

KENTUCKY'S DUI PROGRAM

SEPTEMBER 2003 – PERFORMANCE AUDIT



EDWARD B. HATCHETT, JR.
AUDITOR OF PUBLIC ACCOUNTS

The Auditor Of Public Accounts Ensures That Public Resources Are Protected, Accurately Valued, Properly Accounted For, And Effectively Employed To Raise The Quality Of Life Of Kentuckians.



EDWARD B. HATCHETT, JR.
AUDITOR OF PUBLIC ACCOUNTS

September 9, 2003

To the People of Kentucky
The Honorable Paul E. Patton, Governor
Marcia Morgan, Secretary, Cabinet for Health Services
Michael Townsend, Director, Division of Substance Abuse

Re: Performance Audit of Kentucky's DUI Program

Ladies and Gentlemen:

We present our report on Kentucky's DUI Program. We are distributing this report in accordance with the mandates of Kentucky Revised Statute 43.090. In addition, we are distributing copies to members of the General Assembly committees exercising oversight authority over DUI issues, as well as other interested parties.

Kentucky Revised Statute 43.090 (1) requires an agency to which a report of the Auditor of Public Accounts pertains to notify the Legislative Research Commission and the Auditor of Public Accounts, within 60 days of completion of the audit report, which of the audit recommendations have been implemented and which have not. After an appropriate period of time, we will contact the Division of Substance Abuse in the Cabinet for Health Services to determine whether the report's recommendations have been implemented, and we will then advise the Legislative Research Commission regarding the status of that implementation. Once we are advised that the recommendations have been implemented, they will be considered closed.

Our Division of Performance Audit evaluates the effectiveness and efficiency of government programs. The Division also performs risk assessments and benchmarks government operations. We will be happy to discuss with you at any time this audit or the services offered by our office. If you have any questions, please contact Gerald W. Hoppmann, Director of our Division of Performance Audit, or myself.

We appreciate the courtesies and cooperation extended to our staff during the course of this performance audit.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ed Hatchett".

Edward B. Hatchett, Jr.
Auditor of Public Accounts



Executive Summary

Audit Objectives **Determine whether the Division of Substance Abuse within the Cabinet for Health Services provides adequate oversight of DUI service programs.**

Determine whether the DUI education and treatment is effective in changing the behavior of DUI offenders and deterring them from driving under the influence.

Background

Prior to 1991, DUI education programs were not mandatory in all cases. In 1991, an amendment to KRS 189A.040 and KRS 189A.070 required all individuals convicted of DUI offenses to complete education or treatment programs, or both. By 2001, about 30,000 DUI offenders were required to receive alcohol and other drug assessment, education, or treatment services. Prior to 1991, an average of fewer than 4,000 offenders were served each year. For-profit and not-for-profit DUI service programs take in more than \$10 million annually. As of March 2002, there were 96 DUI service programs, with over 200 locations throughout the Commonwealth.

Findings

Reviews of DUI service programs are not occurring on a consistent basis. During calendar years 1999 through 2001, Division staff conducted program reviews at a total of 63 DUI service programs. Thirty-one programs, however, did not receive a single review during that period.

State regulations used to require annual reviews at each program; however, the regulation was changed in April of 2000, to require only periodic program reviews. Without adequate oversight of DUI service programs, the effectiveness of education and treatment provided could be diminished.

DUI service program information is not sufficiently tracked. The Division does not have centralized computer capabilities to track information about DUI service programs and their personnel. The lack of an electronic database increases the time required to collect and analyze historical information in preparation for a program review.

Statutory and regulatory requirements do not fully address the certification of DUI service programs, qualifications of program staff, or the criteria to limit the number of DUI service programs within a county or region. In addition, they are silent on the matter of DUI service programs continuing to operate under the revocation and appeals process without undergoing onsite reviews.

State statutes require that all DUI convictions be purged after five years. This means that a multiple-conviction DUI offender could be convicted of a first offense again, as long as five years had passed since the date of his last conviction. Increasing the number of years that DUI records are maintained could deter drinking and driving.

The 2000 General Assembly made several changes to the DUI statutes, including the license revocation period for first-time offenders. Instead of all first-time offenders receiving a 90-day license suspension, the presiding judge has the discretion to revoke a license for a period of between 30 and 120 days. We sampled driving records from 457 individuals convicted in calendar year 2001 of first offense DUI and determined that the lowest recidivism rate was for offenders receiving a license suspension of 90 days.

Many DUI service programs in Kentucky may not be providing adequate services to persons for whom English is a second language. Neglecting to provide adequate services may preclude some DUI offenders from successfully completing these programs or changing their behavior. This violates 908 KAR 1:310, Section 6 requirement that DUI service programs make reasonable accommodations for a client who is unable to communicate in English.

Executive Summary

Recommendations

We recommend the Division of Substance Abuse:

1. Conduct program reviews that include a mix of multi-faceted reviews with shorter reviews to provide coverage to all DUI service programs. The Division should also pursue charging DUI service program providers a licensure fee, an assessment fee for each DUI offender, and/or work with the General Assembly to amend KRS 189A.050 to receive a percentage of the \$250 service fee.
2. Create a centralized electronic system to maintain current information on each DUI service program, instructor, and assessor, which includes certification expiration dates, complaints, etc. We also recommend the Division consider making all electronic information systems available to coordinators when performing site visits.
3. Strengthen the DUI service program certification process. Any changes should consider placing limitations on the number of DUI service programs for which a Clinical Services Supervisor may work and performing reviews of DUI service programs during the revocation and appeals process. The Division should also correct 109 KAR 11:030 so that it is consistent with KRS 189A.050 in regards to the amount of the DUI service fee.
4. Provide training to all certified DUI service programs on obtaining funding or other assistance to address the language barrier problem. In addition, the Division should translate the KAODEP education curriculum into Spanish and determine what other language translations might be beneficial.

We recommend the General Assembly consider:

1. Amending KRS 186.018(1) to increase the number of years DUI offenses are kept on an offender's record.
2. Evaluating the provided information on license suspensions to determine whether applicable sections of KRS Chapter 189A should be amended.

We recommend the Judicial Branch consider:

1. Ensuring that licenses are not reinstated until completion of education and treatment programs, as mandated by KRS 189A.070(3).

Table of Contents

	TRANSMITTAL LETTER	
	EXECUTIVE SUMMARY	i
Chapter 1	INTRODUCTION	1
	Background	1
	Audit Focus and Objectives	5
Chapter 2	FINDINGS AND RECOMMENDATIONS	7
	Service Program Reviews Are Not Occurring on a Consistent Basis	7
	DUI Service Program Information Is Not Sufficiently Tracked	10
	Statutes and Regulations Do Not Completely Address Certification and Qualification Requirements for DUI Service Programs	11
	DUI Convictions Are Purged After Five Years	14
	Legislative Changes Related to License Revocation	15
	Inadequate Services for Non-English Speaking DUI Clients Violates State Regulation	17
	RECAP OF RECOMMENDATIONS	18
Appendices	I. Scope and Methodology.....	19
	II. Abbreviated Organizational Chart	22
	III. State Staffing Levels and Multi-Source Financial Data.....	23
	IV. Program Certification Revocation Process.....	24
	V. Information Related to Other States.....	25
	VI. Anonymous Comments from Client Surveys.....	26
	VII. Complaints Against DUI Service Programs.....	27
	VIII. Kentucky Administrative Regulation for Certification of DUI Service Programs	32
	IX. Fines and Jail Sentences Related to Level of Offense.....	53
	X. Agency Comments	54
	XI. Auditor of Public Accounts Information.....	58

Table of Contents

Tables

Table 1. Statutory Sentencing and Program Release Requirements Related to DUI Offenders	2
Table 2. Findings Related to Division Reviews of 44 Active DUI Service Programs	7
Table 3. Disposition of Appeals.....	13
Table 4. Driving Record Requirements of Other States	14
Table 5. Statutory License Suspension Periods by Offense.....	15
Table 6. Calendar Year 2001 Recidivism Rates	16
Table 7. Suspension Lengths and Convictions	16

Illustrations

Illustration 1. Allocation of \$250 Service Fee	5
Illustration 2. Map of DUI Service Program Locations.....	12

Acronyms and Terms

AOC	Administrative Office of the Courts
APA	Auditor of Public Accounts
BAC	Blood Alcohol Concentration
CFR	Code of Federal Regulation
CHS	Cabinet for Health Services
CHS/OIG	Cabinet for Health Services' Office of Inspector General
CY	Calendar Year
Division	Division of Substance Abuse
DUI	Driving Under the Influence
EKU	Eastern Kentucky University
FY	Fiscal Year
KAODEP	Kentucky Alcohol and Other Drug Education Program
KAR	Kentucky Administrative Regulation
KRS	Kentucky Revised Statutes
PRI	Prevention Research Institute

Chapter 1

Introduction

Background

Driving while under the influence of alcohol is a serious problem in the United States. According to the National Institutes of Health, “at some point in their lives, three in every ten Americans will be involved in an alcohol-related crash.”

Prior to 1991, the Transportation Cabinet provided a non-mandatory, nine-hour Driving Under the Influence (DUI) education program to individuals convicted of DUI offenses. This was an incentive program that reduced the license suspension period from six months to 30 days for first offenses. Although no estimate was available from CHS or the Transportation Cabinet, the *Lexington Herald-Leader* reported that fewer than 4,000 offenders sought DUI education services each year.

Kentucky Requires DUI Education and Treatment in 1991

In 1991, Kentucky’s General Assembly amended Kentucky Revised Statute (KRS) 189A.040 and KRS 189A.070 to require all individuals convicted of DUI offenses to complete a mandatory education or treatment program, or both, related to alcohol and other drugs before reinstatement of their drivers license. The Division of Substance Abuse (Division) in the Cabinet for Health Services (CHS) is responsible for monitoring the provision of education and treatment for DUI offenders. (See Appendix II for the CHS organizational chart.)

The Division chose to certify for-profit, as well as not-for-profit entities to provide the assessment, education, and treatment services to all DUI offenders statewide. For-profit entities were included as service programs because Division staff expected the number of DUI offenders to increase and needed to ensure that the required services would be available. In 2001, approximately 30,000 DUI offenders were required to receive alcohol and drug assessments, education, and treatment services. As of March 2002, there were 96 DUI service programs, with over 200 locations throughout the Commonwealth.

Statutes Require Completion of Education/Treatment Prior to Drivers License Reinstatement

KRS 189A.040 is the statutory authority for DUI education and treatment programs. Corresponding administrative regulations were promulgated in 908 Kentucky Administrative Regulation (KAR) 1:310. 908 KAR 1:310, and by reference KRS 222.005, provides the following definitions for the types of services offered by DUI service programs:

- **Assessment** - A procedure administered to an individual convicted of a DUI offense that includes the administration of a computerized assessment instrument, a clinical interview, a determination by the assessor of a client’s needs, a discussion of available options, and referral to services that provide an appropriate level of care in relation to the client’s needs.
- **Education** - A curriculum approved by the Division that provides information about the risks of alcohol and other drugs.
- **Treatment** – Services and programs for the care and rehabilitation of intoxicated persons and alcohol and other drug abusers.

KRS 189A.070 also requires courts to sentence DUI offenders to an alcohol or substance abuse program based on the person’s number of offenses in a five-year period. KRS 189A.070(3) requires offenders to complete the education or treatment prior to drivers license reinstatement. Below is a table outlining the requirements for sentencing and program release for each level of offense.

Chapter 1

Introduction

Table 1
Statutory Sentencing and Program Release Requirements Related to DUI Offenders

	1st Offense	2nd Offense	3rd or Subsequent Offense
Sentencing Requirements	The court shall sentence the person to attend an alcohol or substance abuse education or treatment program for a period of ninety days.	The court shall sentence the person to attend an alcohol or substance abuse treatment program for a period of one year.	The court shall sentence the person to attend an alcohol or substance abuse treatment program for a period of one year.
Program Release Requirements	Upon written report to the court by the program administrator that the defendant has completed the program recommended based upon the defendant's assessment, the defendant shall be released prior to the expiration of ninety days.	Upon written report to the court by the program administrator that the defendant has completed the program recommended based upon the defendant's assessment, the defendant may be released prior to the expiration of the one-year period.	Upon written recommendation to the court by the program administrator, a defendant may be released from the inpatient or residential program prior to the expiration of one year but shall be retained in the program on an outpatient basis for the remainder of the one-year period.

Source: KRS 189A.040, effective October 1, 2000

State Certification and Licensure Requirements

According to 908 KAR 1:310, before a DUI service program can receive certification, it must first be licensed by Cabinet for Health Services' Office of Inspector General (CHS/OIG). Licensing procedures and standards for persons and entities operating non-medical alcohol and drug abuse treatment programs are specified in 908 KAR 1:370.

The other major requirements for certification include submitting a completed, two-page application to the Division, hiring certified staff, naming a program administrator, and having a Clinical Services Supervisor either on staff or under contract. DUI program certifications must be renewed every two years.

All assessors and education instructors employed by DUI service programs must be certified by the Division. Staff from Eastern Kentucky University (EKU) provides assessment and Kentucky Alcohol and Other Drug Education Program (KAODEP) education instructor training for state certification. The Prevention Research Institute (PRI) provides training for education instructors seeking state certification for the Prime For Life curriculum.

Qualifications to become an assessor include professional credentials in medicine, nursing, psychiatry, psychology, chemical dependency counseling, or social work. Instructors must have a bachelors' degree in any field or a substantial amount of supervised work experience in a substance abuse field. Assessor and instructor certifications must be renewed every five years.

Presently, the Division does not certify DUI service program administrators, although many administrators are certified as assessors or instructors. Clinical Service Supervisors, who provide clinical supervision at each program location, are not separately certified by the Division, but must receive 12 hours of specialized training and meet other minimum professional credentialing requirements.

Chapter 1

Introduction

Mission Is to Maintain a Network of Certified DUI Service Programs

The Division's mission is to establish and maintain a network of state certified programs to provide quality alcohol and drug assessment, education, and treatment services to DUI offenders. The goal is to change an offender's behavior and prevent future DUIs. The Division performs the following primary functions:

- **Provides certification training for DUI service program assessors and instructors.**

Certified assessors administer the Kentucky DUI Assessment Instrument to determine an appropriate level of education, treatment, or both for the DUI offender. The Division contracts with staff from EKU to provide assessor training for DUI service program staff.

Certified instructors teach DUI offenders, in a classroom setting, about the risks of alcohol and other drugs. DUI service programs that offer education are required to follow KAODEP or the PRI program criteria. An education instructor must be certified in the specific curricula used by the DUI service program. Through a contract with the Division, EKU provides KAODEP instructor training, while PRI provides training for PRI education program instructors.

- **Reviews and approves applications for DUI service program certification.**

To become certified, a DUI service program must be licensed by the CHS/OIG, complete and file an application form, employ certified staff, name a program administrator, and employ, or contract with, a clinical services supervisor. The Division verifies licensure and approves applications, but does not perform an initial site visit. However, an initial site visit is performed by CHS/OIG at the time of licensure.

- **Conducts periodic reviews of DUI service programs.**

A site visit is one example of a program review where a *Program Review Form* is used to gather information at the DUI service program. This 17-page form assesses payment procedures, relationship with the judicial system, compliance with program regulations, and a review of ten client records for required forms and supporting documentation of education and treatment. In addition, the DUI coordinator performing the program review may observe an assessment, education, or treatment session.

At the time of this audit, the Division had seven employees, three of which were responsible for overseeing DUI education and treatment programs. There was a program administrator, an administrative specialist, three regional coordinators, an out-of-state coordinator (deals with non-Kentucky resident DUI cases and Kentucky residents with DUI convictions outside Kentucky), and an assistant out-of-state coordinator. The regional coordinators were responsible for oversight of the DUI service programs in their respective areas across the state.

Chapter 1

Introduction

Since 1991, the Division has moved to revoke program certifications of 14 DUI service programs, 2 of which are still in operation pending appeal. The revocation process is lengthy and requires the Division to move clients to other programs.

For a more detailed look at the certificate revocation process for DUI service programs, see Appendix IV.

- **Tracks and investigates complaints made regarding DUI service programs.**

The Division provides complaint forms to anyone who calls the state office with a complaint about a DUI service program. All DUI service program facilities should have complaint forms onsite for client use. Complaints submitted in writing are kept in the DUI service program's file maintained by the Division. Unannounced visits and investigations may be performed as a result of a complaint or allegation. See Appendix VII for a summary of complaints reviewed in conjunction with our audit.

The Division also performs the following functions in relation to their primary responsibilities.

- Provides technical assistance to certified DUI service programs through in-service trainings, workshops, and almost daily telephone contact.
- Conducts semi-annual meetings for administrators and staff of certified DUI service programs for the dissemination of policy information and to provide a forum for the exchange of ideas.
- Prints and distributes a quarterly directory listing all certified DUI service programs with contact information, fees, and the array of services offered, to assist individuals convicted of DUI in selecting a certified DUI service program.
- Maintains a website with training information and frequently asked questions to provide instant information to certified DUI service programs.
- Facilitates interagency contacts with judicial agencies, advocacy groups, and training staff at EKU.
- Performs case coordination and determines compliance for approximately 3500 clients annually with out of state convictions.
- Provides clinical services supervision and confidentiality training for DUI service programs.

