

STANDARDS FOR CLINICAL SERVICES PROVIDED TO INDIVIDUALS ARRESTED FOR AN IMPAIRED DRIVING OFFENSE

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Section 1: Legal Basis

- (A) These standards are established in accordance with Section 1198-a of the New York State Vehicle and Traffic Law (VTL) and in conjunction with Section 19.07(g) of the New York State Mental Hygiene Law, as added by Chapter 732 of the Laws of 2006 and amended by Chapter 669 of the Laws of 2007.

Section 2: Applicability

- (A) These standards apply to all **OASAS Approved Providers of Screening and Assessment Services (Providers)**. OASAS-Certified Part 822 Outpatient Services who have been approved shall comply with Part 822 Operating Regulations in addition to Section 3 of this document. All other OASAS approved Providers shall comply with Sections 4 through 11 of this document.
- (B) At OASAS' discretion, a Provider may be removed from the approved listing if an action is taken by New York State to revoke any of the Provider's credentials or licenses to operate in the State.

Section 3: OASAS-Certified Outpatient General Service Standards

- (A) OASAS-Certified Part 822 Providers shall comply with the Part 822 Outpatient Regulations, in addition to the following supplementary standards:
 - (1) A screening for alcohol or substance use shall be administered by an alcohol or substance abuse professional using a screening tool approved by OASAS as described in Sections 5(A) and 5(B)(1).

- (2) Alcohol and drug screening tests shall be performed in a laboratory licensed pursuant to Section 575 of the Public Health Law as described in Sections 5(B)(2)(a)(i) and 5(E)(1)(a).
- (3) There shall be a review of the Abstract of Driving Record and documentation related to the arrest included in the patient case record.
- (4) There shall be interviews with collateral sources as described in Sections 5(B)(2)(d) and 5(E)(4).
- (5) An individual shall be discharged from treatment related to an impaired driving offense based on his or her successful *completion of treatment* as described in Section 7(G)(1-5).
- (6) Online reporting shall be in accordance with Impaired Driver System (IDS) requirements as described in Sections 8(A)(6) and 9(A).

Section 4: General Service Standards

- (A) OASAS has established minimum standards to guide the provision of services to individuals seeking service in relation to, or as the result of, an impaired driving arrest, including procedures for making appropriate referrals to and from other services, when necessary. These standards will direct OASAS' review and audit of provider performance.
- (B) Clinicians shall:
 - (1) provide impaired driver-specific screening and assessment;
 - (2) promote the achievement and maintenance of recovery from a substance use disorder; and
 - (3) clearly communicate all diagnoses, recommendations and treatment goals to each client.
- (C) In providing treatment, each clinician shall:
 - (1) provide individual counseling that promotes the achievement and maintenance of recovery from chemical dependence and abuse;
 - (2) provide information about mutual assistance groups;
 - (3) develop an individualized treatment/recovery plan in collaboration with the patient that identifies specific treatment goals and interventions designed to address identified problem areas.
- (D) Each clinician shall make arrangements to provide additional services to meet any identified needs of the individual that are not specific to a substance use disorder.

