment Forms for Multiple or Habitual Offenders** Pre-numbered treatment enrollment forms are supplied to treatment providers instead of to clinical evaluators. The name of the form is changed from "referral/enrollment form" to "treatment enrollment form." There is no longer a provision for express mailing of forms or for utilizing transmittal forms or replacement forms. The department may provide for electronic transmission of forms, including submission to the Department of Driver Services.

**290-4-13-.11 Certificates of Treatment Completion** There is no longer a provision for express mailing of certificates, or for utilizing transmittal forms or replacement certificates. The department may provide for electronic transmission of certificates.

**290-4-13-.15 Severability** A typographical error is corrected, replacing "of" with "or".

## Proposed Rules Change

290-4-13

### Clinical Evaluation and Substance Abuse Treatment for DUI Offenders

#### 290-4-13-.01 Legal Authority.

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) Sec. 37-7-2.  
Authority O.C.G.A. Sec. 37-7-2. History. Original Rule entitled "Legal Authority" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

#### 290-4-13-.02 Title and Purposes.

These rules shall be known as the Rules and Regulations for Clinical Evaluation and Substance Abuse Treatment for DUI Offenders. The purpose of these rules is to provide for the approval of clinical evaluators and substance abuse treatment providers to evaluate and treat ~~certain~~ DUI offenders, to set minimum qualifications for clinical evaluators and treatment providers and to provide for the enforcement of these rules.

Authority O.C.G.A. Secs. 37-7-2, 40-5-1, 40-5-63.1. History. Original Rule entitled "Title and Purposes" adopted. F Sept. 18, 1997; eff. Oct. 8, 1997.

#### 290-4-13-.03 Definitions.

In these rules, unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

(a) "American Society of Addiction Medicine (ASAM) Patient Placement Criteria" means the current Patient Placement Criteria for the Treatment of Substance-Related Disorders by the National Association of Addiction Treatment Providers and American Society of Addiction Medicine.

(b) "Clinical evaluation" means the evaluation process designated by the department which is used to diagnose an individual's substance abuse and/or dependence and, if indicated, refer the individual to appropriate treatment.

(c) "Clinical evaluator" means a licensed or certified individual who meets the qualifications set forth in Section 290-4-13-.04 and is approved by the department to provide clinical evaluations for DUI offenders who are required pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A. 40-6-391 to undergo a clinical evaluation for substance abuse treatment needs.

(e) (d) "Clinical interview" means the face-to-face interview with a clinical evaluator intended to gather information on the client including, but not limited to demographics, medical history, alcohol concentration of current offense, social and family history, substance abuse history, and vocational background and mental status.

(f) (e) "Department" means the Department of Human Resources or its successor.

(g) (f) "DSM" means the current edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(h) (g) "Multiple or habitual offender" means a person who has been convicted of two or more offenses as described in O.C.G.A. 40-6-391.

(i) (h) "Registry of Clinical Evaluators" means the list of clinical evaluators who have been approved by the department to provide clinical evaluations for DUI offenders who are required by pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A. 40-6-391 to undergo a clinical evaluation.

(j) (i) "Registry of Treatment Programs Providers" means the list of substance abuse treatment programs which providers who have been approved by the department to provide treatment to DUI offenders who are required by pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A. 40-6-391 to complete a treatment program as a condition of driver's license reinstatement.

(k) (j) "Risk reduction program" means a program approved by the Department of Driver Services to provide education regarding alcohol and substance use and abuse and driving a vehicle or boat, for the purpose of reducing the risk of incidences of driving or boating under the influence of drugs or alcohol. Risk reduction programs are also commonly referred to as "DUI schools."