DUI Service Programs Earn More Than \$10 Million Annually

DUI service programs take in more than \$10 million in client fees annually. The Division does not receive any portion of the client fees. Client fees per offender, broken down by level of offense, are as follows:

- First-time offender - \$250 to \$290
- Second time offender - \$530 to \$1,090
- Third or subsequent time offender - \$880 to \$1,090

In addition, KRS 189A.050 requires convicted DUI offenders to pay a \$250 service fee to the court, of which the Division does not receive a portion. From this fee, \$66.38 goes to a fund used for providing treatment services for indigent

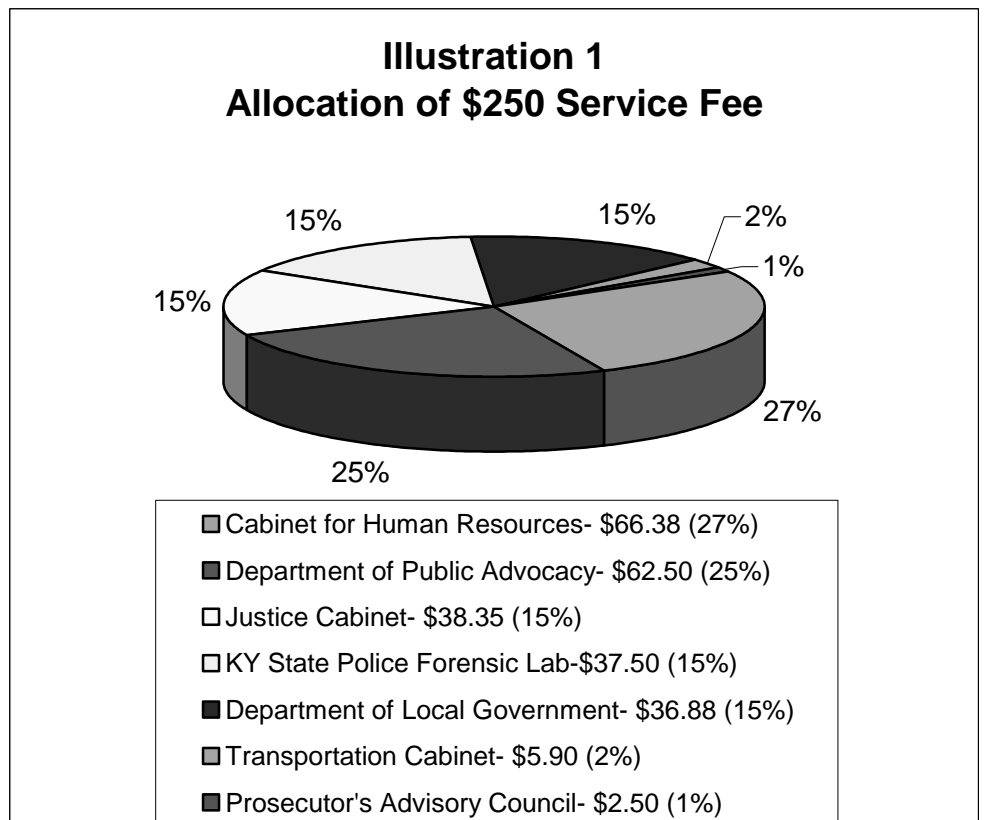
Chapter 1

Introduction

DUI offenders. These funds pass through the Division to regional not-for-profit comprehensive care centers located around the state. These centers provide indigent offenders with DUI assessment, education, and treatment, but only treatment costs are reimbursable from the service fee fund. The remaining \$183.62 is divided among the Kentucky State Police Forensic Laboratory, Department of Public Advocacy, Prosecutor’s Advisory Council, Department for Local Government, Transportation Cabinet, and the Justice Cabinet.

The total indigent care portion of the DUI service fees collected from FY 1999, FY 2000, and FY2001 are \$1.6 million, \$1.5 million, and \$1.7 million respectively. Of that amount, approximately \$30,000 is distributed annually to EKU for assistance with various duties, including training for assessors and KAODEP education instructors from DUI service programs statewide.

The following illustration depicts the breakdown of the administrative fee.



Source: KRS 189A.050 and 109 KAR 11:030.

Between fiscal years 1999 and 2001, the Division annually spent an average of \$248,291 of General Fund money for staff salaries, travel, and administrative expenses. See Appendix III for additional financial information.

Audit Focus and Objectives

This performance audit reviews the Division’s oversight and the effectiveness of DUI service programs. We identify problems the Division has in providing effective oversight and issues that may prevent effective assessment, education, and treatment of DUI offenders and recommend methods to improve those situations.

Chapter 1

Introduction

Our audit was designed to address the following objectives:

Determine whether the Division of Substance Abuse within the Cabinet for Health Services provides adequate oversight of DUI service programs.

Determine whether the DUI education and treatment is effective in changing the behavior of DUI offenders and deterring them from driving under the influence.

We focused on the work of the regional coordinators for the Division who perform program reviews for nearly 100 DUI service programs (some of which operate at multiple locations), along with other duties. We did not examine the licensure procedures undertaken by CHS/OIG.

We interviewed Division staff, officials from the Administrative Office of the Courts (AOC), judges, officials from other states' DUI programs, and other professionals knowledgeable about DUI prevention issues. We reviewed DUI statutes and regulations, especially concerning the certification process for DUI service programs in Kentucky and the state's oversight requirements. We reviewed Division procedures during site visits at four DUI service programs and the Division's files of all DUI service programs active in March 2002.

We distributed surveys to offenders receiving education or treatment services at three of the four programs visited. See Appendix VI for survey responses.

We received a report of all first-time DUI convictions for calendar year 2001 from AOC and performed an analysis of license suspension lengths across the state in order to select a representative sample. The Transportation Cabinet provided us with detailed information related to the persons selected in our sample to determine recidivism and compliance with Division requirements.

Appendix I contains a complete description of the objectives, scope, and methodology of this audit. The audit was conducted in accordance with Generally Accepted Government Auditing Standards as issued by the Comptroller General of the United States.

Chapter 2

Findings and Recommendations

Service Program Reviews Are Not Occurring on a Consistent Basis

The Division is not performing program reviews on a consistent basis. From 1999 through 2001, 31 DUI service programs did not receive any program reviews. Without adequate oversight of DUI service programs, problems could be present that diminish the effectiveness of education and treatment.

We examined program reviews conducted between 1999 and 2001 of 44 active DUI service programs. The following table provides information related to the Division's findings.

Review of 44 Active DUI Service Programs Showed Problems

Table 2
Findings Related to Division Reviews
Of 44 Active DUI Service Programs

Category of Finding	Number of Findings	Number of Programs
Assessment/Referral	107	31
Education	23	17
Treatment	133	33
Documentation/Administration	120	29
Confidentiality	39	18
Fee	7	5
Supervision	3	3
Other/Uncategorized	58	10
Total	490	N/A

Source: Auditor of Public Accounts review of DUI service program files, as maintained by the Division of Substance Abuse in March/April 2002.

Examples of findings within these categories, which could be occurring at the 31 unreviewed DUI service programs, are provided below.

Assessment/Referral

- Client files did not contain assessments for drug abuse.
- A client was assessed for only 20-hours of education, even though the client had a history of drug and alcohol abuse and a high Blood Alcohol Concentration (BAC) level at the time of arrest. The client's file did not contain comments by the assessor explaining the referral decision.

Education

- Client records did not contain an education agreement signed by the client and the instructor.

Treatment

- A facilitator did not react when a client told the group about how much he enjoyed marijuana, except to redirect the conversation back to alcohol abuse.
- A program consistently had more than the 15-person allowed maximum in treatment sessions.

Chapter 2

Findings and Recommendations

Documentation/Administration

- At one program, 6 of 10 client files sampled did not have a signed Certificate of Enrollment.
- At one program, 5 of 10 client files sampled did not contain a signed education agreement by both client and instructor.
- At one program, proof of licensure and certification was not posted in a conspicuous place in the office.
- Client file progress notes did not demonstrate progress toward the client's treatment plan goals, nor was a suggested change in his plan documented.
- Neither client nor administrative records were stored in a locked cabinet.

Confidentiality

- One staff member brought her eight-year-old daughter to a treatment session and allowed a client to bring her boyfriend.
- At one program, 3 of 10 client files reviewed did not contain a signed release of information forms.
- Client identities were compromised when office janitorial staff walked in on a treatment session.
- The door to the waiting room was left open during a treatment session, allowing those entering the waiting room to see who was receiving treatment.

Fees

- Several programs collected fees during the treatment sessions. This reduces the amount of treatment time from the 90-minute requirement.

Supervision

- Various programs lacked adequate facilitator training.
- One program administrator was directed to ensure that staff are aware of statutory requirements, such as individualized treatment plans for clients which must be supported by clinical rationale.

Other

- One program allowed a client to bring a dog to a treatment session.
- Two programs lacked provisions to translate for persons for whom English is a second language or for persons who are hearing challenged.

Contract Employees Not Satisfying Contractual Obligations

The contract between the Division and ECU obligates ECU to provide three regional coordinators to annually "conduct at least 95 program inspections statewide to ensure compliance with state regulations, and provide technical assistance to program clinicians, clinical service supervisors, and administrators when deficiencies are found." From 1999 through 2001, a total of only 106 program reviews were conducted.

Prior to April 12, 2000, 908 KAR 1:310 required annual program reviews to determine if DUI service programs were in statutory and regulatory compliance. Instead of altering the program review process or hiring more staff to conduct the required reviews, the Division simply changed the regulation to require only periodic program reviews. While the Division remains in compliance with the revised regulation, many DUI service programs are not monitored.

Chapter 2

Findings and Recommendations

In the past, program reviews included assessments of various processes offered in regulation. However, the regulation states that “a program review shall consist of one (1) or more of the following:

- An interview with either a program administrator or a clinical services supervisor;
- Completion of a *Program Review Form*;
- A review of administrative records;
- A review of client records;
- Off site monitoring by division staff of completion records submitted by a program;
- Observation of an assessment, education, or treatment service;
- Client interviews;
- The review of other materials necessary to determine compliance with this administrative regulation, KRS 189A.040, and 189A.045; **or**
- Physical inspection of a program’s facility.”

Existing Options for the Division

Regardless of the limitations of its approach or lack of staff, it is incumbent upon the Division to provide adequate oversight of DUI service programs throughout the Commonwealth. The following are allowable options to be explored:

- The Division could mix multi-faceted program reviews with shorter program reviews that involve only one or two of the assessment methods denoted under the regulation. It could conduct multi-faceted program reviews of all DUI service programs once every three years, while conducting shorter program reviews in the two years between such reviews. This would enable the Division to establish annual contact with each DUI service program.
- The Division could charge a licensing fee from the DUI service program providers. Based on an estimated \$10 million generated by DUI service programs on an annual basis, \$100,000 to \$200,000 could be generated for additional staff, if a 1 to 2% regulatory fee was assessed.
- The Division could charge an assessment fee from the DUI service program providers for each DUI offender. For example, Georgia assesses DUI service programs a \$15 flat fee for each assessment conducted. If Kentucky charged a similar fee, upwards of \$450,000 could be generated. Programs in Georgia must pay the fee or risk certification revocation.
- The Division could work with the General Assembly to amend KRS 189A.050 so the Division can receive a percentage of the DUI offender’s \$250 service fee (court fine). With roughly 30,000 annual DUI convictions, approximately \$7.5 million could be generated per year. If the Division received 1 to 2% of this total, it would receive from \$75,000 to \$150,000 annually for additional staff.

Recommendation: The Division should conduct program reviews that include a mix of multi-faceted reviews with shorter reviews to provide coverage to all DUI service programs. The Division should also pursue charging DUI service

Chapter 2

Findings and Recommendations

DUI Service Program Information Is Not Sufficiently Tracked

program providers a licensure fee, an assessment fee for each DUI offender, and/or work with the General Assembly to amend KRS 189A.050 to receive a percentage of the \$250 service fee.

The Division does not have centralized computer capabilities to track licensure, certifications, complaints, or other administrative details about DUI service programs and their personnel. The Division maintains the majority of DUI service program information in paper file format only, which is not always complete.

We found irregularities related to licensure and recertification that could be corrected with a more sophisticated automated system. Ten out of 97 (10%) reviewed program files did not have a copy of the CHS/OIG issued operating license. Although Division officials were able to pull these licenses from other sources after our inquiry, an automated system would help them keep better track of these important documents.

Seventeen (18%) program files contained recertification problems. The Division backdated recertifications for eight programs because lapses between the expiration and recertification dates existed. Nine other programs also had lapses between these dates, but we could not find the backdated recertifications for these programs. Technically, all of these DUI service programs were operating without proper certification. Since our review of program files, the Division has backdated certification for one of the nine that it previously had not.

Although recertification is primarily a paper exercise and consists mostly of a standard form sent to the Division providing information related to any changes in personnel, locations, services, etc., under no circumstances should DUI service programs operate after certifications expire. An automated certification tracking system could be used to determine when DUI service programs are in need of certification renewal.

Division staff has recently created spreadsheets to maintain certification renewal dates, but the spreadsheets are not accessible by all staff and updates are not a priority task. According to Division staff, a centralized electronic system would be beneficial for planning program reviews; however, there have not been resources (time or personnel) to create such a system.

The lack of a central database increases the time it takes to prepare for a program review and collect background information on DUI service programs. It also creates a greater potential for erroneous or missing information. Without proper background information on a DUI service program, such as past program review reports, complaints, and certification renewal dates, the area coordinator may not appropriately evaluate a program's performance. In addition, a more centralized database could provide a fast and accurate look at the Division's past performance regarding oversight, a factor that could assist them in discussions with the General Assembly.

Chapter 2

Findings and Recommendations

The Division needs to electronically organize program information not only for in-house access, but also for retrieval from remote locations. This type of access would increase staff knowledge and decrease the time needed to prepare for program reviews.

In addition, remote access would allow staff members to answer questions related to the program reviews while onsite.

Recommendation: The Division should create a centralized electronic system to maintain current information on each DUI service program, instructor, and assessor, including current certification expiration dates, complaints, etc. We also recommend the Division consider making all electronic information systems available to coordinators when performing site visits.

Statutes and Regulations Do Not Completely Address Certification and Qualification Requirements for DUI Service Programs

Statutory and regulatory requirements for DUI service programs do not fully address certification of DUI service programs, qualifications of program staff, or criteria to limit the number of DUI service programs within a county or region. In addition, they are silent on the matter of DUI service programs continuing to operate under the revocation and appeals process without undergoing onsite reviews.

KRS 189A.040 details the requirements for DUI offenders to attend alcohol or substance abuse education or treatment based on the number of offenses committed. While the law requires CHS to promulgate regulations related to licensure and criteria including assessment, education and treatment plans, and referrals, it does not give guidance regarding specifics for certification of DUI service programs.

The statute does not denote certain qualifications or restrictions related to education and treatment program staff. The current application process for certifying DUI service programs only requires the Division to ensure that the minimal technical requirements of 908 KAR 1:310 are met on paper and does not provide for the Division to determine the functional capabilities of that program's staff.

Although 908 KAR 1:310 discusses certification, it does not specifically discuss such requirements related to various positions. For example, each DUI service program is required to have a Clinical Services Supervisor. However, there is no limit on the number of programs for which a Clinical Services Supervisor may work. One individual has worked simultaneously for at least five DUI service programs. While the Division considers this to render the person ineffective, the programs and the individual are still meeting the technical requirements of the regulations.

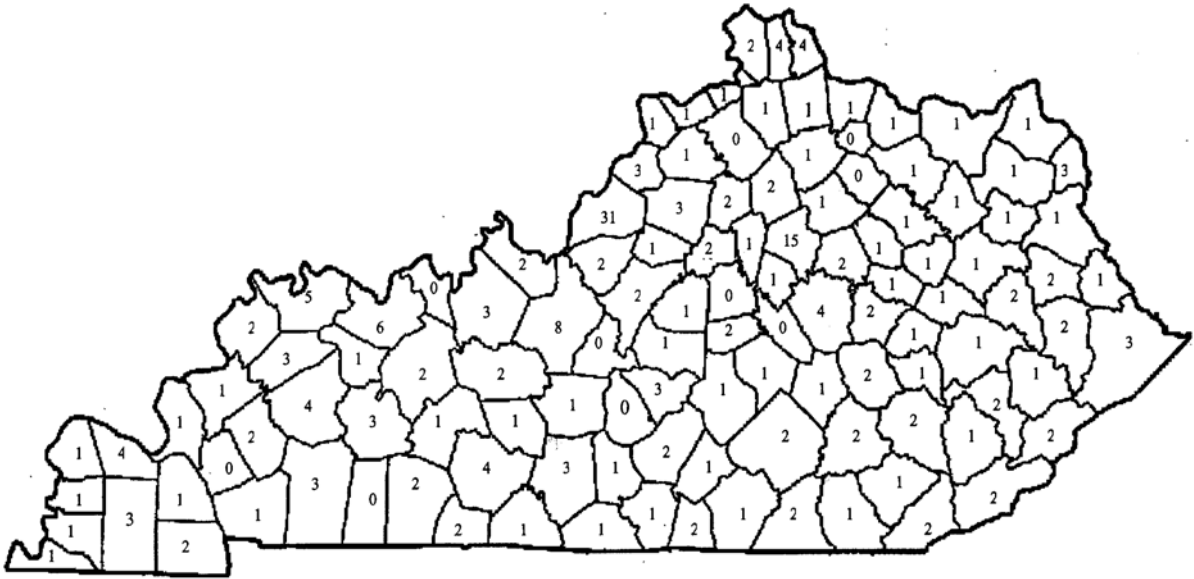
Statutes and regulations also do not address the justification of DUI service programs on a county or regional level before certification is granted. The Division cannot deny an application for certification of a service program in a county where multiple programs exist or require a program to locate in a county that does not contain a DUI service program. As a result, the Division has to contend with using limited resources to oversee almost 100 DUI service programs with over 200 locations.