Section 5: Screening and Assessment Procedures

- (A) Screening can serve to indicate if an individual is abusing alcohol and/or other drugs and therefore posing a risk to re-offend. The court may order mandatory screening for alcohol or substance use either at the time of arraignment or prior to sentencing when the individual is charged with or convicted of:
- (1) VTL §1192(1), (2), or (3), and has a BAC of less than .15; or
 - (2) VTL §1192(4); or
 - (3) refusing to submit to a chemical test.
- (B) The screening shall be administered face-to-face, in-person by an alcohol or substance abuse professional using a screening tool approved by OASAS.¹
- (1) At a minimum, a screening shall employ an OASAS approved instrument such as the RIA Self Inventory (RIASI), AUDIT Alcohol Screening Test, Michigan Alcohol Screening Test for Alcohol and Drug (MAST/AD), Simple Screening Instrument (SSI), or Drug Abuse Screening Test (DAST).
 - (2) In addition to a standardized screening instrument, Providers shall obtain and utilize the following documentation as part of the screening process. Any exclusions or omissions shall be adequately justified and documented. Administration of a standardized screening instrument shall be augmented by each of the following:
 - (a) an alcohol and drug screening test performed by a laboratory licensed pursuant to Section 575 of the Public Health Law to analyze and report on samples. Such screening test shall:
 - (i) include an initial test for the use of alcohol; specifically, ethanol with Ethyl Glucuronide (EtG) must be included in the initial drug panel with a cutoff point of 10 mg/dL and 500 micrograms per liter, respectively, using a method of analysis that is approved by the FDA or the Department of Health;
 - (ii) if the initial test is not negative or is presumptive positive, include a quantitative test identified for a specific drug that utilizes a method of mass spectrometry or an equivalent scientifically accepted method that provides quantitative data on the detected drug or drug metabolites; and
 - (iii) consider a routine drug panel initially with a more specialized target once a baseline has been established and a specialized substance has been identified.
 - (b) a review of the individual's Abstract of Driving Record;
 - (c) a review of official documentation of the violation, including but not limited to: copy of arrest report, incident report and/or traffic ticket;

- (d) interviews with collateral sources, such as persons or organizations able to provide pertinent information about the individual which is deemed as relevant and appropriate to the formation of an accurate screening determination.,
- (C) Impaired Driver Assessment. The court may order an individual to undergo a formal substance use disorder assessment when:
- (1) The individual at arraignment is charged with, or prior to sentencing is convicted of a violation of VTL § 1192(1), (2), (3), (4), or (4-a), AND:
 - (a) within the preceding 5 years:
 - (i) has been convicted of any VTL § 1192 violation;
 - (ii) has been convicted of vehicular assault or manslaughter (Penal Law § 120.03/.04 and 125.12/13/14), OR
 - (b) within the preceding 10 years:
 - (i) has any two VTL §1192 convictions; or
 - (ii) has any two vehicular assault or manslaughter convictions; OR
 - (2) The individual at arraignment is charged with, or prior to sentencing is convicted of the following:
 - (a) a violation of VTL § 1192(2) or (3), with a Blood Alcohol Content (BAC) of .15 or more; OR
 - (b) a violation of VTL § 1192(2-a).
- (D) The Impaired Driver Assessment shall include the information necessary to make a determination as to a diagnosis of alcohol-related or substance use-related disorder in accordance with the most recent version of the Diagnostic and Statistical Manual (DSM) or the International Classifications of Diseases (ICD). Such a diagnosis shall also be based, in part, on: clinical interviews with the individual; a review of the individual's abstract of driving record; toxicology testing results; and collateral interviews with significant others, if possible and where/when appropriate.
- (E) Providers shall obtain and utilize the following documentation as part of the Impaired Driver Assessment. Any exclusions or omissions shall be adequately justified and documented. Administration of the Impaired Driver Assessment shall be augmented by each of the following:
- (1) An alcohol and drug screening test performed by a laboratory licensed pursuant to Section 575 of the Public Health Law to analyze and report on samples and which:
 - (a) includes an initial test for the use of alcohol; specifically, ethanol with Ethyl Glucuronide (EtG) must be included in the initial drug panel with a cutoff point of 10 mg/dL and 500 micrograms per liter, respectively, using a method of analysis that is approved by the FDA or the Department of Health;
 - (b) if the initial test is not negative or is presumptive positive, includes a quantitative test identified for a specific drug that utilizes a method of mass spectrometry or

an equivalent scientifically accepted method that provides quantitative data on the detected drug or drug metabolites; and