(l) (k) "Treatment provider" means a licensed or certified individual who meets the qualifications set forth in Section 290-4-13-.06 and is approved by the department to provide substance abuse treatment to DUI offenders pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A. 40-6-391.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Definitions" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

## **290-4-13-.04 Registry of Clinical Evaluators.**

(1) **Application Process.** No person may conduct clinical evaluations required by pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A. 40-6-391 without first having obtained approval by the department, having been placed by the department on the registry of clinical evaluators, and, as applicable, being on active registry status. All applications shall be submitted on forms prepared by the department, following a procedure outlined by the department. The application shall include all information, fees, and documents designated by the department and shall be truthful, accurate and complete. The department may require any applicant for clinical evaluator to submit additional

information or verification that is reasonably related to making an approval determination. In addition, the department may require applications or related documents to be submitted electronically, through a secure website, following procedures specified by the department.

(2) **Initial Qualifications.** In order to be placed on the registry of clinical evaluators, an individual must have one of the following combinations of professional licensure, credentials or experience-:

- (a) Certification as an addiction medicine specialist by the American Society of Addiction Medicine;
- (b) Certification in addiction psychiatry by the American Board of Psychiatry and Neurology;
- (c) Certification by the Georgia Addiction Counselors Association as a Certified Addiction Counselor II;
- (d) Certification by the National Association of Alcoholism and Drug Abuse Counselors Association;
- (e) Certification by the International Certification and Reciprocity Consortium;
- (f) Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders from the American Psychological Association's College of Professional Psychology; or
- (g) Licensure under O.C.G.A. Title 43 as a physician, psychologist, professional counselor, social worker, marriage and family therapist, advanced practice nurse, registered nurse with a bachelor's degree in nursing ~~or~~ and:

1. documentation of at least 2,000 hours in the five-year period prior to application, of clinical experience in the treatment of persons who are addicted to alcohol or other drugs, with at least 500 hours of that experience in the actual administration of substance abuse clinical evaluations, and

2. documentation of the completion of at least 20 hours of continuing education in the field of substance abuse, with not more than five of these hours consisting of in-service training, in the two-year period prior to application.

(3) **Training and Continuing Education.** Each clinical evaluator shall attend up to two days of training and orientation sponsored by the department within six months of prior to being placed on the registry. Each clinical evaluator shall complete, every two years, 20 contact hours of continuing education in the field of substance abuse approved by the department. The department will not approve more than five hours of in-service training in each two-year period.

(4) **Ongoing Qualifications.**

(a) Each clinical evaluator who is approved and placed on the registry of clinical evaluators shall continue to maintain the required initial qualifications and meet continuing education requirements, and upon request shall provide documentation showing evidence thereof. Upon renewal or reissuance of any applicable licensure, certification or credentialing, or upon request by the department, the treatment provider shall provide a copy of the renewed or reissued license, certification or credentialing to the department.

(b) Each clinical evaluator shall notify the department within 30 days of the occurrence if the evaluator's license, certification or credentialing is revoked, suspended, terminated, or lost for any other reason. The evaluator may not administer clinical evaluations after

the effective date of revocation, suspension, termination or other loss of license, certification, or credentialing.

(c) If any evaluator fails to submit documentation as required, or fails to maintain the required license, certification, or credentialing, the approval as an evaluator may be revoked, and the evaluator may be removed from the registry effective as of the date of the revocation, suspension, termination or other loss of licensure, certification, or credentialing.

(5) **Active Registry Status.** The department may provide for the registry to be available for viewing on the Internet. Once placed on the registry of clinical evaluators, an individual will continue to be listed in active registry status unless one of the following events occurs, which event shall constitute a basis for revocation:

(a) The evaluator fails to administer any clinical evaluations within any continuous twelve-month period;

(b) The evaluator fails to comply with the requirements of these regulations or of the department;

(c) The evaluator notifies the department that the evaluator no longer wishes to remain on the registry;

(d) The evaluator ceases to meet the qualifications listed above; or

(e) The evaluator provides false or misleading information to the department.