Chapter 2

Findings and Recommendations

Illustration 2 depicts the number of DUI service program locations within each county across the Commonwealth.

Illustration 2
Map of DUI Service Program Locations



Source: Auditor of Public Accounts, using January 2002 information provided by the Division.

Service Programs Do Not Receive On-Site Reviews While Appealing Revocations

The appeals process greatly limits the Division’s ability to conduct on-site reviews. For example, if the Division is able to assert that a DUI service program is not meeting the technical requirements of the regulations, the Division may decide to revoke a DUI service program’s certification. However, the DUI service program may appeal this decision to a CHS Administrative Law Judge. Once this occurs, the DUI service program does not receive on-site reviews, and may continue to operate until the appeal is decided.

The appeals process is time consuming and can sometimes take years for CHS to resolve. Since 1991, the Division has moved to revoke 14 program certifications. Of the fourteen, 8 programs have been closed, 2 programs reached settlement agreements with the Division, 1 program was denied certification, and 1 program was given another chance to submit a plan of correction to the Division. The 2 remaining programs are still active pending appeal. One DUI service program has been operating in an appeal status since September of 1997. The following table provides additional information.

Chapter 2

Findings and Recommendations

Table 3
Disposition of Appeals

Disposition of Appeal	Number of Appeals	Total Number of Days for Disposition	Average Number of Days for Disposition*
Closed	8	490	61
Certification Denied	1	287	287
Remanded to Division for Review of Correction Plan	1	431	431
Settlement Agreements	2	2,153	1,077
Active Pending Circuit Court Appeal	1	1,941	1,941
Active Pending Administrative Ruling	1	696	696
	Total 14	Total 5,998	Average of 428

Source: Auditor of Public Accounts from information provided by the Division on January 23, 2003.

*The average number of days for disposition have been rounded to the nearest whole number.

During the revocation and appeals process, the DUI service program is still able to provide services. Division staff stated that legal counsel advised that when a DUI service program appeals a revocation, on site reviews of the program should not occur because they are unnecessary and could be counterproductive to the revocation process. This practice allows a DUI service program, deemed unacceptable by the Division, to continue providing services without routine on-site reviews. However, the Division does investigate complaints and/or performs off-site monitoring procedures related to the unacceptable DUI service program.

The Division is currently considering a new certification process. The new system would be a competitive application process that would allow for a limited number of more qualified DUI service programs to become certified. The existence of fewer DUI service programs would allow staff to offer better and more comprehensive regulatory coverage.

The new process would allow greater review of potential DUI service programs prior to certification and provide better evidence for revoking or denying a DUI service program's certification. The staff would consider staff-to-client ratios, proof of malpractice insurance, and the number of programs in the market area. It would also make DUI service program staff more accountable for the services that they provide to DUI offenders.

The appeals process could still be lengthy; however, the new system would require annual certification instead of the current method of re-certification. Along with submitting a new annual application, a DUI service program would receive an onsite review by the Division to ensure that the program has been meeting all regulatory requirements. As a result, if an application is denied its certification automatically expires.

There is some concern that existing DUI service program statutes will not allow for stronger regulatory oversight.

Chapter 2

Findings and Recommendations

It should also be noted that despite KRS 189A.050 being amended in CY2000 to reflect an increase in the service fee to \$250, 109 KAR 11:030 still states that KRS 189A.050 imposes a \$150 service fee upon persons convicted of driving under the influence of alcohol or other substance impairing one's driving ability. The Cabinet should correct this oversight as soon as possible.

Recommendation: The Division should strengthen the DUI service program certification process. Any changes should consider placing limitations on the number of DUI service programs for which a Clinical Services Supervisor may work and performing reviews of DUI service programs during the revocation and appeals process. The Division should also correct 109 KAR 11:030 so that it is consistent with KRS 189A.050 in regards to the amount of the DUI service fee.

DUI Convictions Are Purged After Five Years

KRS 186.018(1) provides that records of DUI convictions not be maintained after five years. This means that a multiple-offense DUI offender can be convicted of a first offense, if a period of five years has passed from the date of the last offense.

Other states record DUI offenses for periods longer than five years. The following table provides additional information related to such states.

Table 4
Driving Record Requirements of Other States

State	DUI Convictions
Georgia	If after a DUI conviction, five years pass with no additional convictions, the offender will be treated as a first time offender should another conviction occur.
Michigan	Erases DUI convictions after ten years if no other alcohol related offenses have occurred. If other offenses occur, the date is moved to ten years after the latest date.
Minnesota	Erases first DUI conviction from offender's record after 15 years. Additional convictions are never removed.
New Hampshire	Recent legislation increases the look-back period from seven to ten years.
North Dakota	DUI convictions are reduced after five years, except for 4 th offenses, which are seven years.
South Dakota	Will consider ten years of history when determining if a DUI is a second or subsequent offense.
Texas	DUI convictions are left on a record for ten years.
Wisconsin	Ten or more years after a first conviction, a second conviction is treated like a first offense. Any subsequent offenses cause all prior convictions to be counted. So, someone could have two first offenses and then jump right to a third.
Wyoming	Has a five-year enhancement period for use of DUI convictions.

Source: Auditor of Public Accounts using information from other states.

The Division believes the current time frame of five years is not progressive and has proposed that the General Assembly increase the number of years that such records are maintained. In 1998, the Division proposed to lengthen the time that DUI offenses remain on record to ten years. The proposal failed in the General Assembly.

According to a staff person at the Transportation Cabinet, the Transportation Driving History Database could easily handle additional data associated with the change from a five-year history to a ten-year history.

Chapter 2

Findings and Recommendations

A former prosecutor stated that increasing the number of years that DUI records are kept from five to ten years would “capture” more offenders. She cited the case of one offender who had collected four DUIs over a five-year period but had incurred seventeen DUI offenses over his lifetime. A judge said that increasing the amount of time that DUI records are kept would increase the number of felony offenders and take them off the roads for longer periods of time.

While increasing the number of years that DUI records are kept could become a deterrent, the risk of higher fines and longer jail sentences could also help to keep DUI offenders off the road. See Appendix IX for details on fines and jail sentences related to each level of offense.

Recommendation: The Division should continue efforts to convince the General Assembly that the five-year period for which DUI records are held is inadequate.

Matter for Legislative Consideration: The General Assembly should consider amending KRS 186.018(1) to increase the number of years DUI offenses are kept on an offender’s record.

Legislative Changes Related to License Revocation

The 2000 General Assembly amended KRS 189A.070 to change the length of license revocation for a first time offender from an automatic 90 days to a range of 30 to 120 days, to be decided at the discretion of the judge. Based on a sample of 457 first-time offenders, it is unclear whether recidivism is higher for those offenders who received shorter-term revocations.

KRS 189A.070 provides that offenders cannot have their licenses reinstated until after their completion of education or treatment programs. Although KRS 189A.040 provides that education and treatment for first offenders shall last for 90 days, it also states that exceptions can be made for those who finish the education or treatment programs early.

Table 5 provides a breakdown of license suspension periods by level of offense.

Table 5
Statutory License Suspension Periods by Offense

1 st Offense	2 nd Offense	3 rd Offense	4 th Offense
The court shall revoke a license for a period of not less than thirty (30) days nor more than one hundred twenty (120) days.	The court shall revoke a license for a period of not less than twelve (12) months nor more than eighteen (18) months.	The court shall revoke a license for a period of not less than twenty-four (24) months nor more than thirty-six (36) months.	The court shall revoke a license for a period of sixty (60) months.

Source: KRS 189A.070, effective October 1, 2000.

Chapter 2

Findings and Recommendations

Table 6 illustrates recidivism rates for various license suspensions based on our sample of 457 first-time offenders for calendar year 2001.

Table 6
Calendar Year 2001 Recidivism Rates

Suspension Period	Number of Offenders Reoffending	Total Offenders	Recidivism Percentage
30 Days	14	107	13%
45 Days	5	32	16%
60 Days	4	24	17%
90 Days	11	224	5%
120 Days	10	70	14%
Total	44	457	10%

Source: Auditor of Public Accounts using information from the Transportation Cabinet.

Mixed Reactions from Recent Legislative Actions

Since amending KRS 189A.070 in 2000, suspension lengths have varied from county to county. Our analysis of all persons convicted of a first DUI during calendar year 2001, shows nearly 43% received a license suspension of 90 days. AOC provided evidence for the following breakdown of all first offense DUI convictions.

Table 7
Suspension Lengths and Convictions

Suspension Length	Number of Convictions	Percentage
30 Days	5,198	22%
45 Days	1,536	6%
60 Days	1,217	5%
90 Days	10,267	43%
120 Days	3,200	13%
Other	2,586	11%

Source: Auditor of Public Accounts using information from the Transportation Cabinet.

While statewide the plurality of first-time DUI offenders are receiving 90-day suspensions, this is not true in all counties. The county of conviction can affect the length of the license suspension. For example, 72% of first-time offenders received 30-day license suspensions in Jefferson County, 88% of first-time offenders received 45-day license suspensions in Fayette County, and 63% of Boone County first-time offenders received 120-day suspensions.

A statewide sample of five judicial branch employees were asked why particular license suspension lengths were issued to first time offenders. One judge stated he and another judge viewed the changes (in 2000) as a potential toughening of the laws, and thus felt they should try to uphold that; while another interviewee stated that giving all first time offenders the same license suspension length is an attempt to be consistent in prosecution. However, Division staff argue that using the same suspension length for all offenders in a certain jurisdiction (or county) means such factors as chemical dependency and BAC levels are ignored.

Chapter 2

Findings and Recommendations

According to Division officials, increased discretion granted to the courts regarding the length of license suspensions might conflict with an offender's completion of the education or treatment program. For example, they state that offenders may not have enough time in 30 days to complete the 20-hour education program and definitely would not have time to complete a treatment program, if so assessed. In our sample, judges granted ten reinstatements prior to program completion. Although seven of the offenders completed the education and treatment programs within a matter of a few days, three still had not completed their program at the time of our sample.

Offenders cannot obtain a hardship license during the 30-day suspension period or otherwise get their licenses back until completing an education or treatment program. According to one judge, some defense attorneys request 60-day suspensions because clients cannot finish the program in 30 days. Clients given a 60-day suspension are able to apply for a hardship license after 30 days to drive to work and other activities deemed acceptable by the courts.

Matter for Legislative Consideration: The General Assembly consider evaluating the provided information on license suspensions to determine whether applicable sections of KRS Chapter 189A should be amended.

Matter for Judicial Consideration: Judges should ensure that offenders do not receive their licenses until completion of education and treatment programs, as mandated by KRS 189A.070(3).

Inadequate Services for Non-English Speaking DUI Clients Violates State Regulation

Many DUI service programs in Kentucky may not be providing adequate services to persons for whom English is a second language. Neglecting to provide adequate services may preclude some DUI offenders from successfully completing these programs or changing their behavior.

908 KAR 1:310, Section 6 requires DUI service programs to make reasonable accommodations for a client who is unable to communicate in English. Programs must make a reasonable attempt to offer interpretive assistance and the Division takes a "dim view" of DUI service programs that refer offenders with a limited English proficiency to other DUI service programs.

Facilitators from two of the four DUI service programs we visited commented on the language problems they were encountering and expressed a lack of knowledge concerning how to counteract this problem. In contrast, another DUI service program seemed to have a better handle on the situation. One of the facilitators for the program spoke basic Spanish, and the county court system had a Spanish interpreter. The facilitators also expressed concern about the cost of providing interpreters for hearing-challenged participants and a Division staff member suggested a few possible sources of federal and state funds.

Because Spanish seems to be the most frequently spoken foreign language across the state, the Division's staff have discussed translating KAODEP into Spanish with assistance from ECU staff. PRI already has a Spanish translation of their education program. Spanish is not the only language of concern in the state. Jefferson County has large populations of Vietnamese and Croatian speaking individuals.

Chapter 2

Findings and Recommendations

Recap of Recommendations

Recommendation: We recommend that the Division provide training to all certified DUI service programs on obtaining funding or other assistance to address the language barrier problem. In addition, the Division should translate the KAODEP education curriculum into Spanish and consider what other language translations would be beneficial.

We recommend the Division to:

1. Conduct program reviews that include a mix of multi-faceted reviews with shorter reviews to provide coverage to all DUI service programs. The Division should also pursue charging DUI service program providers a licensure fee, an assessment fee for each DUI offender, and/or work with the General Assembly to amend KRS 189A.050 to receive a percentage of the \$250 service fee.
2. Create a centralized electronic system to maintain current information on each DUI service program, instructor, and assessor, which includes certification expiration dates, complaints, etc. We also recommend the Division consider making all electronic information systems available to coordinators when performing site visits.
3. Strengthen the DUI service program certification process. Any changes should consider placing limitations on the number of DUI service programs for which a Clinical Services Supervisor may work and performing reviews of DUI service programs during the revocation and appeals process. The Division should also correct 109 KAR 11:030 so that it is consistent with KRS 189A.050 in regards to the amount of the DUI service fee.
4. Continue efforts to convince the General Assembly that the five-year period for which DUI records are held is inadequate.
5. Provide training to all certified DUI service programs on obtaining funding or other assistance to address the language barrier problem. In addition, the Division should translate the KAODEP education curriculum into Spanish and determine what other language translations might be beneficial.

We recommend the General Assembly consider:

1. Amending KRS 186.018(1) to increase the number of years DUI offenses are kept on an offender's record.
2. Evaluating the provided information on license suspensions to determine whether applicable sections of KRS Chapter 189A should be amended.

We recommend the Judicial Branch consider:

1. Ensuring that licenses are not reinstated until completion of education and treatment programs, as mandated by KRS 189A.070(3).

Scope

We conducted our audit in accordance with *Government Auditing Standards* promulgated by the Comptroller General of the United States. The audit addresses the following objectives:

Determine whether the Division of Substance Abuse within the Cabinet for Health Services provides adequate oversight of DUI service programs.

Determine whether the DUI education and treatment is effective in changing the behavior of DUI offenders and deterring them from driving under the influence.

We reviewed Kentucky's DUI statutes and regulations to assist with determining agency compliance with laws and regulations, especially concerning the certification process for DUI service programs in Kentucky and the state's oversight requirements. Primarily, we reviewed KRS Chapter 189A and 908 KAR 1:310. KRS Chapter 189A puts forth the requirements and penalties regarding DUI offenses, penalties, and requirements for license reinstatement; and 908 KAR 1:310 contains certification standards and administrative procedures for DUI service programs.

Because the majority of data available from the Division was not electronic, there was no need to test the reliability of its computer-based data. However, we did cross-check the information that we received from the AOC to the information from the Transportation Cabinet regarding our sample of first-time DUI offenders from calendar year 2001. All discrepancies were addressed either through correction or deletion.

Certain management controls, especially those related to program operations, were significant to our first audit objective, thereby making an understanding of such controls necessary. In order to assess the effectiveness of the Division's oversight of DUI service programs, we inspected DUI service program files maintained by the Division for compliance with internal policies and assessed documentation of methods used by staff for certifications, recertifications, complaints, and investigations.

Methodology

During the course of this audit, we conducted interviews with staff from various agencies, programs, and other entities. We interviewed state legislators, members of Kentucky's judicial branch, and officials from other states' DUI programs. We reviewed the Division's files for all DUI service programs active in March 2002. We performed site visits at four DUI service programs and surveyed offenders whose education or treatment session we observed while visiting the four programs. We also performed numerous analyses based on driving histories of first-time DUI convictions for calendar year 2001.

Interviews

We conducted interviews with staff from the following agencies, programs, and other entities to ascertain their involvement with DUI offenders:

- Cabinet for Health Services: Division of Substance Abuse
- Cabinet for Health Services: Office of Inspector General
- University of Kentucky: Center on Alcohol and Drug Research
- Eastern Kentucky University: Juvenile Justice Early Intervention Program
- Transportation Cabinet

- Administrative Office of the Courts
- Prevention Research Institute
- Kentucky’s Chapter of Mothers Against Drunk Drivers
- National Organization of State Impaired Driving Programs
- National Commission on Drunk Driving
- Mississippi State University: Mississippi Alcohol and Safety Education Program

We also interviewed three legislators, four judges, and one individual from a county attorney’s office concerning the Division’s oversight of DUI service programs, as well as any potential conflicts between the legal and clinical aspects of DUI penalties.

Review of DUI Service Program Files Maintained by the Division

We reviewed state-maintained files from all DUI service programs active in the spring of 2002 for compliance with internal policies and to assess the oversight practices utilized by Division staff. In doing so, we reviewed 96 DUI service program files for the period of calendar years 1999, 2000, and 2001. During our review, we examined certification, re-certification, licensure, complaint, and investigation documentation. Because the CHS/OIG, and not the Division, administers the licensing of DUI service programs, we chose to not comment on licensing procedures and only to determine whether or not the Division possessed a copy of the current license for each active DUI service program.