- (c) considers a routine drug panel initially with a more specialized target once a baseline has been established and a specialized substance has been identified.
- (2) a review of the individual's Abstract of Driving Record;
 - (3) a review of the official documentation of the violation, including but not limited to: copy of arrest report, incident report and/or traffic ticket; and
 - (4) interviews with collateral sources, such as persons or organizations able to provide pertinent information about the individual which is deemed as relevant and appropriate to the formation of an accurate screening determination.
- (F) Once a diagnosis of alcohol-related or substance use-related disorder has been determined, the goal of the Impaired Driver Assessment shall be to obtain that information necessary to develop an individual treatment plan.
- (G) Each Impaired Driver Assessment shall be based on the following protocol:
- (1) Clinical face-to-face, in-person interviews with the individual, and, if possible and appropriate, collateral interviews with significant others.¹ The psychosocial history of the individual shall include at a minimum, the following elements:
 - (a) Presenting Problem, including a discussion of pertinent and detailed information describing contributing factors, incidents and issues that precipitated assessment.
 - (b) Substance Use History, including: age of onset; duration and frequency of use; administration and patterns of use; precipitators, such as peer pressure, depression or life crisis; increased/decreased tolerance; consequences of use; history of previous attempts to remain abstinent; individual's own perception of substance use including the use of tobacco; self-help involvement; prior treatment history such as detoxification, inpatient rehabilitation or outpatient treatment; the history of use of substances by significant others; and the impact of substance use on significant others.
 - (c) Education and Employment, including: an assessment of literacy skills, highest grade completed, adjustment problems in school and effects of substance use on performance: a review of the individual's work history complete with dates and lengths of employment; reasons why the individual left employment or changed jobs; the individual's aspirations, strengths and challenges; other skills which might have been obtained and the effects of substance use on job performance.
 - (d) Mental Health and Emotional Health, including: lethality; i.e. if individual is a danger to him/herself or others; history of hospitalizations, lengths of stay, suicide attempts, current treatment and psychotropic medication regimen, including name of prescribing physician - current status; emotional health; history of mental abuse or emotional abuse; ability to express emotions; emotional state.

- (e) Medical / Health, including: a general statement of physical health and needs; current medications where indicated; date of most recent physical examination and name of physician; results of any alcohol or drug screenings performed and an indication of referral for a complete physical examination if one has not been done in the prior twelve months.
 - (f) Family, including: status of relationship with family members, peers and significant others; and history and impact of the use of alcohol and substances on family members, significant others and by peer group.
 - (g) Social / Leisure, including all leisure activities, hobbies and interests of past and present; identify primary relationships (personal, professional and family) and address activities which are isolating and do not encourage socialization.
 - (h) Legal Involvement, including: arrest history related to substance use and vehicular crimes (NYS DMV Driving Record abstract DS-242.1); arrest record; current and pending legal issues with scheduled court appearances; parole or probation status; precipitators and anticipated cessation of legal proceedings and involvement with the criminal justice system.
- (2) The Impaired Driver Assessment shall also include: findings and conclusions related to each of the elements assessed, a primary diagnosis, diagnostic summary and a dated signature of the Provider responsible for its findings.

¹ Except when the organization is federally regulated and a licensed nurse is on site with the impaired driving offender.

Section 6: Admission Criteria

- (A) In order to be admitted for treatment individuals seeking service as the result of an impaired driving arrest or conviction, shall:
 - (1) be diagnosed with a substance use disorder based on the criteria in the most recent version of the DSM or the ICD; and
 - (2) be able to achieve and maintain recovery from a substance use disorder and benefit from treatment.
- (B) If the individual is deemed inappropriate for treatment, a referral to an appropriate level of care shall be made. Justification for any level of care shall be provided in writing to the individual and documented by the treatment provider.
- (C) All individuals shall be informed that admission is on a voluntary basis and that an individual shall be free to discharge him or herself from the service at any time. For individuals under an external mandate, the potential consequences of a discharge prior to the completion of treatment shall be explained but shall not alter the voluntary nature of admission and continued treatment. This provision shall not be construed to preclude or prohibit attempts to persuade an individual to remain in treatment in his or her own best interest.

