

CR 92-144

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **driver licensing of persons who have chemical abuse or chemical dependency problems**, was duly approved and adopted by this Department on April 13, 1993.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 13 day of April, 1993.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary

RECEIVED

APR 15 1993

4:10 PM
Revisor of Statutes
Bureau

7-1-93

IN THE MATTER OF an Order Adopting Rule REPEALING Trans 107.02(6), (12) and (13), and 107.03(9), 107.08(1)(intro.); RENUMBERING Trans 107.02(9), (11), (15), (16), and 107.03(7); RENUMBERING AND AMENDING Trans 107.02(7)(a) and (b), (8), (10), (14), and (17), and Trans 107.03(8); AMENDING Trans 107.01(1) and (2)(NOTE), Trans 107.02(intro.), (1), (3), (4), (5m), Trans 107.03(2) and (10), Trans 107.04(1), (1)(a)(intro.), 2 and (c)3, Trans 107.05(1) to (3), 107.06(2)(b) (NOTE), (3)(b), (d) and (f), Trans 107.07(3), (4) and (6), Trans 107.08(1)(b), (e) to (i), (2)(a), (c), (d) and (f), and (6), Trans 107.09(4)(a)(intro.), 1 to 4, (NOTE), (b)(intro.) and 1 to 4, (7) and (9), Trans 107.10(1); REPEALING AND RECREATING Trans 107.08(1)(j), (k), and (3); and CREATING Trans 107.02(10), Trans 107.03(7) and (8), Trans 107.06(3)(g), Trans 107.08(1)(hm), (L) to (o), Trans 107.09(4)(d), Wisconsin Administrative Code, relating to driver licensing of persons who have chemical abuse or chemical dependency problems.

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 85.16(1), 227.11, and 343.305(11), Stats.

STATUTES INTERPRETED: ss. 110.08, 227.42, 227.51, 343.06(1)(d), 343.16(5), 343.25(4) and (7), 343.30(1q)(c), (d) and (f), 343.305(10)(c), (d), (em) and (f), 343.32(2)(e), 343.40, 346.63(1) and (2), 346.635, 940.09 and 940.25, Stats.

General Summary of Rule. On January 1, 1993, the new drunk driving law, 1991 Wisconsin Act 277, will allow persons to voluntarily submit to an assessment and driver safety plan participation prior to conviction, and will authorize judges to consider voluntary assessment during sentencing. The purpose of this rule making is to amend the existing Chapter Trans 107, Wis. Admin. Code, which relates to driver licensing of persons with chemical abuse or dependency problems, to conform with this portion of Act 277.

Summary of Department of Transportation (Department) licensing action when voluntary assessments are received:

- If a person submits to voluntary assessment, the court suspends the order for assessment pending the person's completion of the voluntary assessment and driver safety plan. After conviction, if the Department receives a noncompliance report, the person's operator's license is suspended until such time as the person complies with the plan and is eligible for reinstatement.
- If a person submits to voluntary assessment, and is convicted of an amended charge, or the charge is dismissed, appealed or vacated, the person is required to comply with the driver safety plan if the assessment findings indicate the person's chemical use may affect his or her driving ability. If the Department receives a noncompliance report, the person's operator's license is canceled until such time as the person complies and is eligible for reinstatement.
- If a person submits to voluntary assessment following an arrest for operating while intoxicated (OWI) and is again arrested for OWI prior to completion of the driver safety plan resulting from that assessment, the Department will cancel or suspend the person's license.
- If the person submits to voluntary assessment and the Department receives a noncompliance report for nonpayment of assessment fee, the Department will not cancel or suspend the license of the person unless the person is convicted of an OWI offense for which assessment is mandatory.

Other changes made in ch. Trans 107 were renumbering statutes, correcting and adding forms, redefining terms, updating language to comply with new commercial drivers license laws, and rewriting sections to make them easier to interpret.

Fiscal Effect. A one-time data processing and program development cost is associated for redesigning the computer system to accept voluntary assessments and produce the necessary followup; a total project cost of \$4,850.00.