In addition, we reviewed in more detail the files of DUI service programs that had their certification or license revoked since 1991. This involved 14 programs. We analyzed the files for the reasons behind program closures and reviewed any documentation supporting such action. Generally, many of the same types of violations appear repeatedly in these files, and many deals with recordkeeping and client file maintenance.

We also examined in more detail the abbreviated *Program Review* forms completed by Division staff while conducting the “Fayette County Project” between September 2001 and January 2002. Of the Fayette County programs reviewed, Division staff ranked two of the programs as above average, two as average, and nine as below average. The Lexington *Herald-Leader* published a story on the project.

Site Visits

We conducted site visits with four DUI service programs. On each of these site visits, we accompanied a Division staff member who was conducting the official program review. Each time we strove to interview counselors, assessors, and administrators; attend education and treatment sessions; review class materials; and review offender files.

Anonymous Survey of Current Clients

We surveyed all offenders whose education or treatment session we observed while visiting the four programs in May 2002. Offenders were asked to fill out the forms and use the self-addressed envelopes to mail their responses to the Auditor of Public Accounts. The questionnaires were designed to gauge the offenders’ assessment of the Division and obtain some notion of the impact the program is having on their behavior with regard to drinking and driving.

Although dozens of questionnaires were distributed in this way, only 14 were returned to the APA, and many of them were incomplete, with the offenders overlooking all or some of the questions on the second page of the form. In addition, a disproportionate number of the respondents (11 of 14) represented one program.

Analysis of First Offense DUI Convictions for 2001

We received a report of all DUI first-time convictions for calendar year 2001 from the AOC in order to perform an analysis of suspension lengths across the state and to select a representative sample. The Transportation Cabinet provided us with detailed information related to the persons selected in our sample in order for us to review for recidivism and compliance with Division requirements.

Benchmarking With Other States

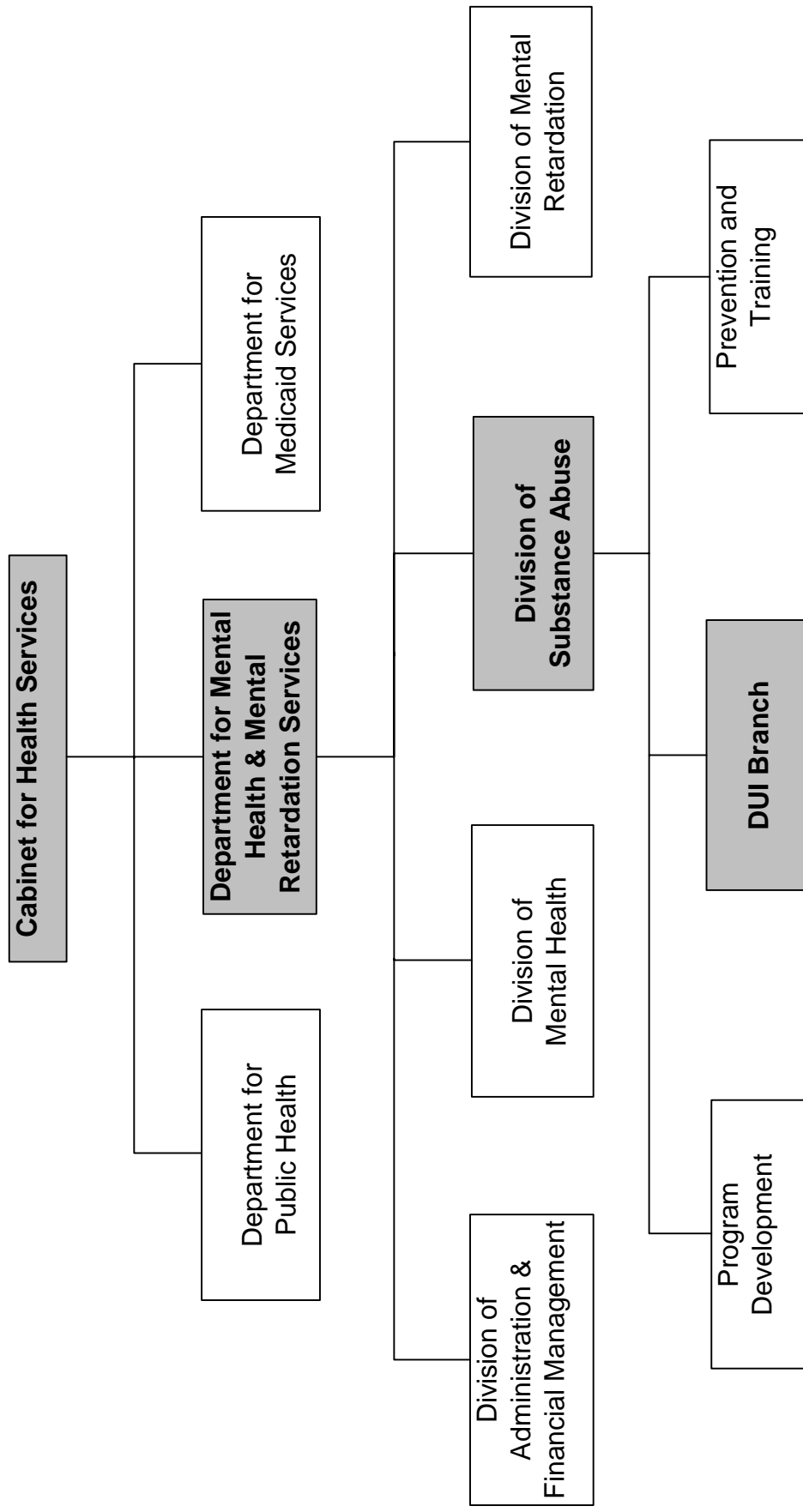
To develop an understanding of DUI counseling procedures in other states, we conducted in-depth interviews with officials from the following five states:

- Georgia
- Illinois
- Maine
- Mississippi
- Virginia

A more detailed look at some of the differences noted between these states' Divisions and Kentucky's can be examined in Appendix V.

Abbreviated Organizational Chart

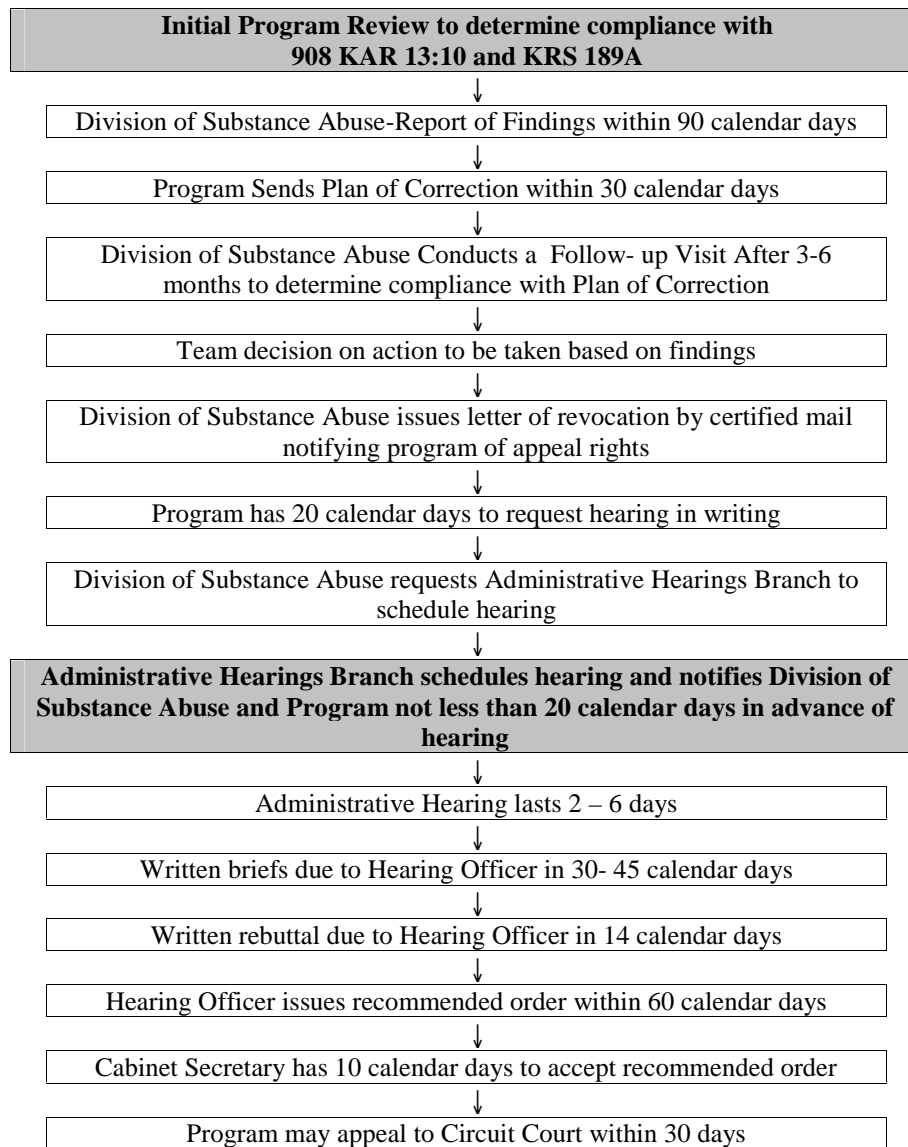
Appendix II



State Staffing Levels And Multi-Source Financial Data

DUI Program's Staffing Levels, Expenditures, and State-Wide Revenue for Fiscal Years 1999, 2000, and 2001

DUI Program Oversight	FY 1999	FY 2000	FY 2001
<i>Staffing</i>	5	6	6
<i>Budget</i>			
Personnel Expenses	\$186,291.20	\$250,595.40	\$204,243.00
Operating Expenses	29,004.42	40,984.49	33,753.84
Total	\$215,295.62	\$291,579.89	\$237,996.84
Other Expenditures	FY 1999	FY 2000	FY 2001
<i>Paid from DUI Service Fees Collected (\$66.38/Offender)</i>			
EKU Contract (for Training)	\$ 30,000	\$ 30,000	\$ 30,000
Regional Comprehensive Care Centers (for Indigent Care)	1,550,500	1,489,300	1,639,700
Total	\$1,580,500	\$1,519,300	\$1,669,700
<i>Paid by Offenders</i>			
Estimated Amount Paid Directly to All DUI Service Programs for Services Rendered	\$10,000,000	\$10,000,000	\$10,000,000
Total	\$10,000,000	\$10,000,000	\$10,000,000



Source: KRS Chapter 13B and the Division

Information Related to Other States

State	Function(s) of the State	Noted Differences From Kentucky
Georgia	Oversight of DUI programs	<ul style="list-style-type: none"> - Continuing education requirements for program owners and directors. - State refuses to certify a program applicant if previously convicted of a felony. - Emory University conducts program evaluations.
Illinois	Oversight of DUI programs	<ul style="list-style-type: none"> - Conducts judicial training. - Biannually collects offender data from DUI programs for the last ten years.
Maine	Operates DUI education programs with oversight of DUI treatment programs	<ul style="list-style-type: none"> - Separate education program for underage DUI offenders. - State performs initial assessment and private clinician will perform a more thorough examination, if so warranted.
Mississippi	Oversight of DUI programs	<ul style="list-style-type: none"> - Periodic reports are created concerning the education programs and their effectiveness. - Treatment is voluntary; programs are chosen by offenders. - Lengthier suspensions (1st - 1 year; 2nd -2 years; 3rd - 5 years and a felony).
Virginia	Operates DUI assessment & education programs; DUI treatment programs are offered by state and others	<ul style="list-style-type: none"> - Internal and external audits are performed annually; internal peer review is done every 3 years. - Mandatory ignition interlock for second and subsequent offenders.

Source: Auditor of Public Accounts from information received from other states.

“I have found this program very interesting. I enjoy my AA meetings also, but I have learned more and gotten more out of this. We have a wonderful teacher. He’s very interesting.”

“I learned a lot and it was a good experience and helpful. Mr. (name) was a great teacher. I think this should be used in high school and jail for knowledge about drinking and driving.”

“I found Ms. (name) to be extremely capable and knowledgeable. Her own experiences and her willingness to share them with the groups gains the trust of the participants.”

“I have ten classes left. I feel with my busy schedule that attending these classes has been a stretch. I feel a sense of accomplishment in almost finishing the DUI classes. I’ve been sober for 16 months. The classes keep me focused on my goals of an alcohol free life. (Name) is a fine instructor. He’s subtle with his teaching methods...a person always leaves with something he didn’t come with. I also love the fact that we are treated with respect, not like skid row bums. I don’t think we’re supposed to sign our names but I feel strong enough about my comments I will.”

“The state-required self exams we do are pointless. No one writes the truth – what is the point?”

“We only have three meetings a week, two on Tuesday evening and one Thursday morning. That’s not enough choices. I think we should have make up CLASSES.”

“I think that there should be make-up classes available for clients that have spent jail time during the period that they could have been going to classes if the jailable offense was because of the conviction and court-ordered classes they were ordered to attend. Also the fees for classes should be based on your income (adjusted). Example, everyone makes mistakes in life and not all of the people who make these mistakes are wealthy people. Twenty dollars to a rich person is like a dollar to a poor person and if you go to several classes that money really adds up over a period of time and it makes it much harder for the less wealthy people to get by and in most cases there (sic) family too.”

“None that would matter to you or make any difference in anything. Have a nice life.”

Source: Auditor of Public Accounts survey responses from DUI offenders.

Complaints Against DUI Service Programs

DUI Service Program	Complaint	Action
The Adanta Group	A potential client received inaccurate information from Adanta regarding the 9-hr education course and that a staff person at Adanta referred to his program as "illegal" b/c they deliver this service; hostile demeanor reported by anonymous callers in regards to same staff person.	Referred to staff person's supervisor
Alcohol Education & Counseling Services	Non-certified staff doing assessments and leading educational sessions; having certified persons "sign off" on assessments, treatment plans, etc., which they did not actually do; performance of treatment services by a "recovering" staff person who recently relapsed and received a DUI	Not available.
Alcohol Education & Counseling Services	Not available.	Sent official complaint form to be filled out.
Alcohol-Related Offenders Program	Assessment was not forwarded to requested education program	Sent official complaint form to be filled out.
Alcohol-Related Offenders Program	Program claiming client didn't pay; client has receipts	Sent official complaint form to be filled out.
Behavioral Medicine, Inc.	A judge complained that the program wasn't transferring paperwork to other programs	Reminder letter sent to program from state.
Behavioral Medicine, Inc.	Judge-ordered treatment not available from program	Not available.
Behavioral Medicine, Inc.	Claim program took money for 2nd DUI assessment, refused to complete the out-of-state paperwork or return the money, and encouraged them to bribe him to fix it; later completed paperwork; client had 3 previous DUIs in Illinois that he says program knew about during 1st DUI assessment process; program only fixed the DUI problem in Kentucky the first time, not in Illinois.	Sent official complaint form to be filled out; sent notice of complaint to program and asked them to respond; sent letter to client recommended \$310 payment to client for 2nd assessment and 1st treatment; called program to see why check hadn't been sent.
Behavioral Medicine, Inc.	Not available.	Sent official complaint form to be filled out.
Behavioral Medicine, Inc.*	Not available.	Sent official complaint form to be filled out.
Clark and Clark	Clark was rude when asked to forward paperwork to Charter Ridge; turned client in as non-compliant	Sent official complaint form to be filled out.
Communicare, Inc.	Client got 30 days of inpatient treatment, despite asking assessor to knock down the assessment to 20 hours of outpatient treatment; now wants credit for inpatient treatment	Letter sent to program to fill out the program portion of the formal complaint.
Decisions, LLC	Being harassed and intimidated to come to (name) classes; (name) made threatening phone calls	Requested that program fill out its portion of the official complaint form.
Decisions, LLC	Program attempted to persuade client to change classes because they were cheaper	Requested that program fill out its portion of the official complaint form.

Complaints Against DUI Service Programs

Appendix VII

DUI Service Program	Complaint	Action
Decisions, LLC	Program is calling and sending letters	Requested that program fill out their portion of the official complaint form.
DUI Defendant Referral Systems, INC	Wasn't given completion notice when he left last night; was told that it would take 10 days to process.	Sent official complaint form to be filled out.
DUI Defendant Referral Systems, INC	Heard client say he was not going to sit through alcohol program.	Reviewed attendance records; clear evidence someone claiming to be client is attending.
Employee Assistance Services DUI, INC	Not available.	Sent official complaint form to be filled out.
Employee Assistance Services DUI, INC	Hardship license expires 2 weeks prior to end of classes.	Sent official complaint form to be filled out.
Employee Assistance Services DUI, INC	Thinks that son should have been placed in twenty-hour education instead of current treatment program.	Sent official complaint form to be filled out.
Four Rivers Behavioral Health	Turned in for noncompliant; client has paid some of bill, but program denies it; client has had medical complications so money is not there.	Called program to get more info.
Four Rivers Behavioral Health	Assessor was not releasing client despite client getting treatment elsewhere that satisfied the court.	Follow up with agency.
Four Rivers Behavioral Health	Assessor won't release client files to another program.	Complaint forwarded to program.
Leap, Inc.	Client transferred from assessor to a treatment agency; completed program in less than 13 weeks and wants assessor to classify him as compliant.	Letter was forwarded to assessor; called assessor and instructed her to sign-off on completion.
Leap, Inc.	Rude to client.	Sent official complaint form to be filled out.
Leap, Inc.	Not available.	Sent official complaint form to be filled out.
Mulberry Addiction Services	Made to feel uncomfortable and pressured during counseling.	Sent official complaint form to be filled out.
Pathways Addictions Services Program, INC	Program seems to be switching the rules on son of complainant; would like to know the rules upfront; program has turned son in as non-compliant.	Notified program.
River Valley Behavioral Health	Feels that program is shortchanging him on previous work.	Notified program.