(6) **Reinstatement.** If an evaluator is removed from active registry status in accordance with the above, the evaluator's approval is revoked and the evaluator must submit a new application in order to return to active registry status, including an application fee, the amount of which shall be determined from time to time by the Board of Human Resources. The department may also require the treatment provider to comply satisfactorily with a corrective action plan to correct any deficiencies under these rules or other requirements of the department.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Registry of Clinical Evaluators" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997. **Amended:** F. Jan. 21, 1999; eff. Feb. 10, 1999.

### **290-4-13-.05 Clinical Evaluation Process. Amended.**

(1) Clinical evaluations shall only be administered at locations approved by the department by ~~substance abuse professionals~~ clinical evaluators who have been approved by the department to conduct such evaluations and who appear on the registry of clinical evaluators.

(2) All clinical evaluations shall consist of a clinical interview and a review of the client's standardized screening instrument administered by the risk reduction program. In addition, the clinical evaluator shall utilize one or more assessment instruments approved by the department ~~may be used~~.

(3) Information obtained from the clinical evaluation must be sufficient to diagnose or rule out a substance-related disorder according to current DSM criteria and to recommend an appropriate ASAM level of service. If treatment is recommended, the evaluator shall

recommend either short term treatment for clients requiring services no higher than ASAM level I, or longer term treatment for a client requiring services at ASAM level I or higher. The department will direct and define by policy the range of hours per week and the range of weeks of treatment required for short term treatment and longer term treatment.

(4) Clinical evaluators shall complete written evaluation reports for each client within seven days of completion of the clinical interview. The report must show the referral and the basis for the referral. The department may prescribe a format for preparation of these reports.

(5) If the evaluation results in a referral to treatment, the clinical evaluator must provide the client with a list of approved treatment providers for the level of treatment recommended.

(6) If the clinical evaluator determines that no referral to treatment is indicated; ;  
(a) for a person with a first conviction only under O.C.G.A 40-6-391, the clinical evaluator shall transmit a summary of the evaluation to the department for review within seven (7) days of completion of the clinical interview. The department may prescribe a form for these summary reports.

(b) for a multiple or habitual offender, the clinical evaluator must transmit a complete copy of the clinical evaluation, along with any other documents required, to the department for review within two business seven days of completion of the interview.

(7) (c) The department will complete its review of the clinical evaluation within two weeks of the receipt of the evaluation or summary of the evaluation, as applicable. If the evaluation is approved, the department will issue a Requirements Met Certificate directly to the client. If the evaluation is not approved, the department will contact the clinical evaluator regarding modification of the evaluation to include a referral to a specific ASAM level of service. If the clinical evaluator disagrees with the department's recommendation, the department will arrange for a panel of three professional peers to review the clinical evaluation and the department's recommendation. The department and the clinical evaluator will abide by the decision of the peer review panel.

Authority O.C.G.A. Sec. 37-7-2. History. Original Rule entitled "Clinical Evaluation Process" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997. Amended: F. Jan. 21, 1999; eff. Feb. 10, 1999.

## **290-4-13-.06 Registry of Treatment Providers.**

(1) **Application Process.** No provider may provide treatment required by pursuant to O.C.G.A. 40-5-63.1 or O.C.G.A 40-6-391 without first having obtained approval by the department, having been placed by the department on the registry of treatment providers and, as applicable, being on active registry status. All applications shall be submitted on forms prepared by the department, following a procedure outlined by the department. In addition, the department may require applications or related documents to be submitted electronically, through a secure website, following procedures specified by the department. The application shall include all information, fees, and documents designated by the department and shall be truthful, accurate and complete. The department may require any applicant for treatment provider to submit additional

information or verification that is reasonably related to making an approval determination.