Final Regulatory Flexibility Analysis. The rule amendments will have no adverse effect on small businesses.

Contact Person. For further information contact Karen Smith (608) 267-1221 or Wes Geringer (608) 266-0614, Division of Motor Vehicles, Bureau of Driver Services, P.O. Box 7917, Madison, WI 53707-7917.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11 and 343.305(11), Stats., the department of transportation hereby amends a rule interpreting ss. 110.08, 227.42, 227.51, 343.06(1)(d), 343.16(5), 343.25(4) and (7),

343.30(1q)(c), (d) and (f), 343.305(10)(c), (d), (em) and (f), 343.32(2)(e), 343.40, 346.63(1) and (2), 346.635, 940.09 and 940.25, Stats., relating to driver licensing of persons who have chemical abuse or chemical dependency problems.

SECTION 1. Trans 107.01(1) and (2)(NOTE) are amended to read:

Trans 107.01 PURPOSE AND SCOPE. (1) **STATUTORY AUTHORITY.** As authorized by ss. 85.16(1), 227.11, and 343.305(11), Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. 110.08, 227.42, 227.51, ~~343.06(4)~~, ~~343.16(2)~~, 343.06(1)(d), 343.16(5), 343.25(4) and (7), 343.30(1q)(c), (d) and (f), 343.305(10)(c), (d), (em) and (f), 343.32(2)(e), 343.40, 346.63(1), ~~343.63(2)~~ and (2), 346.635, 940.09 and 940.25, Stats., relating to driver licensing of persons who have chemical abuse or chemical dependency problems.

(2)(NOTE) **NOTE:** Forms used in administering this chapter are department of transportation ~~MVD MV 3218~~ report of interview, ~~MVD MV 3259~~, Michigan alcohol screening test, ~~MVD MV 3030~~ medical report, general, ~~MVD MV 3030M~~ medical report, mental, ~~MVD MV 3113~~ medical report, ~~MVD MV 3304~~ course completion certificate, ~~MVD MV 3395~~ operator's license receipt, ~~MVD MV 3141~~ driver behavior report, MV 3521 student enrollment confirmation, and department of health and social services forms ~~DCS 750, 751, 753, 756, 756A, 756B~~ and 757.

SECTION 2. Trans 107.02(intro.), (1), (3), (4) and (5m) are amended to read:

Trans 107.02(intro.) The words and phrases defined in ss. 340.01 and 343.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Assessment" means ~~an~~ a voluntary or ordered examination of the person's use of chemicals and development of a ~~rehabilitation or~~ driver safety plan for the person by an approved public treatment facility as defined in s. 51.45(2)(c), Stats., or as ~~defined~~ provided by a ~~treatment facility program~~ in another state.

(3) "Chemical abuse" means the use of alcohol or other drugs, prescription or nonprescription, which may adversely affect driving ability. It includes both irresponsible use and borderline irresponsible use of alcohol or other drugs.

(4) "Chemical dependency" means dependence on alcohol, ~~or addiction to the use of a controlled substance, other drugs, or any combination thereof~~ that has attained such a degree that it interferes with a person's physical or mental health or social or economic functioning.

(5m) "County department" means the community services program established under s. 51.42, Stats., or its approved agency, or the ~~community~~ county department of human services board established under s. 46.23, Stats., that is responsible for each Wisconsin county's provision of services for chemical abuse or dependency under ss. 51.42 and 51.45, Stats.

SECTION 3. Trans 107.02(6) is repealed.

SECTION 4. Trans 107.02(7)(a) and (b) and (8) are renumbered Trans 107.02(6)(a) and (b) and (12), respectively, and amended to read:

Trans 107.02(6)(a) ~~An~~ For Wisconsin residents, an individualized plan of education or treatment, or both, based on an assessment referral ~~May 1, 1982 or after~~ which specifies a traffic safety school defined under s. 345.60, Stats., or treatment services, or a combination thereof, for alleviation of identified chemical use, abuse or dependency problems.

(b) For nonresidents or residents temporarily residing in another state, ~~"driver safety plan" means either~~ an individualized plan under par. (a) or a program of education or treatment, or both, which satisfies the requirements of ~~the other~~ that state.