Section 7: Treatment Plan

- (A) The information necessary to develop an individual treatment plan shall be obtained from the findings and conclusions of the Impaired Driver Assessment. It shall focus primarily on the individual's need for treatment of a substance use disorder. The written treatment plan shall commence upon admission to treatment and be completed within 2 treatment sessions to establish the initial goals, objectives, and interventions most appropriate for the individual at that time. The treatment plan shall be developed in collaboration with the individual, reviewed on a regular basis and updated as necessary throughout the course of treatment.
- (B) For individuals moving directly from the care of one treatment provider to another, the existing treatment plan shall be accepted, providing that all documentation has been reviewed with the individual within 2 treatment sessions to ensure that all information is current and valid.
- (C) The treatment plan shall:
- (1) specify the treatment goal(s) for each identified problem;
 - (2) detail the specific objectives to be utilized in meeting identified goal(s) during treatment, including the methods to be used in measuring progress;
 - (3) prescribe the interventions used to meet the objectives;
 - (4) bear all appropriate signatures and dates and be maintained in the individual's record.
- (D) Treatment services provided shall be done so in accordance with the treatment plan.
- (E) Reports of any individual who is not responding to treatment, not meeting goals defined in the treatment plan, or is disruptive to the treatment provider's service shall be documented in the individual's record and the treatment plan shall be revised accordingly.
- (F) Progress notes shall be written after every session and shall specify the duration of every visit. Progress notes shall:
- (1) be written, signed and dated by the clinician providing the service;
 - (2) provide a chronology of the individual's progress related to the goals established in the treatment plan; to include participation and any relevant outcomes of the treatment activity/visit;
 - (3) be sufficient to delineate the course and results of treatment.
- (G) An individual shall be discharged from treatment based on his or her successful *completion of treatment* when:
- (1) the individual has accomplished the goals and objectives which were identified in the treatment plan and subsequent treatment plan updates;
 - (2) the individual recognizes and verbalizes the multiple effects and varying degrees of impairment by alcohol and other drugs, all of which may affect different aspects of their life including the possibility of reoffending;
 - (3) the individual recognizes and understands how their own avoidance of risky and sensation seeking behaviors and effective changes in their own errors in thinking or beliefs will lower their risk for reoffending;

- (4) the individual has established and maintained a meaningful period of abstinence throughout the course of treatment, as evidenced by a consistent pattern of negative toxicology results;
 - (5) the individual demonstrates through self-disclosure an honest and open internal acceptance of responsibility related to the current impaired driving arrest and articulates that the recent impaired driving arrest is related to a substance use disorder.
- (H) Within 45 days of discharge, a summary which includes the course and results of care, treatment, and discharge status denoting any outstanding issues shall be prepared and included in the individual's record.

Section 8: Record Keeping

- (A) Providers shall maintain separate records for each individual who is admitted and provided services. At a minimum, documentation shall include:
- (1) the source of referral;
 - (2) documentation of the Impaired Driver Assessment;
 - (3) results of any toxicology, breath testing, and any other bio-chemical testing performed;
 - (4) documentation of collateral contacts, such as the individual's family and/or significant other(s);
 - (5) progress notes;
 - (6) a signed and dated IDS-specific consent form, **as well as** any other consent needed to authorize the release of additional information. Records maintained by the approved Provider are confidential and may only be disclosed in conformity with federal regulations governing the confidentiality of alcohol and drug abuse patient records as set forth in 42 *Code of Federal Regulations* Part 2 and other applicable law.
- (B) In cases where treatment is provided, the following shall be included in the individual record:
- (1) the individual treatment plan, as well as all reviews and updates;
 - (2) documentation of recommendations, referrals and services provided for the individual's general health or for other special needs, including coordination with other agencies, as included in the individual treatment plan, and notes on the individual's progress with such other agencies, as well as other incoming and outgoing correspondence about the individual;
 - (3) a completed discharge summary, including the circumstances of the discharge.
- (C) A designated area shall be made available for locked storage and maintenance of individual records. The location, design and equipment shall be appropriate to secure records from traffic, theft and unauthorized access as well as from damage by fire or water. Individual records shall be retained for six years after the date of discharge or last contact.

Section 9: Online Reporting

- (A) Providers shall comply with the requirements of the Impaired Driver System (IDS), entering data into the IDS within three business days of each event to assure timely documentation of services and accurate tracking of the individual in accordance with all IDS requirements.