Complaints Against DUI Service Programs

DUI Service Program	Complaint	Action
AAA-Action Center for Education and Dave Harmon and Associates	Delivering 20 hour education in 2 weeks	Unannounced site visit.
AAA-Action Center for Education and Dave Harmon and Associates	(Name) telling clients they do not have to do treatment before getting license back	Sent complaint form to complainant.
AAA-Action Center for Education and Dave Harmon and Associates	(Name) "not helpful," keeps losing client file	Sent complaint form to complainant.
AAA-Action Center for Education and Dave Harmon and Associates	Client underwent "individual reviews" at \$35 each	Sent complaint form to complainant.
AAA-Action Center for Education and Dave Harmon and Associates	Client alleged that fees charged were higher than advertised, was told by program treatment was for punishment, not therapeutic	Sent complaint form to complainant.
Alpha Counseling Services	Client was charged \$40 for assessment (\$5 was listed) and \$40 for unrequired "exit conference."	DUI staff called (Name) and got him to release client's paperwork without the second \$40 charge. Not clear if there was a refund on first charge. Complaint form sent to client.
Alpha Counseling Services	Letter from Div. Of Substance Abuse to L&R and Bd. Of Certification of A&D Abuse Counselors that Dept. of Community Based Services found a case of "substantiated child sexual abuse" against (Name), which he had appealed to a CBS hearing officer in an April 17, 2000 hearing. Also, there is a June 12, 2000 letter to the Board from the Division saying no action had been taken against (Name).	No record of further action by Division, but there is a letter to (Name) from (Name) advising (Name) to "immediately suspend direct client contact pending the outcome of your appeal" to the administrative hearing. This concerned only (Name) personally, not his staff. File contains administrative hearing record wherein the Administrative Hearing Officer concluded by preponderance of evidence that (Name) sexually abused his four-year-old daughter.
Alpha	(Name) of the Jefferson County court monitoring program	Copy of (Name)'s letter

Complaints Against DUI Service Programs

DUI Service Program	Complaint	Action
Counseling Services	accused (Name) of tampering with the dates on forms in an attempt to circumvent court procedures. File contains a letter from (Name) saying he submitted a corrective action plan to (Name) and there was an error rather than a deception on his part. There is no clear record of a resolution of this situation.	received by Division staff, sent to CHS attorney (Name). No apparent record of other action.
Crony and Clark	Client showed up drunk for class, counselor referred him to treatment, client put himself in a detox program. Said counselor refused to release him from program or send paperwork to court. Said she was rude whenever they contacted her.	Not available.
DUI Consultants	Exceeding 25 attendees for education sessions as required in 908 KAR 1:310	Reviewed sign-in sheets, three of which had more than 25 attendees; issued a findings letter to program requiring written response.
DUI Consultants	Client convinced program to refer him to education when it was his second offense, requiring year of treatment. When program tried to correct it error client filed complaint.	Advised client to undergo year of treatment.
Fayette County DUI Services	Claimed program assessed a client without a copy of the citation and received education. The client had called the complainant asking about an accelerated program and was told there was none. The citation had gone to the complainant. Because the client had a BAC of .2-plus she was looking at 13 weeks of classes. Client was also allegedly involved in a hit and run accident.	Sent complaint to program and asked for response by January 7, 2002.
Interlink Counseling Services	Client said he told program about 2 DUI, apparently he wanted to take another program.	Sent complaint form.
Kentucky Alcohol Offenders Program	Claimed he and his firm had been under "constant attack" from KAO personnel since 1997, saying that the other program released clients too early and that sessions with the other program "would not count."	Sent complaint to program and requested a response.
Kentucky Alcohol Offenders Program	Client claimed he attended 24 weeks at a comp care and KAO only wanted to give him 12 weeks credit.	Sent complaint form to complainant.
Kentucky Driving School	An instructor who had been dismissed from the program was about to move on to another program when the spouse of a former client said he had a criminal record. The CHS General Counsel's office obtained the list of charges on this former instructor from Administrative Office of the Courts. Offenses included DUI, fourth degree assault, theft by unlawful taking.	Obtained "rap sheet" from AOC, no further record of action.
Kentucky Driving School	Said program had sent complainant (another program) sign-in sheets showing ALL signatures, not just the signatures requested. This is an alleged breach of confidentiality.	Complaint sent to program.

Complaints Against DUI Service Programs

DUI Service Program	Complaint	Action
Licking Valley Counseling Center	The mother whose child (Name) was assigned to help in the capacity of a social worker complained to the Department of Community Based Services (CBS) that he made several very suggestive comments to her during a session and showed little interest in seeing or helping her son.	The complaint was addressed to CBS and a copy was put in the program's file. Information was "unofficial" and the Division was to be advised of the progress of the case.
Lifeskills	Was allegedly referred to affiliate program in Scottsville. Program was "rude," wanted \$150, and turned the complainant away.	Sent complaint form.
Nolan, Inc.	Woman turned son in as noncompliant, not clear from form what the details were	Sent complaint form.
Seven Counties	Program was disorganized, stood client up 3 times for an assessment	Faxed complaint form; forwarded complaint to program.

Source: Auditor of Public Accounts information from Division of Substance Abuse Files.

Kentucky Administrative Regulation for Certification of DUI Service Programs

908 KAR 1:310.

Certification standards and administrative procedures for driving under the influence programs.

RELATES TO: KRS 189A.010, 189A.040, 189A.045, 189A.070, 222.003, 222.005, 222.221, 222.231, 222.271, 222.990

STATUTORY AUTHORITY: KRS 189A.040(6), 194A.030(5), 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189A.040(6) requires the Cabinet for Health Services to promulgate Administrative Regulations to prescribe standards for the licensing and operation of the alcohol and other drug education and treatment facilities and programs that provide assessment, education, and treatment services to offenders convicted of driving under the influence pursuant to KRS 189A.010. This administrative regulation establishes certification requirements and minimum standards for an individual or other entity operating a DUI program.

Section 1. Definitions.

- (1) "Accredited college or university" means an institution listed in the most recent College Handbook published by College Board Publications, P.O. Box 886, New York, New York 10023-0886.
- (2) "Affidavit of indigency" is defined in KRS 31.120(6).
- (3) "Alcohol and other drug-free work place" means a program's policy to prohibit the unlawful manufacture, distribution, possession or use of a controlled substance and to establish the disciplinary action to be taken if the policy is violated.
- (4) "Assessment" means a procedure administered to an individual convicted of DUI that includes the administration of a computerized assessment instrument, a clinical interview, a determination by the assessor of a client's needs, a discussion of available options and referral to services that provide an appropriate level of care in relation to the client's needs.
- (5) "Cabinet" is defined in KRS 222.005(3) and means the Office of Inspector General, Division of Licensing and Regulation, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.
- (6) "Case coordination" means the monitoring of a client's progress, including consultation with other service providers and the court to ensure the coordination of a client's services from assessment to completion, and which was formerly referred to as case management.
- (7) "Certification" means the process by which the division recognizes and authorizes a program, assessor, or instructor to provide services to a client convicted of DUI.
- (8) "Certified alcohol and drug counselor" is defined in KRS 309.080(2).
- (9) "Certified assessor" means an individual who has been trained and approved by the division to evaluate the needs of a client and to recommend appropriate services by conducting assessments in a DUI program.
- (10) "Certified instructor" means an individual who has been trained and approved by the division to provide education services in a DUI program.
- (11) "Certified program" means a public or private entity approved by the division to deliver assessment, education or treatment services to a client convicted of DUI.
- (12) "Client" means an individual who receives services in a DUI program.
- (13) "Clinical services supervisor" means an individual responsible for monitoring and directing assessment and treatment services and providing consultation and instruction to clinical staff.
- (14) "Conflict of interest" means a private relationship exists between a client and a program, that will result in a conflict between the program's interests and the interests of the client, or a situation will be created where a program's personal or financial interest conflicts with professional responsibility.
- (15) "Court" means the court in which the client was convicted of DUI.
- (16) "Courtney disposition system" means a statewide database maintained by the Kentucky Administrative Office of the Courts that contains criminal conviction data from both state and local law enforcement agencies in Kentucky.
- (17) "Detoxification" means a twenty-four (24) hour medical or nonmedical program providing:
 - (a) Supervised management of physical and psychological withdrawal symptoms from a substance to which an individual has been addicted or abusing; and

Kentucky Administrative Regulation for Certification of DUI Service Programs

- (b) An assessment of the individual's need for further care or referral to appropriate resources.
- (18) "Division" means the Division of Substance Abuse, Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, 100 Fair Oaks Lane, 4E-D, Frankfort, Kentucky 40621-0001.
- (19) "DUI" means driving under the influence of alcohol or other drugs in violation of KRS 189A.010.
- (20) "DUI services" means assessment, education, or treatment services provided to a client convicted pursuant to KRS 189A.010.
- (21) "Education" means a curriculum approved by the division that provides information about the risks of alcohol and other drugs.
- (22) "Education agreement" means a written plan outlining what a client referred for education is required to complete to satisfy the program's requirements.
- (23) "Enrollment" means the act of registering at a certified DUI program and receiving an assessment.
- (24) "Facility" means the physical area including the grounds and building in which a program delivers services.
- (25) "Fee agreement" means a written statement of charges to a client for services delivered by a program that specifies the arrangements for payment of the fees.
- (26) "First offender" means a person who was convicted of a first offense under KRS 189A.010(4)(a).
- (27) "Immediate danger" means a condition in the program which could or has caused death or serious physical injury.
- (28) "Indigent person" is defined in KRS 31.100(3).
- (29) "Inpatient" means a hospital-based residential service provided postwithdrawal, to an individual with a primary or secondary diagnosis of alcohol or other drug abuse or dependency, that is designed to reduce or eliminate alcohol or other drug abuse behavior and dependency.
- (30) "Intensive outpatient" means a structured comprehensive program of individual and group therapeutic activities delivered in a nonresidential setting, where a client is assisted in recovery from alcohol or other drug abuse on a scheduled and intense basis.
- (31) "Location code" means a six (6) digit number issued by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to each of a program's facilities.
- (32) "Means test" means an objective method used by a program to determine a client's income and resources to evaluate his ability to pay for services received.
- (33) "Memorandum of understanding" means a written agreement between two (2) programs that outlines the duties and responsibilities of a program regarding a client referral that remains in effect until one (1) of the programs terminates the agreement in writing.
- (34) "Multiple offender" means a person who was convicted of a second, third or subsequent offense under KRS 189A.010.
- (35) "Off the grounds" means a facility is separated from another facility by a public road.
- (36) "Outpatient" means individual and group therapeutic activities assisting a client in recovery from alcohol or other drug abuse, provided in a nonresidential setting on a scheduled and unscheduled basis.
- (37) "Plan of correction" means a program's written plan, including the planned correction and a date when a correction will be made, that is submitted to the division by a program if deficiencies are cited by the division in a program review.
- (38) "Program administrator" means an individual, or the designee of the individual, in charge of the operation of a program who is responsible for the services provided in a program and who has responsibility for determining if a client satisfactorily completes the required services.
- (39) "Program code" means an alphanumeric identifier that is issued to a program by the division at the time a program is certified.
- (40) "Progress note" means a written entry in a client's record to document client contacts, the delivery of services, and how the goals of a client's treatment plan are being addressed.
- (41) "Regional program manager" means an individual responsible for the management of a program's county offices if a program operating statewide has multiple county locations.
- (42) "Residential transitional living" means a therapeutic group setting, where counseling is provided either on site by staff or off site, and where a client resides twenty-four (24) hours a day, and makes a social and vocational adjustment prior to returning to family or independent living in the community.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(43) "Residential" means a set of organized and intensive individual and group therapeutic activities, provided in a twenty-four (24) hour setting, which assists a client in recovering from alcohol or other drug abuse.

(44) "Revocation" means withdrawal by the division of a program's or an individual's right to deliver services to a client convicted of DUI.

(45) "Self-help group" means activities provided in a self-directed peer group setting, for a person recovering from alcohol or other drug abuse or the effects of another person's alcohol or other drug abuse, where support and direction in achieving or maintaining an alcohol and drug-free lifestyle or in learning to cope with a problem related to another person's alcohol or other drug abuse is provided.

(46) "Sliding fee scale" means a program's formula for providing a service to a client at a rate lower than the program's maximum published fee.

(47) "Treatment" is defined in KRS 222.005(13).

(48) "Treatment plan" means the written product of the process by which a client and a clinician identify and rank a client's problems needing resolution, establish agreed-upon immediate and long-term specific and measurable goals and decide on a treatment process and the resources to be utilized.

(49) "Twenty (20) hour education" means an education curriculum:

(a) For first offenders assessed as low risk, that do not have an alcohol or other drug problem requiring treatment; or

(b) As a supplement to treatment for a first or multiple offender assessed as needing treatment.

(50) "Uniform citation" is defined in KRS 431.450.

Section 2. Licensing Requirements.

(1) An individual or other entity shall not provide DUI assessment, education or treatment services unless the service is in a program or facility:

(a) Licensed by the cabinet in accordance with 908 KAR 1:370;

(b) Conducted in a licensed federal hospital subject to federal licensure and regulatory requirements pursuant to 38 USC 301, 38 USC 1720A, 38 USC 7333, or 38 USC 7334; or

(c) Conducted on the grounds of a hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180.

(2) A hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180 that operates a DUI program in a facility off the grounds of the hospital shall have the separate facility where a DUI program is located licensed by the cabinet in accordance with subsection (1) of this section.

(3) A DUI program established, conducted, and maintained in a jail, prison, or correctional facility shall be licensed by the cabinet in accordance with subsection (1) of this section.

Section 3. Program Certification Requirements.

(1) General requirements.

(a) A licensed entity desiring to provide DUI assessment or education services shall be certified by the division as a DUI program before providing a service at any location.

(b) A certified DUI program may deliver assessment, education or treatment services statewide if the program is licensed in accordance with Section 2 of this administrative regulation and is certified by the division at each service location.

(c) A program may be certified to provide only assessment or only education services or both assessment and education services at a location.

(d) The division shall not certify a program desiring to provide only education at all locations.

(e) A treatment program or facility licensed by the cabinet to provide treatment pursuant to 902 KAR 20:160, 902 KAR 20:180, or 908 KAR 1:370, an out-of-state treatment facility licensed by the state where the facility is located, or a federally-licensed hospital may provide treatment services to a client referred by a certified DUI program without receiving DUI program certification from the division.

(f) The division shall notify a program, in writing, if certification is issued, renewed or revoked.

(g) The division shall notify the Transportation Cabinet, in writing, if an action is taken to revoke a DUI program's certification or if an action by the division is appealed by a program.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(h) If more than one (1) certified DUI program is operated at the same location, each program shall maintain a separate organizational identity by:

1. Conspicuously posting in a public area:
 - a. Each program's license;
 - b. Each program's Program Certification Certificate; and
 - c. A sign showing the name of each program;
2. Using a separate logo or letterhead on written materials;
3. Maintaining client records in a separate and secure cabinet; and
4. Conducting DUI services separate from another DUI program located at the same location.

(i) A certified DUI program shall conspicuously post, in a public area of each facility where DUI services are delivered by the program, its license and Program Certification Certificate.

(j) A certified DUI program shall:

1. Deliver education and treatment services in a facility that provides at least seven (7) square feet of individual space for a client while he is receiving a service;
2. Maintain an alcohol and other drug-free work place;
3. Obtain a criminal background check from the Administrative Office of the Court's Courtnet Disposition System for the administrator, and all clinical and certified staff, that begin working in the program after the effective date of this administrative regulation;
4. Ensure that an owner, program administrator, and all clinical and certified staff that begin working in a program after the effective date of this administrative regulation have not been released from incarceration or probation or parole for the conviction of a violent crime, hate crime, or sex crime within two (2) years from his date of employment with the program; and
5. Maintain professional malpractice insurance to cover all clinical and certified staff in the minimum amount of \$100,000 per occurrence.

(2) Staffing requirements.

(a) General requirements.

1. A program shall have staff certified by the division in accordance with Section 4 of this administrative regulation to deliver assessment and education services.
2. Certified, clinical or administrative staff shall not currently be employed as:
 - a. A law enforcement officer;
 - b. A correctional officer, other than in a certified DUI program that is located in a jail, prison or correctional facility;
 - c. A probation and parole officer;
 - d. An attorney;
 - e. An employee of the Administrative Office of the Courts;
 - f. An employee of the division; or
 - g. A judge.

(b) Program administrator.