(12) ~~"Improper refusal~~ Refusal" means refusing to submit to chemical testing ~~for alcohol or controlled substances, or any combination,~~ upon request of a law enforcement officer, pursuant to s. 343.305(3)(a), Stats., or a local ordinance or law of a federally recognized

American Indian tribe or band in this state in conformity therewith, and no request for a court refusal hearing, or an adverse finding in an implied consent hearing ~~under s. 343.305, Stats.~~

SECTION 5. Trans 107.02(9) is renumbered Trans 107.02(7).

SECTION 6. Trans 107.02(10) is renumbered Trans 107.02(8) and amended to read:

Trans 107.02(8) "Licensing action" means any action by the department involving the denial, cancellation, revocation, suspension, disqualification, restriction, or issuance of a license under this chapter.

SECTION 7. Trans 107.02(11) is renumbered Trans 107.02(9).

SECTION 8. Trans 107.02(10) is created to read:

Trans 107.02(10) "OWI" or "operating while intoxicated" means any offense for which a conviction, revocation or suspension resulting therefrom may be counted under s. 343.307(1), Stats.

SECTION 9. Trans 107.02(12) and (13) are repealed.

SECTION 10. Trans 107.02(14) is renumbered Trans 107.02(13) and amended to read:

Trans 107.02(13) "Released" means that a revocation, suspension, ~~or~~ cancellation or disqualification license action has been withdrawn because of an appeal, reopening, ~~or~~ a vacation of a conviction, or a finding that the license action, as ordered by the department or court, was in error or inappropriate.

SECTION 11. Trans 107.02(15) and (16) are renumbered Trans 107.02(14) and (15).

SECTION 12. Trans 107.02(17) is renumbered Trans 107.02(11) and amended to read:

Trans 107.02(11) "~~Treatment facility~~ Program in another state" means a program or facility in another state which provides assessment services or driver safety plan programs examines persons for chemical abuse or dependency levels and recommends individualized plans

or programs of education or treatment, or both, for persons who are nonresidents or residents temporarily residing in another state, ~~and~~ which meets the program ~~or~~ and facility requirements of that state.

SECTION 13. Trans 107.03(2) is amended to read:

Trans 107.03(2) Medical information which the department has requested under the provisions of s. ~~343.06(4) or 343.16(2)(a), 343.06(1)(d) or 343.16(5)~~, Stats.,

SECTION 14. Trans 107.03(7) is renumbered Trans 107.03(9).

SECTION 15. Trans 107.03(7) is created to read:

Trans 107.03(7) Assessment reports submitted in response to a department order issued pursuant to s. 343.16(5), Stats.

SECTION 16. Trans 107.03(8) is renumbered Trans 107.03(11) and amended to read:

Trans 107.03(11) Driving records with chemically involved entries, ~~or~~.

SECTION 17. Trans 107.03(8) is created to read:

Trans 107.03(8) Voluntary assessment reports submitted pursuant to s. 343.30(1q)(c)1m,

SECTION 18. Trans 107.03(9) is repealed.

SECTION 19. Trans 107.03(10) is amended to read:

Trans 107.03(10) ~~Assessment~~ Assessments, driver safety ~~plan plans~~, ~~and or~~ reports from a ~~treatment facility program~~ in another state, ~~or~~

SECTION 20. Trans 107.04(1), (1)(a)(intro.), 2 and (c)3 are amended to read:

Trans 107.04(1) The following information shall be considered in taking administrative licensing action under s. 343.06(1)(d), 343.16(5) or (6), or 343.25(7), Stats.:

(a)(intro.) Medical reports, assessment reports, driver safety ~~plan plans~~, driver safety plan final reports, or a combination of thereof, with information on:

2. Outpatient or other treatment for chemical abuse or dependency.

(c)3 Arrests for chemically related violations, for example, pending charges for OWI.

Once the charge has been disposed of by a court, for example, convicted, dismissed, amended or withdrawn, the arrest information will no longer be considered in taking licensing action under s. Trans 107.08(1)(b), (c), (d), (e), ~~and (f)~~ and (hm).