Section 10: Physical Work Environment

- (A) Space shall be made available in areas which afford privacy and serve to promote and maintain the delivery of counseling and other therapeutic services in an interruption-free and professional setting. All rooms used shall, either with or without the use of sound generating devices, prevent voice transmission outside of the room.

Section 11: Provider Capability Standards

- (A) Providers shall adhere to the following OASAS Approved Provider Capability Standards, as developed by OASAS, at all times. Providers who do not maintain compliance with the DWI Provider Capability Standards, shall, at OASAS discretion, be placed on probation, suspended or removed from the OASAS Approved Provider List.
- (B) In order to maintain compliance with the OASAS Approved Provider Capability Standards, OASAS approved Providers shall:
 - (1) conduct clinical screening, assessment, and treatment in accordance with the Standards for Clinical Services Provided to Individuals Arrested for an Impaired Driving Offense;
 - (2) respond to all written communication from OASAS within 30 days;
 - (3) refrain from engaging, or having involvement, in misconduct, as defined below:
 - (a) practicing fraudulently, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion or otherwise acting contrary to the interests of the individual served;
 - (b) practicing while under the influence of alcohol and/or other psychoactive substances;
 - (c) violating any term or condition or limitation imposed on the Provider by OASAS or the NYS Education Department;
 - (d) refusing to provide services or make an appropriate referral to individuals because of such person's race, religious/spiritual beliefs, ethnicity, gender, age, disability, national origin, sexual orientation, socioeconomic status, criminal history or any other basis proscribed by law;

- (e) being convicted of a crime that constitutes a felony or misdemeanor under New York State law, Federal law or law within the jurisdiction of the conviction, and not reporting such conviction to OASAS within 45 days of occurrence;
 - (f) promoting the inappropriate sale of services, goods, or drugs in such manner as to exploit the patient for the financial gain of the provider or of a third party;
 - (g) directly or indirectly offering, giving, soliciting, receiving or agreeing to receive, any fee or other consideration to or from a third-party for the referral of a client or in connection with the performance of clinical services provided to individuals arrested for an impaired driving offense;
 - (h) entering into an exploitative, sexual or inappropriate relationship with clients or the significant others of clients receiving impaired driving offender clinical services.
- (4) comply with the following Ethical Guidelines:
- (a) espouse objectivity and integrity; maintain the highest standards in the services offered; respect the values, attitudes and opinions of others; and provide services only in an appropriate professional relationship;
 - (b) refrain from discrimination in the provision of appropriate clinical services based on race, religious/spiritual beliefs, ethnicity, gender, age, disability, national origin, sexual orientation, socioeconomic status, criminal history or any other basis proscribed by law;
 - (c) uphold the legal and accepted moral codes which pertain to professional conduct;
 - (d) respect the integrity and protect the welfare of the person or group with whom they are working;
 - (e) embrace, as a primary obligation, the duty of protecting the privacy of clients, prohibiting the disclosure of confidential information without proper consent and maintaining the confidentiality of records they control;
 - (f) orient the prospective client as to the nature of services to be provided and the client/counselor relationship, identify potential contacts and obtain appropriate documentation of consents for release of information;
 - (g) treat colleagues and other professionals with respect, courtesy and fairness, and cooperate in order to serve the best interests of their clients;
 - (h) refrain from behavior that is harassing or demeaning, including but not limited to sexual harassment in the context of the client/counselor relationship;
 - (i) refrain from exploiting clients or others over whom they have a position of authority;

- (j) report fairly and accurately all appropriate information for each client served, including the acknowledgment and documentation of materials and techniques used during the provision of clinical services;
 - (k) assure that financial practices comply with professional standards.
- (C) Individuals currently enrolled in substance use disorder treatment shall not provide clinical services to impaired drivers until a period of rehabilitation satisfactory to OASAS has transpired.

Section 12: Severability

(A) If any provision of these Standards or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these Standards which can be given effect without the invalid provision or applications, and to this end the provisions of these Standards are declared to be severable.