1. A program administrator shall be responsible for the services delivered in a program and knowledgeable of:
 - a. The requirements established in this administrative regulation, KRS 189A.040 and 189A.045;
 - b. In a federally assisted program, the requirements for confidentiality established in 908 KAR 1:320; and
 - c. In a nonfederally assisted program, the requirements for confidentiality established in KRS 222.271(1).
2. A program administrator shall ensure:
 - a. A program implements and complies with all applicable regulations and statutes;
 - b. Staff having primary responsibility for delivering DUI services, including regional program managers, comply with:
 - (i) The requirements established in this administrative regulation, KRS 189A.040 and 189A.045;
 - (ii) In a federally assisted program, the requirements for confidentiality established in 908 KAR 1:320; and
 - (iii) In a nonfederally assisted program, the requirements for confidentiality established in KRS 222.271(1);
 - c. An individual involved in the operation of the program or in the delivery of client services engages in ethical practices and abides by the Code of Ethics contained on the Application for Program Certification or the Application for Program Recertification, whichever is applicable;

Kentucky Administrative Regulation for Certification of DUI Service Programs

- d. A program shall not accept a client if a conflict of interest exists between the program and the client;
 - e. Staff providing assessment and education services are certified by the division and that they complete training required by the division; and
 - f. Attendance by a client is documented in the client's record.
3. A program administrator shall:
- a. Investigate a complaint received from the division and shall, upon request, provide the division with records pertaining to the complaint; and
 - b. Personally attend, or have a representative of his program attend, at least one (1) statewide DUI meeting annually. The division shall conduct statewide DUI meetings on a semiannual basis.
- (c) Clinical services supervisor. There shall be clinical supervision provided at all locations by a clinical services supervisor who meets the requirements established in paragraph (d) or (f) of this subsection.
- (d) Except as provided in paragraph (f) of this subsection, the clinical services supervisor shall be:
- 1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, who has 4000 hours of clinical work experience postcertification; or
 - 2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (e) of this subsection:
 - a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;
 - d. Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;
 - e. Certified psychologist, with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.056;
 - f. Psychological associate with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.064;
 - g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;
 - h. Certified social worker with 6000 hours of postcertification clinical practice in psychiatric social work licensed by the Kentucky Board of Social Work in accordance with KRS 335.080;
 - i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university and 6000 hours of clinical experience in psychiatric nursing;
 - j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has 6000 hours of clinical experience in psychiatric nursing;
 - k. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;
 - l. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or
 - m. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130.
- (e) A certified or licensed professional meeting the requirements established in paragraph (d)2 of this subsection shall have:
- 1. Completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinical services supervisor in a DUI program or within two (2) years immediately after assuming responsibility as a clinical services supervisor in a DUI program; and

Kentucky Administrative Regulation for Certification of DUI Service Programs

2. 4000 hours of work experience in the alcohol and other drug treatment field postdegree.

(f) A person shall qualify as a clinical services supervisor under this administrative regulation if, on the effective date of this administrative regulation, the person:

1. Met the requirements for clinical services supervisor as established in 908 KAR 1:050 and 908 KAR 1:190;
2. Had been a clinical services supervisor for at least five (5) years; and
3. Was employed as a clinical services supervisor in a DUI program certified by the division.

(g) A clinical services supervisor shall complete:

1. A division approved twelve (12) hour training in clinical supervision, within six (6) months of assuming responsibility as the clinical services supervisor in a DUI program, or within one (1) year of the effective date of this administrative regulation, whichever is later; and

2. Twenty (20) hours of training in alcohol and other drug abuse treatment annually.

(h) A clinical services supervisor shall assist a program administrator in the investigation of a complaint against a program if a complaint concerns an assessment, education, or treatment service.

(3) Application for program certification.

(a) An individual or other entity seeking DUI program certification shall:

1. Submit a completed Application for Program Certification to the division;
2. Submit a Program Survey Form for each location where the applicant desires to provide DUI assessment, education or treatment services and all documentation required by the division; and
3. Sign the application, with his signature certifying compliance with:

- a. The Code of Ethics contained on the Application for Program Certification;
- b. The requirements established in this administrative regulation, KRS 189A.040, and 189A.045; and
- c. The requirements for confidentiality established in:

(i) 908 KAR 1:320 for a federally-assisted program; or

(ii) KRS 222.271(1) for a nonfederally-assisted program.

(b) A Program Survey Form shall be completed for each location:

1. At the time of application for program certification or recertification; or
2. If a program opens a new location.

(c) A Program Survey Form shall contain:

1. Type of services provided;
2. Maximum fee for a service;
3. Name of the curriculum delivered at the location;
4. Name and telephone number of the contact person for the location;
5. Hours of operation when an office is staffed;
6. Address of the office where the client files for the location are maintained and stored;
7. Name and title of each certified staff person providing assessment or education services at the location; and
8. Name of the clinical services supervisor for the location.

(d) The division shall review an application, verify the information and certify a program if the program:

1. Submits a completed Application for Program Certification to the division;
2. Is a licensed entity in accordance with Section 2 of this administrative regulation; and
3. Has staff certified by the division to deliver the required services.

(e) The division shall assign a program code and issue a letter and Program Certification Certificate if a program is certified. The program code shall be used for verification of program certification on correspondence to the court, the Transportation Cabinet, and the division.

(f) Each program location shall have an additional location code issued by the division that shall be used in conjunction with a program code to identify a program and the exact location where a service is delivered.

(g) Program certification shall be issued by the division for a period of two (2) years, and shall be renewable unless previously revoked.

(h) Program certification shall not be transferred and shall apply to the individual or other entity named in the Application for Program Certification or the Application for Program Recertification, whichever is applicable, approved by the division.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(i) If there is a change of ownership, the new owner shall apply for program certification in accordance with the requirements established in this subsection.

(4) Application for program recertification.

(a) A program administrator shall request program recertification on a completed Application for Program Recertification at least thirty (30) calendar days prior to the expiration of his program's certification.

(b) If program certification expires, a program administrator shall submit a completed Application for Program Recertification within sixty (60) calendar days of the expiration date. The program shall be considered a new applicant if the Application for Program Recertification is not made within sixty (60) calendar days of the expiration date.

(c) If program certification lapses for sixty (60) calendar days or more, the division shall notify a program administrator, in writing, that the program is not eligible to deliver DUI services and the program shall:

1. Notify active clients in writing;

2. Refer a client and transfer case coordination responsibility of a client's case to a program of his choice; and

3. Submit to the division a list of active clients with a copy of each client's referral form stating the name of the program to which a client is referred.

(d) A program administrator shall meet the requirements established in subsection (2)(b)3b of this section before a program is recertified.

(5) Denial of program certification and recertification. The division shall deny a program's application for certification or recertification if:

(a) A program fails to meet certification requirements;

(b) Program certification has been denied or revoked by the division within the last three (3) years;

(c) A current owner, program administrator, clinical services supervisor, or other principal had his assessor or instructor certification revoked by the division within the last three (3) years; or

(d) The division is in the administrative hearing process to revoke the assessor or instructor certification of a current owner, program administrator, or clinical services supervisor.

(6) Program changes.

(a) A program administrator shall notify the division and the cabinet, in writing, if there is a change in ownership, program name, or program location.

(b) A program administrator shall notify the division, in writing, on a Report of Change Form if there is a change at a location in:

1. Services delivered;

2. Maximum fee charged for a service;

3. Hours of operation when an office is staffed;

4. Location of client records;

5. Scheduling telephone number;

6. Contact person;

7. Clinical services supervisor; or

8. Other program information printed in the DUI directory.

(7) Records.

(a) General requirements.

1. A program shall designate on a Program Survey Form, at the time of application for program certification, where the client records for each location and the administrative records for the program will be maintained and stored.

2. A program administrator shall notify the division, in writing, on a Report of Change Form, if the program changes the location where client or administrative records are maintained and stored.

3. A program administrator shall ensure that written and electronic client and administrative records are:

a. Stored in a locked cabinet or computer only accessible to authorized staff;

b. Kept confidential:

(i) In a federally assisted program pursuant to 908 KAR 1:320; and

(ii) In a nonfederally assisted program pursuant to KRS 222.271(1);

c. Retained for at least five (5) years from the last date of service or action taken; and

Kentucky Administrative Regulation for Certification of DUI Service Programs

d. If destroyed after a five (5) year period of retention, either burned, shredded or deleted electronically in a manner that is unrecoverable.

4. A program shall maintain a record of fees paid by a client.

(b) Administrative records. A program shall maintain administrative records that include:

1. Policy and procedure manual;
2. Copies of curricula, handouts, and videos;
3. Hours of operation for each location;
4. Fee schedule and means test for determining indigency;
5. Cabinet report from most recent licensure inspection;
6. Memoranda of understanding;
7. Copies of the division's certification letters for assessors and instructors on staff;
8. Complaint file; and
9. Assessment, education, and treatment rosters or sign in sheets.

(c) Client records.

1. A program shall release a client's record or disclose confidential information about the client in accordance with the client's written permission through a signed authorization for release of information.
2. A program shall release a client's record, with the client's written authorization for release of information, if:
 - a. The division requests release of a record; or
 - b. A client is referred to another program for education or treatment services.
3. A program shall release a client's record upon receipt of a court order.
4. A program shall open a separate written or electronic record for a client at the time of assessment, or upon enrollment in education or admission to treatment, if the client is referred to another program after receiving an assessment.
5. Client records shall include the following forms signed by the client:
 - a. Client rights statement;
 - b. Client notice of confidentiality and confidentiality agreement;
 - c. Fee agreement;
 - d. Authorization for release or disclosure of information; and
 - e. As applicable, the information required by subparagraphs 6, 7, or 8 of this paragraph.
6. If a client receives an assessment, his record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. An AOC 494 form (Notice to Attend Alcohol Driver Education Program) or a court order;
 - c. Uniform citation;
 - d. Kentucky DUI Assessment Instrument printout;
 - e. Clinical interview and interview notes;
 - f. Freedom of choice statement;
 - g. Confirmation and acceptance of assessment statement;
 - h. Referral agreement, if applicable;
 - i. Certificate of enrollment;
 - j. Case coordination contacts; and
 - k. Certificate of completion or notice of noncompliance.
7. If a client receives education, his record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. An education agreement signed by the client; and
 - c. A record of attendance.
8. If a client receives treatment, his record shall include:
 - a. The items required by subparagraph 5 of this paragraph;
 - b. A treatment plan signed by the client and his clinician and treatment plan reviews signed by his clinician;
 - c. Progress notes signed and dated by his clinician, recorded after each client contact documenting the type of contact or service provided, and the client's participation; and
 - d. A discharge summary documenting completion or noncompliance signed and dated by his clinician.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(8) Fees.

- (a) The fee for assessment, education, or treatment shall be established by a program and paid by a client pursuant to KRS 189A.040.
- (b) The fee schedule published in the DUI directory shall be posted in a public area of each facility visible to a client.
- (c) The fee a client is charged shall not exceed a program's maximum published fee.
- (d) A program shall explain the program's fee and payment requirements to the client at the time of his assessment or upon enrollment in education or admission to treatment, if the client is referred to another program after receiving an assessment.
- (e) A program shall not charge a client a fee unless the client has signed a fee agreement.
- (f) A program's sliding fee scale shall be based on a means test and applied objectively to a client to determine a client's ability to pay.
- (g) If a client states that he is an indigent person, a program shall refer him to the court to have an affidavit of indigency executed by the court. A program shall:
 1. Accept a client determined indigent by the court; and
 2. Deliver services free of charge or for the amount specified by the court.

(9) DUI directory.

(a) The division shall:

1. Publish annually on July 1, of each year, a directory of all certified DUI programs; and
2. Issue additions, revisions, and corrections quarterly on October 1, January 1, and April 1, of each year as changes occur.

(b) The directory shall include DUI programs certified to provide DUI assessments and shall be distributed to:

1. District court judges;
2. Circuit clerks;
3. Certified DUI programs; and
4. The public upon request.

(c) The directory shall have a county section that includes:

1. The location of each program having an assessment center in a county;
2. The services provided at each program location;
3. The maximum fee for a service; and
4. Specific terms and conditions related to DUI services that are required by a program.

(d) A program administrator shall report changes for the directory to the division, on a Report of Change Form, at least thirty (30) calendar days prior to the publication dates established in paragraph (a) of this subsection. If the division does not receive a Report of Change Form by the deadline date, the division shall hold a change until the next scheduled publication of the directory.

Section 4. Assessor and Instructor Certification Requirements.

(1) General requirements.

(a) Only an individual holding valid certification from the division shall provide DUI assessment or education services. An individual certified by the division shall not provide DUI assessment or education services except in a program that is certified by the division.

(b) An individual desiring to provide assessment or education services shall apply for certification to the division. To be certified, an individual shall:

1. Meet the requirements for certification established in this section; and
2. Complete the training required by subsection (3) of this section.

(c) 1. Certification for an assessor or instructor shall be for a period of five (5) years from the date of an individual's initial certification as an assessor or instructor.

2. An assessor or instructor shall renew his certification in accordance with subsection (4) of this section every five (5) years.

3. Certification that is not renewed or revoked prior to the end of the five (5) year period shall automatically expire at the end of that time period.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(2) Credentials for assessors and instructors.

(a) Assessors. An individual desiring certification as an assessor shall complete twenty (20) hours of training in alcohol and other drug abuse counseling annually and, except as provided in paragraph (c) of this subsection, shall be:

1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;
 2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) of this subsection:
 - a. Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - b. Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - c. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;
 - d. Certified psychologist with autonomous functioning certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;
 - e. Certified psychologist certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;
 - f. Psychological associate certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.064;
 - g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;
 - h. Certified social worker certified by the Kentucky Board of Social Work in accordance with KRS 335.080;
 - i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in nursing from an accredited college or university;
 - j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with one (1) of the following combinations of education and work experience:
 - (i) Bachelor of science in nursing from a four (4) year program from an accredited college or university and 2000 hours of clinical work experience in the substance abuse or mental health field;
 - (ii) Diploma graduate in nursing from a three (3) year program and 4000 hours of clinical work experience in the substance abuse or mental health field; or
 - (iii) Associate degree in nursing from a two (2) year program from an accredited college or university and 6000 hours of clinical work experience in the substance abuse or mental health field;
 - k. Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;
 - l. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;
 - m. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or
 - n. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130; or
 3. An individual who will meet the requirements of a licensed or certified professional established in subparagraph 1 or 2 of this paragraph within three (3) years of the date of his application for certification as a DUI assessor or the effective date of this administrative regulation, whichever is later, and who has:
 - a. A masters degree from an accredited college or university in a program that required completion of a clinical practicum; or
 - b. A bachelors degree or greater from an accredited college or university, plus one (1) year full-time supervised clinical work experience in the licensed treatment program where the individual is currently employed.
- (b) A certified or licensed professional meeting the requirements established in paragraph (a)2 of this subsection shall have completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of his application for DUI assessor certification.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(c) A person shall qualify as a DUI assessor under this administrative regulation if, on the effective date of this administrative regulation, the person:

1. Met the requirements for a certified DUI assessor established in this administrative regulation as those requirements existed on January 1, 2000;
2. Had been a certified DUI assessor for at least five (5) years; and
3. Was employed as a certified assessor in a DUI program certified by the division.

(d) Instructors. An individual desiring certification as an instructor shall meet one (1) of the following requirements:

1. Have a bachelors degree or greater from an accredited college or university;
2. Have an associate degree from an accredited college or university, with 4000 hours of supervised work experience in direct client services in the substance abuse field;
3. Have a high school diploma or a general education development equivalency certificate from a state board of education, with 8000 hours of supervised work experience in direct client services in the substance abuse field;
4. Meet the requirements for a certified assessor established in paragraph (a) or (c) of this subsection; or
5. Meet the requirements for a clinical services supervisor established in Section 3(2)(d) or (f) of this administrative regulation.

(3) Assessor and instructor certification and recertification training.

(a) General training requirements.

1. Only training approved by the division shall suffice as acceptable training for DUI assessor or instructor certification or recertification.

2. An individual desiring certification or recertification as an assessor or instructor shall submit a completed DUI Assessor Certification Application, DUI Assessor Recertification Application, DUI Instructor Certification Application, or DUI Instructor Recertification Application, whichever is applicable, to the division no later than the deadline date indicated on the training announcement issued by the division.

3. The application shall be accompanied by a copy of the following:

- a. Official transcripts;
- b. Diplomas;
- c. Certificates;
- d. Documentation of certification or licensure; and
- e. Documentation of work experience.

4. Assessor or instructor certification or recertification shall not be issued by the division until the fee for training is paid in full.

5. If an individual making application for an assessor or instructor certification or recertification training fails to meet the established requirements, the division shall deny the application and notify the applicant, in writing, of the reason for the denial.

6. Within thirty (30) calendar days after completion of an assessor or instructor training, the division shall notify the program and the individual, in writing:

a. That the individual has:

- (i) Satisfactorily completed a training;
- (ii) Met the requirements for certification or recertification; and
- (iii) Been certified or recertified; or

b.(i) Of an observed deficiency as it relates to assessor or instructor certification;

- (ii) The reason for withholding certification or recertification; and
- (iii) The required corrective plan of action.