SECTION 21. Trans 107.05(1) to (3) are amended to read:

Trans 107.05 MEDICAL REPORTS. (1) All physician medical reports under s. ~~343.16(2)~~ 343.16(5), Stats., shall be based on an examination by a physician within the previous 3 months.

NOTE: Forms ~~MVD~~ MV 3030, 3030M and 3113.

(2) Medical reports under s. ~~343.16(2)~~ 343.16(5), Stats., shall be submitted within 30 days from license application, or department request, unless an extension has been granted by the department.

(3) Failure to submit the medical examination report as required under s. ~~343.16~~ 343.16(5), Stats., and this chapter shall result in cancellation or denial of all operating privileges, ~~and denial of all licenses applied for,~~ in accordance with ss. 343.25(7) and ~~343.06(4)~~ 343.06(1)(d), Stats.

SECTION 22. Trans 107.06(2)(b)(NOTE), (3)(b), (d) and (f) are amended to read:

Trans 107.06(2)(b) NOTE: The dependency screening test is form ~~MVD~~ MV 3259.

(3)(b) A person has one OWI arrest within the past 12 months and the department has an assessment report, driver safety plan final report, medical report, or combination of ~~;~~ reports that are chemically related on file within the past 2 years.

(d) A person has one OWI arrest within the past 12 months, and the person has had 2 ~~OWI~~ OWIs ~~convictions or implied consent revocations~~ within the past 2 years.

(f) The department receives notice of an OWI ~~conviction~~ in another jurisdiction for an offense which if committed in this state would have been cause for revocation or suspension under s. 343.30(1q) and the person has not completed or is not currently participating in a ~~rehabilitation or~~ driver safety plan or any similar plan in another jurisdiction.

SECTION 23. Trans 107.06(3)(g) is created to read:

Trans 107.06(3)(g) In any case when an assessment is waived or is not ordered by a court but is required by law.

SECTION 24. Trans 107.07(3), (4) and (6) are amended to read:

Trans 107.07(3) Amended driver safety plans shall be accepted by the department ~~within the period established by ss. 343.30(1q)(d) and 343.305(10)(d), Stats., and;~~ when submitted to ~~the department~~ by the county department ~~with documentation of~~ documenting the reason for changes in assessment findings or recommendations. ~~As provided by Pursuant to~~ ss. 343.30(1q)(d) and 343.305(10)(d), Stats., a driver safety plan, ~~including amendments and followup, cannot be for more than one year from the beginning date to the ending date of the plan.~~ shall include a termination date consistent with the plan which shall not extend beyond one year of the date of assessment or reassessment.

(4) If the department does not receive a report of compliance with the order to obtain an assessment within 60 days from the date of an OWI ~~conviction or revocation for improper refusal~~ or if the department receives information that the court has not ordered an assessment, the department shall order an assessment under s. 343.30(1q)(f) or 343.305(10)(f), Stats., and the person shall have ~~30~~ 45 days to provide notification of compliance with assessment order or the license

person's operating privilege shall be canceled, denied or suspended as provided in s. Trans 107.08(1).

(6) If convicted of an amended charge, or the charge is dismissed, appealed or vacated prior to completion of a voluntary, department or court ordered assessment, compliance with the assessment order shall not be required. If the person has already completed an assessment, the person shall be required to comply with the driver safety plan if the assessment findings meet the criteria for ~~license~~ operating privilege denial or cancellation under s. Trans 107.08(1)(g).

SECTION 25. Trans 107.08(1)(intro.) is repealed.

SECTION 26. Trans 107.08(1)(b), (e) to (h) are amended to read:

Trans 107.08(1)(b) When a person has one OWI arrest in 12 months and there is an assessment report, final report, medical report, or combination of ~~;~~ reports on file with the department within the previous 2 years identifying chemical abuse or dependency and recommending no further involvement with chemicals, the person shall be immediately referred for assessment and the person's operating privilege shall be denied or canceled until the conditions in sub. (2)(b) have been met.