**(2) Criteria for Approval.**

(a) In order to be placed on the registry of treatment providers, a ~~program~~ treatment provider must provide a program description specifying which ASAM levels of care will be offered and demonstrating the capability to offer the specified level(s) of care;

(b) Treatment providers offering services at ASAM level II.1 or higher must be licensed by the department's Office of Regulatory Services as a drug abuse treatment program;

(c) Treatment providers ~~which~~ who will only offer ASAM level I services must ~~designate a substance abuse professional who will be responsible for providing~~ provide direct treatment services or ~~for the clinical supervision of treatment services~~ persons working toward certification as a substance abuse professional, and who has. An ASAM level I treatment provider must have one of the following combinations of professional licensure, credentials and experience:

1. Certification as an addiction medicine specialist by the American Society of Addiction Medicine;

2. Certification in addiction psychiatry by the American Board of Psychiatry and Neurology;

3. Certification by the Georgia Addiction Counselors Association as a Certified Addiction Counselor II;

4. Certification by the National Association of Alcoholism and Drug Abuse Association;

5. Certification by the International Certification and Reciprocity Consortium;

6. Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Use Disorders from the American Psychological Association's College of Professional Psychology; or

7. Licensure under O.C.G.A. Title 43 as a physician, psychologist, professional counselor, social worker, marriage and family therapist, advanced practice nurse, registered nurse with bachelor's degree in nursing, or certification as an employee assistance professional, and

(i) documentation of at least 3,000 hours in the five-year period prior to application, of clinical experience in the treatment of persons who are addicted to alcohol or other drugs, and

(ii) documentation of the completion of at least 20 hours of continuing education in the field of substance abuse, with not more than five of these hours consisting of in-service training, in the two-year period prior to application.

**(3) Training and Continuing Education.** Each treatment provider will ~~designate an appropriate representative to attend two days of training and orientation sponsored by the department within six months of~~ prior to being placed on the registry. Each treatment provider will ensure that ~~substance abuse professionals on staff who provide~~ all persons whom the treatment provider supervises in providing direct services will complete, every two years, a minimum of 20 contact hours of continuing education in the field of substance abuse which has been approved by the department. The department will not approve more than five hours of in-service training in each two-year period.

**(4) Ongoing Qualifications.**

(a) Each treatment provider who is approved and placed on the registry of treatment providers shall continue to meet at least the required criteria for approval and meet

continuing education requirements for placement on the registry, and upon request shall provide documentation showing evidence thereof. Upon renewal or reissuance of any applicable licensure, certification or credentialing, or upon request by the department, the treatment provider shall provide a copy of the renewed or reissued license, certification or credentialing to the department.

(b) Each treatment provider shall notify the department within 30 days of the occurrence if the provider's license, certification or credentialing is revoked, suspended, terminated, or otherwise lost. The treatment provider may not provide treatment after the effective date of the revocation, suspension, termination, or other loss of licensure, certification or credentialing.

(c) If any treatment provider fails to submit documentation as required, or fails to maintain the required licensure, certification or credentialing, the treatment provider's approval as a treatment provider may be revoked, and the treatment provider may be removed from the Registry.

(5) **Active Registry Status.** The department may provide for the registry to be available for viewing on the Internet. Once placed on the registry of treatment providers, an individual will continue to be listed in active registry status unless one of the following events occurs, which event shall constitute a basis for revocation:

(a) The treatment provider fails to submit any treatment enrollment, transfer and completion reports to the department for two consecutive quarters;

(b) The treatment provider fails to maintain client files as required by these regulations or otherwise fails to comply with the requirements of these regulations or of the department;

(c) The treatment provider notifies the department that the treatment provider no longer wishes to be listed on the registry;

(d) The treatment provider ceases to meet the qualifications listed above, including but not limited to failing to complete required continuing education and training, failing to ensure the training and adequate supervision of persons providing direct services, or the loss of any licensure, certification or credentialing upon which approval was based; or

(e) The treatment provider provides false or misleading information to the department.