(b) Training requirements for assessors. An individual desiring certification as an assessor who has the necessary education and work experience shall successfully complete the following requirements:

1. Attend and participate in all sessions of an assessor certification training;
2. Obtain an overall score of eighty (80) percent or better on performance in each of the following areas:
 - a. A written posttest on general course content;
 - b. A written posttest on the Kentucky DUI Assessment Instrument; and
 - c. A demonstration of ability to make an appropriate client referral based on a written case study;

Kentucky Administrative Regulation for Certification of DUI Service Programs

3. Receive a written recommendation from both the trainer and the division representative; and
4. Sign the application, with his signature certifying compliance with:
 - a. The Code of Ethics contained on the application; and
 - b. The requirements established in this administrative regulation.
- (c) Training requirements for instructors. An individual desiring certification as an instructor who has the necessary education and work experience shall successfully complete the following training requirements:
 1. Attend and participate in all sessions of a division approved instructor certification training;
 2. Complete training in one (1) or more of the curricula approved by the division;
 3. Obtain a score of eighty (80) percent or better on a written posttest;
 4. Demonstrate ability to make an oral presentation of assigned material;
 5. Receive a written recommendation from both the trainer and the division representative; and
 6. Sign the application, with his signature certifying compliance with:
 - a. The Code of Ethics contained on the application; and
 - b. The requirements established in this administrative regulation.
- (4) Assessor and instructor recertification.
 - (a) An individual desiring recertification as an assessor shall:
 1. Meet the requirements for a DUI assessor established in subsection (2)(a) or (c) of this section, on the date of his application for assessor recertification; and
 2. Submit to the division a DUI Assessor Recertification Application and other required forms by October 1 of the calendar year in which his certification expires.
 - (b) An individual desiring recertification as an instructor shall:
 1. Meet the requirements for a DUI instructor established in subsection (2)(d) of this section;
 2. Submit to the division a DUI Instructor Recertification Application and all other required forms by October 1 of the calendar year in which his certification expires; and
 3. Complete a training authorized by the division.
 - (c) If an individual's assessor or instructor certification lapses for one (1) year or more, the individual's application for assessor or instructor recertification shall be processed as a new application and the individual shall complete the requirements for initial certification established in subsections (2) and (3) of this section.
 - (d) If an individual does not meet the requirements for an assessor or instructor at the time of his application for recertification:
 1. The division shall deny his application for recertification and notify the individual and the program, in writing, of the reason for denial; and
 2. The individual's currently held certification shall expire pursuant to subsection (1)(c)3 of this section.
- (5) Revocation of assessor and instructor certification.
 - (a) The division shall revoke assessor or instructor certification if an individual:
 1. Fails to comply with the requirements established in this administrative regulation;
 2. Violates the Code of Ethics contained on the application for assessor or instructor certification;
 3. Is convicted while holding certification from the division of a violent crime, hate crime, or sex crime; or
 4. Falsifies information on an application for DUI certification or recertification.
 - (b) The revocation of an individual's assessor or instructor certification shall be for a period of three (3) years and shall be effective on the date stated in the notice sent to an individual assessor or instructor by the division.

Section 5. Certified Program, Assessor and Instructor Complaints and Program Monitoring.

- (1) Complaints.
 - (a) An individual may submit a complaint related to a certified program, a certified assessor, or a certified instructor, that is not resolved by a program through its grievance procedure to the division.
 - (b) A program shall be responsive and make an effort to resolve a client's complaint through its grievance procedure.
 - (c) A complaint shall be submitted to the division, in writing, on a Complaint Form or in a letter.
 - (d) The division shall investigate a complaint, notify the complainant and the program, in writing, of the results of the investigation and take any necessary action.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(e) The division shall notify a professional licensing or certification board, in writing, at the conclusion of an investigation of the results of the investigation if a complaint is related to a violation of a standard established by a professional board.

(2) Program reviews.

(a) The division shall conduct periodic program reviews to determine if a program is in compliance with the requirements established in this administrative regulation, KRS 189A.040 and 189A.045.

(b) A program review shall consist of one (1) or more of the following:

1. An interview with either a program administrator or a clinical services supervisor;
2. Completion of a Program Review Form;
3. A review of administrative records;
4. A review of client records;
5. Off site monitoring by division staff of completion records submitted by a program;
6. Observation of an assessment, education, or treatment service;
7. Client interviews;
8. The review of other materials necessary to determine compliance with this administrative regulation, KRS 189A.040 and 189A.045; or
9. Physical inspection of a program's facility.

(c) The division shall notify a program, in writing, at least two (2) weeks prior to the date of an announced program review.

(d) A program review may be made at any of a program's locations and may be unannounced.

(e) A program shall:

1. Allow a division representative access to a facility;
2. Provide a copy of records and materials requested; and
3. Allow a division representative to attend and observe an assessment, education class, or treatment session conducted by the program.

(f) The division shall issue a written report of findings and provide a copy of the results of its program review to the program within ninety (90) calendar days after completion of a program review.

(3) Plan of correction.

(a) The division shall require a program that is not in compliance with the requirements established in this administrative regulation, KRS 189A.040 or 189A.045 to submit an acceptable plan of correction to the division within thirty (30) calendar days from the date a program receives a report of findings from the division.

(b) If a plan of correction is acceptable, the division may conduct a follow-up program review to ensure:

1. The plan of correction has been implemented; and
2. The program is in compliance with this administrative regulation, KRS 189A.040 and 189A.045.

(c) If the division conducts a follow-up program review, a copy of the Site Visit Follow-up Compliance Review form shall be issued to the program within ninety (90) calendar days of the completion of the follow-up program review.

(d) If a plan of correction is not acceptable, the division shall take action to revoke program certification.

(4) Voluntary closure.

(a) A program desiring to close voluntarily shall:

1. Notify the division, in writing, that it will voluntarily surrender its program certification by mailing to the division its Program Certification Certificate;
2. Stop accepting client referrals;
3. Notify active clients in writing;
4. Refer a client and transfer case coordination responsibility of a client's case to a program of his choice; and
5. Submit to the division, within ten (10) calendar days of the notification made under subparagraph 1 of this paragraph, a list of active clients and a copy of the following information for each client:
 - a. Name, address and telephone number;
 - b. Date of birth and either the client's Social Security or drivers license number;
 - c. DUI conviction number;
 - d. Date of assessment and referral information including level of care and agency to which a client is referred;

Kentucky Administrative Regulation for Certification of DUI Service Programs

- e. Number of sessions completed;
 - f. Date of last attendance; and
 - g. Reason for noncompliance if a client is noncompliant.
- (b)1. A program that voluntarily surrenders its certification in compliance with the requirements established in paragraph (a) of this subsection may reapply for program certification at any time.
2. The division shall revoke the program certification of a program that voluntarily surrenders its certification if the program fails to comply with the requirements established in paragraph (a) of this subsection. The revocation shall be in accordance with the requirements established in subsection (5)(c) of this section.
3. If a program voluntarily surrenders its certification following an action by the division to revoke the program's certification, revocation shall be in accordance with subsection (5)(c) of this section.
- (5) Revocation of program certification.
- (a) The division shall revoke the certification of a program that is not in compliance with the requirements established in this administrative regulation, KRS 189A.040 or 189A.045.
- (b) The division shall immediately revoke a program's certification if it determines there is an immediate danger to clients.
- (c) The revocation of program certification shall be:
- 1. For a period of three (3) years; and
 - 2. Effective on the date stated in the notice sent to the program by the division.
- (d) If the division revokes program certification, a program shall:
- 1. Stop providing DUI services;
 - 2. Stop accepting client referrals;
 - 3. Notify active clients in writing;
 - 4. Refer a client and transfer case coordination responsibility of a client's case to a program of his choice; and
 - 5. Submit to the division, within ten (10) calendar days of the notification from the division, a list of active clients and a copy of the following information for each client:
 - a. Name, address and telephone number;
 - b. Date of birth and either the client's Social Security or drivers license number;
 - c. DUI conviction number;
 - d. Date of assessment and referral information including level of care and the name of the program to which a client is referred;
 - e. Number of sessions completed;
 - f. Date of last attendance; and
 - g. Reason for noncompliance if a client is noncompliant.

Section 6. Assessment Requirements.

- (1) Assessment process.
- (a)1. Except as provided in subparagraph 2 of this paragraph, a program providing assessment services shall administer the Kentucky DUI Assessment Instrument to a client receiving a DUI assessment. A program may use supplemental assessments in addition to the Kentucky DUI Assessment Instrument.
2. A program shall have six (6) months from the effective date of this administrative regulation to comply with the requirement that the Kentucky DUI Assessment Instrument shall be administered in every DUI assessment. During this six (6) month transitional period, a program shall meet the requirements for a DUI assessment established in:
- a. This administrative regulation as those requirements existed on January 1, 2000; or
 - b. Subparagraph 1 of this paragraph.
- (b) The Kentucky DUI Assessment Instrument printout generated at a client's assessment shall:
- 1. Be signed and dated by the assessor and client;
 - 2. Contain comments by the assessor explaining the referral decision; and
 - 3. Be placed in the client's file at least thirty (30) calendar days after the client's assessment.
- (c) An assessment shall be conducted:
- 1. At a program's certified location; or

Kentucky Administrative Regulation for Certification of DUI Service Programs

2. If a court orders an assessment of an individual that is incarcerated, in a jail or a prison.

(d) A DUI assessment shall include:

1. Administration of the Kentucky DUI Assessment Instrument;
2. A private face-to-face clinical interview, using either the assessor's own clinical interview or the structured interview provided in the Kentucky DUI Assessment Instrument, with the findings of the interview recorded on the check list provided in the Kentucky DUI Assessment Instrument;
3. Consideration of referral options and the client's resources that are documented in the Kentucky DUI Assessment Instrument;
4. A determination of the severity of the client's problem;
5. Referral to a program of the client's choice that offers a service at the level of care appropriate to the severity of the client's problem; and
6. The cosigning by the client and assessor of the following forms:
 - a. Fee agreement;
 - b. Client rights statement;
 - c. Confidentiality statement;
 - d. Freedom of choice statement and a referral agreement;
 - e. Confirmation that a client received an assessment statement;
 - f. Authorization for release of information;
 - g. Certificate of enrollment; and
 - h. Kentucky DUI Assessment Instrument printout.

(e)1. Except as provided in subparagraph 2 of this paragraph, a DUI assessment shall be conducted by an assessor holding valid certification from the division.

2. The screening instrument portion of the Kentucky DUI Assessment Instrument shall be self-administered or administered by a certified or noncertified individual.

(f) The screening instrument portion of the Kentucky DUI Assessment Instrument shall be administered individually or in a group.

(g) A program shall maintain a Roster of Assessments that includes:

1. Client name, date of birth and Social Security or drivers license number;
2. Assessment date; and
3. Type of referral and referral program.

(2) Client referrals. A DUI program shall accept a client referral from another program or a court.

(a) Court referral of DUI offenders.

1. An individual convicted of DUI in Kentucky shall obtain an assessment at a certified program of his choice listed in a directory published by the division.

2. Before accepting a client for an assessment, a program shall:

- a. Obtain an AOC 494 form or a court order; or
 - b. Document the client's file to show the reason one (1) of these forms could not be obtained.
3. If a client has received an assessment for his conviction at another DUI program, a program shall not conduct a subsequent assessment for the client without obtaining a new court order.

(b) Program referral of DUI offenders.

1. A program desiring to make or receive a client referral shall execute a written Memorandum of Understanding with the in-state or out-of-state programs, with which it will make or receive referrals.

2. A memorandum of understanding shall include:

- a. Name of both programs;
- b. Date it is executed;
- c. Duties and responsibilities of each program to include the requirements for case coordination contacts between the programs;
- d. Purpose of the agreement;
- e. Terms for termination of the agreement; and
- f. Signatures of each program's program administrator.

Kentucky Administrative Regulation for Certification of DUI Service Programs

3. A program may refuse a client referral because of:
 - a. Inadequate staff;
 - b. Lack of an appropriate service;
 - c. A client waiting list; or
 - d. A program's previous unsuccessful attempt to treat a client.
 4. A program shall not accept a client referral from another program without first obtaining a copy of the client's assessment and other available records pertinent to the client's assessment, education, or treatment.
 5. A program shall inform a client at the time of his assessment that if he fails to disclose all of his outstanding DUI convictions, the services he receives will not meet the requirements for reinstatement of his drivers license.
 6. A program shall refer a client to a program of the client's choice, at an appropriate level of care based on the client's assessment. A program shall have a client sign a referral agreement stating he has been given freedom of choice in the selection of a program.
 7. A program shall:
 - a. Allow a client freedom of choice in the selection of a program where he will receive education or treatment services; and
 - b. Not allow a client to select the level of care or type of service, which shall be based on the results of his assessment and the availability of services.
 8. A program shall transfer a client's assessment results and the referral form generated by the Kentucky DUI Assessment Instrument to a program of the client's choice offering service at the level of care needed by the client.
- (3) Case coordination requirements.
- (a) General requirements.
1. A program that conducts a client's assessment shall be responsible for case coordination whether the client receives education or treatment services at the program that conducted his assessment or at another program.
 2. To determine if a client is compliant or noncompliant, case coordination shall be conducted and include:
 - a. Having regular contact with the program receiving a client referral to determine a client's compliance with the recommended education or treatment;
 - b. Documentation in an assessment record of actions and contacts related to follow up on a client;
 - c. Sending a certificate of enrollment to the court after a client is assessed pursuant to KRS 189A.045;
 - d. Providing information on a client's progress to the court upon request;
 - e. Notifying the circuit clerk of the court within three (3) working days after making a determination or receiving notice that a client is noncompliant of the need to schedule a show-cause hearing;
 - f. Sending a completion report to the Transportation Cabinet and the court within three (3) working days after making a determination or receiving notice that a client is compliant;
 - g. Providing a certificate of completion to a client if he satisfactorily completes the required services; and
 - h. Downloading on a computer diskette Kentucky DUI Assessment Instrument records and completion and noncompliance reports and sending the diskette on a monthly basis to the division or its designee.
 3. A program administrator shall notify the court within three (3) working days of the date specified in the client's fee agreement, if a client fails to pay for an assessment within the time stated in his fee agreement.
- (b) Out-of-state clients and programs.
1. A program administrator shall notify the state of conviction, in writing, on an Interstate Transfer Form, if a client that is satisfying a DUI conviction from another state enrolls in a certified DUI program.
 2. A Kentucky licensed driver or an individual who is not a Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a) through (d) may be referred by a program after a DUI assessment to an out-of-state program for education or treatment if the program is licensed to provide services at the level of care necessary to satisfy his DUI in Kentucky. The referring program shall provide case coordination for the client.
 3. A Kentucky licensed driver or an individual who is not a Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a) through (d), who has not received an assessment in Kentucky, may receive assessment, education, or treatment services at an out-of-state program if he first receives approval from the division. The division shall:
 - a. Approve the out-of-state program if the program:
 - (i) Is licensed or certified by the state in which it is located;

Kentucky Administrative Regulation for Certification of DUI Service Programs

- (ii) Provides assessments; and
- (iii) Offers alcohol and other drug education or treatment services; and
- b. Provide case coordination for the client.
- (c) Clients with special needs.
 - 1. If a client is identified as having a special need at the time of his assessment a program shall provide services either directly or through referral according to the following:
 - a. Questions and instructions shall be read orally to a client who is unable to read and responses shall be recorded for a client who is unable to write;
 - b. A qualified interpreter shall be provided for a deaf client;
 - c. Reasonable accommodations shall be made for a client who is unable to communicate in English; and
 - d. A pregnant client shall be referred for prenatal care.
 - 2. A program shall document in a client's record special needs services the client receives.
 - 3. Responsibility for payment of a special need service shall be according to the following:
 - a. A program shall be responsible for payment of interpreter services pursuant to KRS 30A.415; and
 - b. A client shall be responsible for payment of other services required because of a special need pursuant to KRS 189A.040.
 - 4. A program shall comply with the rules of confidentiality established in:
 - a. 908 KAR 1:320 if providing interpreter services to a client in a federally-assisted program; or
 - b. KRS 222.271(1) if providing interpreter services to a client in a nonfederally-assisted program.
- (d) A client that receives treatment before an assessment. If a client receives treatment after being charged with DUI, without first receiving an assessment, a program shall:
 - 1. Obtain a copy of a court order from the court and a copy of the client's uniform citation;
 - 2. Conduct an assessment and case coordination in accordance with subsections (1) and (3) of this section; and
 - 3. Give the client credit for treatment he received since his DUI arrest if it can be documented that the treatment was at the level of care needed by the client based on the assessment conducted pursuant to subparagraph 2 of this paragraph.
- (e) A client with multiple DUI convictions. If a client presents for an assessment with multiple unresolved DUI convictions, a program shall:
 - 1. Obtain a copy of the client's uniform citation and an AOC 494 form or court order for each conviction;
 - 2. Conduct one (1) assessment and case coordination in accordance with subsections (1) and (3) of this section;
 - 3. Refer the client to treatment at a level of care appropriate to satisfy the client's clinical needs and all of his DUI convictions; and
 - 4. Complete a separate completion report for each of the client's convictions.
- (f) A client convicted of DUI while enrolled in a program. If a client receives a subsequent conviction for DUI while enrolled in an education or treatment program, a program shall:
 - 1. Obtain a copy of the client's uniform citation and an AOC 494 form or court order for the subsequent conviction;
 - 2. Conduct another assessment and case coordination in accordance with subsections (1) and (3) of this section;
 - 3. Refer the client to a level of care appropriate to satisfy the client's clinical needs and all of his DUI convictions;
 - 4. Document the client's file to show that the client's admission to treatment began at the time he was reassessed; and
 - 5. Complete a separate completion report for each of the client's convictions.
- (g) Reenrollment of a client. If a client requests reenrollment after he stops attending education or treatment, a program shall:
 - 1. Reenroll the client and allow him to resume the education or treatment service at the point where he last attended if he has not been reported noncompliant to the court; or
 - 2. Refer the client back to the court for a new court order before conducting a new assessment and starting the education or treatment service over if he has been reported as noncompliant to the court.
- (h) Early release of a second offender. If the program responsible for a client's case coordination determines a second offender, who has completed at least six (6) months of the treatment that was recommended based on the client's assessment, has completed a program prior to the end of the one (1) year period ordered by the court, the administrator of the program shall send a written report notifying the court that the client has completed the program.