(6) **Reinstatement.** If a treatment provider is removed from active registry status in accordance with the above, the treatment provider's approval is revoked and the treatment provider must submit a new application in order to return to active registry status, including an application fee, the amount of which shall be determined from time to time by the Board of Human Resources. The department may also require the treatment provider to comply satisfactorily with a corrective action plan to correct any deficiencies under these rules or other requirements of the department.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Registry of Treatment Providers" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

## **290-4-13-.07 Treatment Requirements.**

(1) ~~Treatment services may last between 120 days and one year.~~ In order to obtain a certificate of treatment completion, a client must remain in treatment for ~~a minimum of 120 days~~ at least the period of time recommended by the clinical evaluator. Treatment providers shall require that clients complete, at a minimum, services of the same number of days and hours per week as recommended by the clinical evaluator. Treatment providers may, at their clinical discretion, require that a client complete services for a longer number of days, a greater number of hours per week, or both, than recommended by the clinical evaluator. However, ~~No~~ no client who has complied with a treatment plan can be required to remain in treatment longer than one year.

(2) Longer term treatment (ASAM level I, or higher levels) services shall consist of a minimum of three hours of treatment per week. Such treatment may include individual and group counseling, family therapy, vocational counseling, occupational and recreational therapy, psychotherapy and other therapies. In addition attendance at 12-step or other self-help meetings may be required, but time spent attending such groups will not count as part of the required three-hour treatment minimum.

(3) Treatment providers may only enroll clients whose referral to treatment matches the ASAM level of service offered by the provider except that when there are no providers offering the appropriate ASAM level of service in the geographic area in which the client lives, the client may contact the department for approval to enroll in treatment with a provider that offers a different ASAM level of care.

(4) When more than 60 days has passed between the completion of the clinical evaluation report and a client's enrollment in treatment, the treatment provider may, if necessary, re-evaluate the client utilizing the clinical evaluation report in order to confirm the appropriate referral level of services, number of days and hours per week required for that client.

(5) Treatment services may only be provided at locations approved by the department.

(6) Treatment providers may not collect from a client any fee which is not authorized by the department. No person or entity other than the department, the clinical evaluator or treatment provider or the accountability court's treatment team may direct or control any clinical, administrative, or financial aspect of the treatment services for an offender.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Treatment Requirements" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

### **290-4-13-.08 Records. Amended.**

(1) **Confidentiality.** All client records shall be confidential and shall be maintained and disclosed in accordance with the provisions of Volume 42 of the Code of Federal Regulations, 42 Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," as now and hereafter amended, as well as the Health Insurance Portability and Accountability Act of 1996 and attendant privacy and security regulations, as now and hereafter amended.

(2) Transfer of Records.

(a) DUI Alcohol or Drug Risk Reduction Screening Instrument. DUI alcohol or drug risk reduction programs shall transfer ~~by fax or mail~~ a copy of the results of the screening instrument to the clinical evaluator designated by the offender within five business days of the receipt by the risk reduction program of a written release an authorization for disclosure of information in a format acceptable to the department and signed by the offender. The screening instrument may not be transferred to more than two clinical evaluators without the prior approval of the department. Programs may charge a transfer fee up to \$10.00 for each transfer.

(b) Clinical Evaluation Results. Clinical evaluators shall transfer a copy of the results of the clinical evaluation to the treatment provider designated by the client within seven days of the receipt by the clinical evaluator of a written release an authorization for disclosure of information in a format acceptable to the department and signed by the offender.

(3) Clinical Evaluators. Each clinical evaluator shall maintain, at a location approved by the department, the following records which shall be legible, complete, accurate and available for inspection and copying by the department.

(a) Evaluation Report File. Each clinical evaluator shall ~~prepare quarterly evaluation reports on a form designated by~~ make monthly electronic reports online to the department showing all clients evaluated each quarter month and each client's referral. ~~Copies of these reports shall be maintained in an evaluation report file organized chronologically.~~

(b) Submission of Evaluation Reports to the Department. Clinical evaluators shall ~~transmit the original quarterly~~ submit the monthly online electronic evaluation report to the department by the tenth day of the calendar month following each ~~quarter~~ month reported.

(c) Client Files. Each clinical evaluator shall maintain a file for each client evaluated which shall be labeled with the client's name and risk reduction certificate of completion number and which will be maintained in alphabetical order by client's last name. Each client file must contain the following information:

1. Copy of the risk reduction program certificate of completion;
2. Original Evaluation Contract;
3. Screening instrument results transferred from risk reduction program;
4. Evaluation results and treatment referral;
5. Signed authorizations for release(s) of information;
6. Copy of referral/enrollment form along with name and address of treatment provider to whom referral was sent;
7. Documentation of eligibility for sliding scale fee, if applicable; and
8. Any other information designated by the department.

(4) Treatment Providers. Each treatment provider shall maintain, at a location approved by the department, the following records which shall be legible, complete, accurate and available for copying and inspection by the department.

(a) Treatment Enrollment, Transfer and Completion Report File. Each treatment provider shall prepare ~~quarterly~~ monthly treatment enrollment, transfer and completion reports on a an electronic form designated by the department and submit the forms electronically as designated by the department. These reports will show all clients who have enrolled in treatment, transferred to another program and completed treatment each ~~quarter~~ month.

~~Copies of these reports shall be maintained in a treatment enrollment, transfer and completion report file which shall be organized chronologically.~~

(b) Submission of Treatment Enrollment, Transfer and Completion Reports to the Department. Treatment providers shall transmit the original ~~quarterly~~ monthly treatment enrollment, transfer and completion reports to the department by the tenth day of the calendar month following each ~~quarter~~ month for all clients who have enrolled in treatment, transferred to another program or completed treatment the previous ~~quarter~~ month.

(c) Withdrawal or Dismissal From Treatment. Treatment providers shall report to the department each time a ~~client~~ multiple or habitual DUI offender voluntarily withdraws or is involuntarily dismissed with cause from treatment prior to completion. These reports, which will include the treatment provider's reasons for dismissal if applicable, will be made on forms designated by the department and will be sent to the department by fax or mail within five business days of the client's withdrawal or dismissal.

(d) Client Files. Each treatment provider shall maintain a file for each client evaluated which shall be labeled with the client's name and risk reduction certificate of completion number and which will be maintained in alphabetical order by the client's last name.

Each client file must contain the following information:

1. Copy of the Referral/Enrollment Form;
2. Copy of clinical evaluation report;
3. Original Treatment Service Contract;
4. Documentation of eligibility for sliding scale fee, if applicable;
5. Intake paperwork, treatment plan and progress notes;
6. Copy of Certificate of Treatment Completion; and
7. Any other information designated by the department.

Authority O.C.G.A. Sec. 37-7-2, 40-5-83. **History.** Original Rule entitled "Records" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997. **Amended.** F. Jan. 21, 1999. eff. Feb. 10, 1999.

### **290-4-13-.09 Client Contracts.**

Clinical evaluators and treatment providers shall enter into written contracts with clients for the provision of clinical evaluations and substance abuse treatment services respectively. Original contracts shall be maintained for a period of ~~five~~ six years from the date of execution. All contract formats shall be approved by the department and shall contain all information and provisions required by the department. A copy of the completed contract shall be furnished to the client prior to the delivery of ~~any~~ services.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Client Contracts" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

### **290-4-13-.10 Referral Treatment/ Enrollment Forms for Multiple or Habitual Offenders.**

Pre-numbered ~~referral treatment/~~ enrollment forms shall be supplied to ~~clinical evaluators~~ treatment providers by the department. ~~Clinical evaluators are responsible for completing the portion of the form pertaining to referral to treatment and transmitting the form to the appropriate treatment provider.~~ Treatment providers are responsible for completing the

~~portion of the form relating to clinical evaluation and enrollment in treatment and providing the completed form to the client. These forms are the property of the department and clinical evaluators and treatment providers are responsible for the security of the forms and for ensuring that the information on the forms is complete and accurate.~~