Kentucky Administrative Regulation for Certification of DUI Service Programs

(i) A client under twenty-one (21) years of age. If a client is under twenty-one (21) years of age, a program shall deliver services:

1. In accordance with the requirements established in this administrative regulation if the client is convicted of DUI pursuant to KRS 189A.010(1)(a) through (d); or
2. In accordance with a court order, not subject to the requirements established in this administrative regulation, if the client is convicted pursuant to KRS 189A.010(1)(e).

Section 7. Education Requirements.

(1) Approved curricula.

(a) A DUI program desiring to provide education services shall ensure:

1. That, except as provided in paragraph (c) of this subsection, within six (6) months of the effective date of this administrative regulation, the education delivered within the program is one (1) of the following twenty (20) hour curricula approved by the division:

- a. Kentucky Alcohol and Other Drugs Education Program (KAODEP) Twenty (20) Hour; and
 - b. Prime for Life Risk Reduction Program (PRI) Twenty (20) Hour; and
2. Instruction is provided by an instructor holding valid DUI instructor certification from the division; and
3. A certified instructor delivers a curriculum in accordance with the curriculum delivery standards established by subsection (2) of this section and taught at a DUI instructor certification training conducted by the division or Prevention Research Institute, Inc.

(b) A DUI program may provide either or both of the twenty (20) hour curricula at a certified location.

(c) During the six (6) month transitional period established by paragraph (a)1 of this subsection, a program shall meet the requirements for a twenty (20) hour curriculum established in:

1. This administrative regulation as those requirements existed on January 1, 2000; or
2. Paragraph (a)1 of this subsection.

(2) Delivery standards.

(a) The twenty (20) hour curriculum shall:

1. Be for a first offender assessed as needing only education or as a supplement to treatment if delivered to a first or multiple offender assessed as needing treatment;
2. Consist of twenty (20) hours of instruction and group interaction that increases a client's awareness and knowledge about the risks of alcohol and other drug use and helps develop skills to change a client's attitude and behavior in relation to alcohol and other drug abuse; and
3. Be delivered no more than:
 - a. Three (3) hours per day; and
 - b. Three (3) times per week.

(b) A program may enroll first offenders and multiple offenders in the same session.

(c) A program administrator shall ensure:

1. There are no more than twenty-five (25) and no less than two (2) clients in a session;
2. A curriculum is delivered in accordance with the delivery standards established in this subsection;
3. Required manuals for a curriculum are distributed to and used by a client;
4. A client is given the manual for his personal use after completion of an education service;
5. Videos required in a curriculum are shown to a client; and
6. Supplemental videos and speakers that are not approved as part of a curriculum are not used for an education service.

(3) Documentation and completion requirements for education sessions.

(a) A program shall maintain a sign-in sheet for an education session that includes:

1. Name of the curriculum;
2. Title and number of the session;
3. Date, time, location, and name of the instructor; and
4. Client name and signature.

(b) A program shall require a client to:

1. Attend and participate in each session of a curriculum;

Kentucky Administrative Regulation for Certification of DUI Service Programs

- 2.a. If the client is a first offender, attend each session of the curriculum in any order; or
 - b. If the client is a multiple offender, except as provided by paragraph (c) of this subsection, attend sessions in sequence beginning with chapter 1;
 3. Comply with a program's rules of conduct; and
 4. Pay required fees.
- (c) If a client who is a multiple offender cannot attend a session, due to an emergency, a program shall allow the client to attend a session out of sequence the next time the chapter is presented by a program. Documentation of the emergency shall be maintained in the client's file.
- (d) If a client is receiving education at a program other than the program where he received his assessment, the program administrator shall notify the individual responsible for the client's case coordination if the client:
1. Demonstrates a need for service at a different level of care;
 2. Satisfactorily completes education; or
 3. Is noncompliant.
- (e) If a client is receiving education at the program where he received his assessment, the program administrator shall:
1. Determine if the client has satisfactorily completed the DUI education service; and
 2. Report compliance or noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation.
- (f) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection.

Section 8. Treatment Requirements.

(1) General requirements.

(a) A DUI program desiring to provide treatment services shall:

1. Comply with the licensing requirements established in Section 2 of this administrative regulation; and
2. Employ qualified staff that have training and experience in dealing with the physical and psychological complications of alcohol and other drug abuse.

(b) A program shall ensure that the treatment a client receives is based on his assessment. A client may be referred to outpatient, intensive outpatient, inpatient, residential, residential transitional living, or detoxification treatment services in a licensed treatment program in state or out of state pursuant to the requirements established in this administrative regulation.

(c) A program shall deliver treatment services according to the following:

1. A client shall receive individual or group treatment;
2. A treatment group may include first and multiple offenders in the same session;
3. The maximum number of clients in a treatment group shall not exceed fifteen (15);
4. A client may be referred to a self-help group to supplement but not to replace treatment services;
5. A client referred to outpatient treatment shall receive at least one (1) hour of individual or one and one-half (1 1/2) hours of group treatment each week;
6. A client referred to intensive outpatient treatment shall receive at least six (6) hours of treatment over a period of two (2) or more days weekly in a program licensed for intensive outpatient treatment;
7. If a client receives treatment less often than the requirements established in subparagraphs 5 and 6 of this paragraph, to meet his individual clinical needs, a clinical rationale shall be documented in the client's record; and
8. A client referred for inpatient or residential treatment shall receive this treatment in a program licensed for inpatient or residential treatment.

(2) Treatment plan.

(a) A clinician or treatment planning team shall be responsible for developing a treatment plan for a client accepted for treatment services by the client's fourth session.

(b) A treatment plan shall:

1. Be developed with a client's participation and be individualized for the needs of the client;
2. Include a written statement of the client's problem with alcohol and other drugs and any other problem that contributes to or is related to the client's use of alcohol and other drugs;

Kentucky Administrative Regulation for Certification of DUI Service Programs

3. Include a written statement of treatment goals and measurable objectives with a time schedule for achieving the goals and a written statement of whether the client agrees with the treatment plan;
 4. Be signed by the client and the clinician; and
 5. Be reviewed by the clinician and the client at least once every 180 calendar days or if there is a change documented in the client's treatment plan.
- (c) A client's progress toward meeting the goals stated in his treatment plan shall be documented in the client's record by a clinician at least weekly.
- (d) If the twenty (20) hour education curriculum is delivered as a supplement to treatment to a first or multiple offender assessed as needing treatment, it shall be included in a client's treatment plan.
- (3) Completion requirements.
- (a) To complete a treatment service, a client shall:
1. Comply with all attendance requirements;
 2. Achieve the goals stated in his treatment plan;
 3. Comply with a program's rules of conduct; and
 4. Pay required fees.
- (b) If a client is receiving treatment at a program other than the program where he received his assessment, the program administrator of the treatment program shall notify the individual responsible for the client's case coordination if a client:
1. Demonstrates a need for service at a different level of care;
 2. Satisfactorily completes treatment; or
 3. Is noncompliant.
- (c) If a client is receiving treatment at the program where he received his assessment, the program administrator shall be responsible for:
1. Final approval that the client has satisfactorily completed a treatment service; and
 2. Reporting compliance or noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation.
- (d) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection.

Section 9. Administrative Hearing Requirements.

- (1) If the division takes action to deny, or revoke, a DUI program's certification or an individual's assessor or instructor certification, the division shall notify the program or individual assessor or instructor, in writing, stating a reason for the adverse action and notifying the program or individual assessor or instructor of the right to appeal the action pursuant to KRS Chapter 13B.
- (2) A program or individual assessor or instructor shall appeal a negative certification action taken by the division by notifying the division, in writing, within twenty (20) calendar days from the date of notice of action from the division.
- (3) Upon receipt of an appeal, the secretary or his designee shall give notice of the hearing to a program or an individual assessor or instructor, in writing, not less than twenty (20) calendar days in advance of the date set for the hearing and the notice shall be sent in accordance with KRS Chapter 13B.
- (4) The secretary, or his designee, shall appoint a hearing officer to conduct a hearing and the hearing shall be conducted pursuant to KRS Chapter 13B.
- (5) The division shall retain all records related to a hearing for a period of at least five (5) years.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) AOC 494 form (Rev. 5-96) Notice to Attend Alcohol Driver Education Program (revised 5/96);
 - (b) Application for Program Certification DUI Form 01 (revised 3/2000);
 - (c) Application for Program Recertification DUI Form 06 (revised 3/2000);
 - (d) Complaint Form DUI Form 05 (revised 10/01/98);
 - (e) DUI Assessor Certification Application DUI Form 10 (revised 3/2000);
 - (f) DUI Assessor Recertification Application DUI Form 11 (revised 3/2000);

Kentucky Administrative Regulation for Certification of DUI Service Programs

Appendix VIII

- (g) DUI Instructor Certification Application DUI Form 12 (revised 3/2000);
 - (h) DUI Instructor Recertification Application DUI Form 13 (revised 3/2000);
 - (i) Interstate Transfer Form DUI Form 08 (10/01/98);
 - (j) Kentucky Alcohol and Other Drugs Education Program (KAODEP) Twenty (20) Hour (1998);
 - (k) Kentucky DUI Assessment Instrument (10/01/98);
 - (l) Memorandum of Understanding DUI Form 07 (revised 10/01/98);
 - (m) Prime For Life Risk Reduction Program (PRI) Twenty (20) Hour (1998);
 - (n) Program Certification Certificate DUI Form 15 (10/01/98);
 - (o) Program Review Form DUI Form 04 (revised 3/2000);
 - (p) Program Survey Form DUI Form 02 (revised 10/01/98);
 - (q) Report of Change Form DUI Form 03 (revised 10/01/98);
 - (r) Roster of Assessments DUI Form 09 (10/01/98); and
 - (s) Site Visit Follow-up Compliance Review Form DUI Form 14 (revised 3/2000).
- (2) This material may be inspected, copied, or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, 100 Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (18 Ky.R. 2086; Am. 2586; eff. 3-7-92; 19 Ky.R. 2341; 2655; 20 Ky.R. 88; eff. 6-16-93; 25 Ky.R. 2017; 2632; 26 Ky.R. 1808; eff. 4-12-2000.)

Fines and Jail Sentences Related to Level of Offense

The following table shows the progression of fines and jail time related to each level of offense.

Level of Offense	Min/Max Fine	Minimum Jail Sentence	Maximum Jail Sentence	Minimum With Aggravating Circumstances
1 st Offense	\$200/\$500	2 days	30 days	4 days
2 nd Offense	\$350/\$500	7 days	6 months	14 days
3 rd Offense	\$500/\$1000	30 days	12 months	60 days
4 th Offense (Class D Felony)	\$1000/\$10,000	120 days	60 months	240 days

Source: KRS 189A.010, KRS 532.020, and KRS 534.030.



THE SECRETARY FOR HEALTH SERVICES
COMMONWEALTH OF KENTUCKY
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PAUL E. PATTON
GOVERNOR

May 12, 2003

MARCIA R. MORGAN
SECRETARY

Mr. Edward B. Hatchett, Jr.
Auditor of Public Accounts
Sea Hero Road, Suite 2
Frankfort, KY 40601

Dear Mr. Hatchett:

Thank you for the opportunity to respond to the recommendations set forth in the performance audit of the Driving Under the Influence (DUI) Program recently concluded by staff of the Auditor of Public Accounts (APA). The DUI program has been and continues to be a well-managed program that provides a valuable service to the citizens of Kentucky. I want to thank the APA for their diligence in providing an outside look at our program.

As you are aware, several of the issues raised in this report are issues that face many programs in Kentucky and will not be resolved easily or quickly. Resources to manage the DUI program continue to be stretched and we certainly agree that additional resources could greatly improve program oversight. However, as you know, raising additional revenue for this and other equally deserving programs will continue to be problematic for the near future given the state's current fiscal situation.

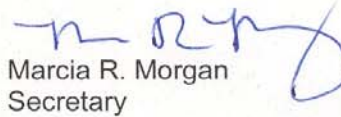
Additionally, as the diversity of Kentucky's residents expands, agencies are increasingly recognizing the need to provide services in languages other than English and in alternative formats. While we believe we are making great progress in this area, finding qualified translators and the funds to pay for translation services will remain an on-going challenge for this and many other programs.

Below are comments that speak to the APA recommendations that relate specifically to the Division of Substance Abuse. Thank you for your time and effort on our behalf.



An Equal Opportunity Employer M/F/D

Sincerely,



Marcia R. Morgan
Secretary

1. APA Recommendation - Pursue assessing a percentage or flat fee based on certification or assessments, work with the General Assembly to amend KRS 189A.050 to receive a percentage of the \$250 service fee, or both. Failing that, the Division should conduct program reviews that include a mix of multi-faceted reviews with shorter reviews to provide coverage to all DUI service programs.

Agency Response – As noted in the audit report, currently the \$250 service fee is divided on a percentage basis between (1) the Cabinet for Health Services for treatment programs for indigent DUI offenders, (2) the Kentucky State Police Forensic Laboratory, (3) the Department of Public Advocacy, (4) the Prosecutors' Advisory Council, (5) the Department for Local Government, (6) the Transportation Cabinet and (7) the Justice Cabinet. The Cabinet recognizes that resources are limited and that additional funds would be very helpful in completing additional program reviews. However, asking for a percentage of the service fee would require a concurrent percentage reduction in another service that is funded by the service fee. Attempting to take money from one program to fund another is neither fiscally nor programmatically sound. The Cabinet will review options to increase funds for this program. However, it must be recognized that any revenue action that raises provider costs will, in all likelihood, be passed along as increased fees to DUI offenders.

Regarding "multi-faceted" or "shorter" reviews, the DUI Program currently has regulatory authority to conduct more narrowly focused reviews in addition to the comprehensive reviews. To date, focused reviews have generally been utilized to look at the treatment component of programs. The Cabinet agrees that a greater use of focused reviews could be beneficial and intends to develop a review schedule that will provide a wider mix of review options.

2. APA Recommendation – Create a centralized electronic system to maintain current information on each DUI service program, instructor, and assessor, which includes certification expiration dates, complaints, etc. We also recommend the Division consider making all electronic information systems available to coordinators when performing site visits.

Agency Response – The Cabinet agrees that a centralized electronic system would be a valuable tool and has begun reviewing options. This recommendation will be implemented as funds are available.

3. APA Recommendation – Strengthen the DUI service program certification process. Any changes should consider placing limitations on the number of DUI service programs for which a Clinical Services Supervisor may work and performing reviews of DUI service programs during the revocation and appeals process. The Division should also correct 109 KAR 11:030 so that it

is consistent with KRS 189A.050 in regards to the amount of the DUI service fee.

Agency Response – The Cabinet agrees that the DUI service program certification process should be strengthened and is currently reviewing options. Placing limitations on the number of DUI service programs for which a Clinical Services Supervisor may work is an option the Cabinet agrees would be beneficial to the program and intends to pursue.

The division continues to investigate complaints at programs that are in the revocation appeals process. However, there is no need to conduct periodic program reviews for re-certification purposes, since the certifications of these programs have already been revoked.

109 KAR 11:030 is a Department of Local Government regulation and not within the Cabinet's authority to change. However, we will notify the Department of Local Government of the need to modify the regulation.

4. APA Recommendation – Continue efforts to convince the General Assembly that the five-year period for which DUI records are held is inadequate.

Agency Response – Statutes governing driving records are maintained by the Transportation Cabinet. The Cabinet for Health Services agrees that it would be beneficial for driving records to be kept for longer than the current five-year limit. The Cabinet will notify the Transportation Cabinet of our support for a longer time frame.

5. APA Recommendation – Provide training to all certified DUI service programs on obtaining funding or other assistance to address the language barrier problem. In addition, the Division should translate the KAODEP education curriculum into Spanish and determine what other language translations might be beneficial.

Agency Response – The program currently provides technical assistance to providers and maintains a list of interpreter/translator resources that is made available to providers. The program intends to review the current assessment process to ensure all individuals who need interpreter/translator services are identified during the assessment process to ensure that individuals receive and can understand the services needed. The agency is in the process of revising the KAODEP education curriculum and the revision will include a Spanish translation. The agency is also assessing the need for additional translations.

Contributors to This Report

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Copies of this report or other previously issued reports can be obtained for a nominal fee by faxing the APA office at 502-564-2912. Alternatively, you may

order by mail: Report Request
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 Frankfort, Kentucky 40601

visit : 8 AM to 4:30 PM weekdays

email: Hatchett@kyauditor.net

browse our web site: <http://www.kyauditor.net>

Services Offered by Our Office

The staff of the APA office performs a host of services for governmental entities across the commonwealth. Our primary concern is the protection of taxpayer funds and furtherance of good government by elected officials and their staffs. Our services include:

Performance Audits: The Division of Performance Audit conducts performance audits, performance measurement reviews, benchmarking studies, and risk assessments of government entities and programs at the state and local level to identify opportunities for increased efficiency and effectiveness.

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General Questions

General questions should be directed to Matthew Cantor, at (502) 564-5841 or the address above.