~~(a) **Requests for Referral Treatment/ Enrollment Forms.** Upon written request of a clinical evaluator treatment provider, the department will send referral treatment/ enrollment forms within two weeks to the clinical evaluator's treatment provider's mailing address currently on file with the department. If a clinical evaluator requests that the referral/enrollment forms be sent express or overnight mail, the evaluator will be responsible for the mailing expense.~~

~~(b) **Issuance of Referral/Enrollment Forms to Clinical Evaluators.**~~

~~Referral/enrollment forms sent to evaluators will be accompanied by a transmittal form that shall be signed by the clinical evaluator and returned to the department within 10 business days. Evaluators that fail to return the signed transmittal form will not be issued additional referral/enrollment forms until the transmittal form is returned to the department.~~

~~(e) (b) **Security of Referral Treatment/ Enrollment Forms.** Each referral treatment/ enrollment form shall be maintained in a secure location until it is issued to the client. Each clinical evaluator treatment provider must be able to account at all times for each referral treatment/ enrollment form issued. If any referral treatment/ enrollment form is believed to be stolen, the evaluator treatment provider shall immediately upon discovery file a police report. In addition, if any referral treatment/ enrollment form is believed to be lost or stolen, the evaluator treatment provider shall notify the department orally within one business day following the discovery of the loss or theft. The evaluator treatment provider must then follow up in writing to the department within 48 hours of discovery of the loss or theft.~~

~~(d) **Replacement Referral/Enrollment Forms.** Neither evaluators nor treatment providers may provide any client with duplicate referral/enrollment forms. Replacement forms supplied by the department and titled "Replacement Referral/Enrollment Forms" may be issued to any client who reports a lost, destroyed or stolen form. The cost may not exceed \$5.00 to the client. Replacement referral/ enrollment forms may only be signed by the clinical evaluator, treatment provider or program director, as applicable. Evaluators and providers shall notify the department in writing monthly of replacement referral/enrollment forms issued.~~

~~(c) **Electronic Transmittal of Treatment Enrollment Forms.** The department may implement the issuance of treatment enrollment forms by electronic means, providing for direct and secure electronic transmittal of treatment enrollment forms to the Department of Driver Services.~~

~~(e) (d) **Falsifying or Altering Referral Treatment/ Enrollment Forms.** Referral Treatment/ enrollment forms are official state documents which under some circumstances can be used to obtain a probationary drivers' driver's license or for drivers' driver's license reinstatement. Pursuant to Title 16 of the Georgia Code it is a crime to knowingly falsify, alter or fraudulently use an official document or certificate.~~

~~Authority O.C.G.A. Secs. 16-10-8, 16-10-20, 37-7-2. **History.** Original Rule entitled "Referral/Enrollment Forms" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997. **Amended:** F. Jan. 21, '99; eff. Feb. 10, '99.~~

## 290-4-13-.11 Certificates of Treatment Completion.

Pre-numbered certificates of treatment completion shall be supplied to treatment providers by the department. These certificates are the property of the department and treatment providers are responsible for each certificate of completion. Upon completion of treatment, treatment providers shall issue a certificate of treatment of completion to the client. All information provided on the certificate must be complete and accurate. No certificate of treatment completion may be issued to a client prior to completion of treatment. Clients may be required to pay all treatment fees prior to receiving a certificate of treatment completion.

(a) **Requests for Certificates of Treatment Completion.** Upon written request of a treatment provider, certificates of treatment completion will be sent within two weeks to the provider mailing address currently on file with the department. ~~If a treatment provider requests that the certificates of treatment completion be sent express mail or overnight mail, the provider will be responsible for the mailing expense.~~

~~(b) **Issuance of Certificates of Treatment Completion to Treatment Providers.** Certificates of treatment completion sent to treatment providers will be accompanied by a transmittal form that must be signed by the treatment provider or program director and returned to the department within 10 business days. Providers that fail to return the signed transmittal form will not be issued additional certificates of treatment completion until the signed form is received by the department.~~

~~(e) (b) **Security of Certificates of Treatment Completion.** Each certificate shall be maintained in a secure location until it is issued to the client. Each treatment provider shall be able to account at all times for each certificate issued to it. If any certificate is believed to be stolen, the provider shall immediately upon discovery, file a police report. In addition, if any certificate is believed to be lost or stolen, the provider shall notify the department orally no later than the end of the next business day following the discovery of the loss or theft. The provider shall then follow up in writing to the department within 48 hours of the discovery of the loss or theft.~~

~~(d) (c) **Replacement Certificates.** Treatment providers may not provide any a client with a duplicate new certificate of treatment completion. The provider may issue replacements on a form supplied by the department and titled "Replacement Certificate of Treatment Completion" for certificates that are lost or destroyed. The cost may not exceed \$5.00 \$15.00 to the client. The provider may issue department provided replacement certificates to any student who reports a lost or stolen certificate. Providers shall notify the department in writing monthly of the replacement certificates issued.~~

(d) Electronic Transmittal of Certificates of Treatment Completion. The department may implement the issuance of certificates of treatment completion by electronic means, providing for direct and secure electronic transmittal of certificates of treatment completion to the Department of Driver Services.

(e) **Falsifying or Altering Certificates.** Certificates of treatment completion and replacement certificates are official state documents which can be used for drivers' license reinstatement. Pursuant to Title 16 of the Georgia Code, it is a crime to knowingly alter, falsify or fraudulently use an official document or certificate.

Authority O.C.G.A. Secs. 16-10-8, 16-10-20, 37-7-2. **History.** Original Rule entitled "Certificates of Treatment Completion" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

### **290-4-13-.12 Inspections and Investigations.**

The department is authorized to inspect the records and facilities of clinical evaluators and treatment providers in order to verify compliance with these rules. Clinical evaluators, treatment providers and their employees and representatives shall cooperate with any inspection or investigation by the department and shall provide without delay any information reasonably requested by the department. If violations of these rules are identified as a result of an inspection or investigation, the department may issue a written inspection report which identifies the rules violated and requires the clinical evaluator or treatment provider to submit a written plan of correction specifying what steps will be taken to correct the violations.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Inspections and Investigations" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

### **290-4-13-.13 Enforcement of Program Requirements.**

(1) When the department finds that any applicant for the registry of clinical evaluators or treatment providers does not fulfill the requirements of these rules, the department may, subject to notice and opportunity for a hearing, refuse to place the applicant on the applicable registry; provided, however, that the department shall not be required to hold a hearing prior to taking such action.

(2) The department may remove a clinical evaluator or treatment provider from the registry for noncompliance with program requirements. Removal from the registry can be temporary, in the form of a suspension, or permanent, depending on the severity of the violation and the evaluator's or provider's history of compliance. In lieu of removal, the department may revoke the authority of the clinical evaluator or treatment provider to evaluate or enroll new clients.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Enforcement of Program Requirements" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.

### **290-4-13-.14 Applicability of Georgia Administrative Procedure Act.**

All enforcement actions resulting from this chapter shall be administered in accordance with Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the "Georgia Administrative Procedure Act." Any request for a hearing in response to any enforcement action taken pursuant to this chapter shall be in writing and must be submitted to the department no later than 10 calendar days from the date of receipt of any written notice of intent by the department to impose an enforcement action.

Authority O.C.G.A. Secs. 37-7-2, 50-13-1. **History.** Original Rule entitled "Applicability of Georgia Administrative Procedure Act" adopted. F. Sept. 18, 1997; eff. Oct 8, 1997.

### **290-4-13-.15 Severability.**

In the event that a rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules ~~of~~ or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority O.C.G.A. Sec. 37-7-2. **History.** Original Rule entitled "Severability" adopted. F. Sept. 18, 1997; eff. Oct. 8, 1997.