(e) When a person has 2 OWI arrests in 12 months with ~~a blood~~ an alcohol ~~content~~ concentration of .20 or above in at least one of the arrests, and the person has had an OWI conviction or implied consent revocation within the past 2 years, the person shall be immediately referred for assessment and the person's operating privilege shall be denied or canceled until the conditions in sub. (2)(b) have been met.

(f) When a person has 2 OWI arrests in 12 months with ~~a blood~~ an alcohol ~~content~~ concentration of .20 or above in at least one of the arrests, and there is an assessment report, driver safety plan final report, medical report, or combination of ~~;~~ reports on file with the department within the past 2 years identifying possible chemical abuse or dependency, the person

shall be referred for immediate assessment and the operating privilege shall be denied or canceled until the conditions in sub. (2)(b) or (c) have been met.

(g) ~~When, under s. 343.06(4), Stats., the findings of an assessment, information from a medical report, or other information in the file, or a combination of thereof, indicate that the person's chemical use dependency may affect his or her driving ability, the person's operating privilege shall be denied or canceled under s. 343.06(1)(d), Stats., until the conditions in sub. (2)(b) or (c) have been met. For purposes of this paragraph, the types of information considered are those described in s. Trans 107.04.~~

~~**NOTE:** The following is an illustration of licensing actions in accordance with s. Trans 107.08(1)(a) to (f).~~

~~**NOTE:** See s. Trans 107.08(1)(L) regarding cancellation for noncompliance with a driver safety plan.~~

~~(h) Under ss. 343.06(4), or 343.16(2)(a), Stats., failure When a person fails to obtain an assessment as directed by the department, comply with the recommended ~~rehabilitation or driver safety plan~~, or submit the required medical report shall result in denial or cancellation of all licenses, including an occupational or limited chauffeur license, the person's operating privilege shall be denied, canceled or suspended under s. 343.06(1)(d) or 343.16(5), Stats., until the department is notified of compliance. ~~An arrest for OWI after an assessment and prior to completion of a rehabilitation or driver safety plan shall be considered as noncompliance by the department and shall result in denial, cancellation, or suspension of all licenses.~~~~

SECTION 27. Trans 107.08(1)(hm) is created to read:

Trans 107.08(1)(hm) When a person has an OWI arrest after an assessment and prior to completion of a driver safety plan, the person shall be considered in noncompliance by the department and the person's operating privilege shall be denied, cancelled or suspended.

SECTION 28. Trans 107.08(1)(i) is amended to read:

Trans 107.08(i) ~~Under s. 343.25(7), Stats., failure~~ When a person fails to attend the interview scheduled according to s. Trans 107.06(1) shall result in denial or cancellation of the operating privilege. , the person's operating privilege shall be denied or cancelled.

SECTION 29. Trans 107.08(1)(j) and (k) are repealed and recreated to read:

Trans 107.08(1)(j) Pursuant to ss. 343.16(5), 343.30(1q)(c)1m or (d), or s. 343.305(10)(d), Stats., the department shall suspend a person's operating privilege for noncompliance until such time as the person is eligible for reinstatement under sub. (2), and may not issue an occupational license to the person, under any of the following conditions:

1. The person fails to comply with a court ordered or department ordered assessment.
2. The person fails to timely pay an assessment fee or any installment of an assessment fee resulting from a court ordered assessment.
3. The person fails to timely pay an assessment fee or any installment of an assessment fee resulting from a department ordered or voluntary assessment if the driver has been convicted of an offense for which assessment is mandatory.
4. The person has an OWI arrest after an assessment and prior to completion of a driver safety plan.
5. The department receives a noncompliance report from a county department, a traffic safety school approved under s. 345.60, Stats., or a program in another state.

(k) The department shall cancel an occupational license and may not issue a license to any person who has 2 or more prior OWIs and who fails to comply with a driver safety plan.

NOTE: Authority: s. 343.10(2)(e), Stats., eff. January 1, 1993.

SECTION 30. Trans 107.08(1)(L) to (o) are created to read:

(L) The department shall cancel the operating privilege of any person who meets the criteria of s. Trans 107.08(1)(g) and who fails to comply with a driver safety plan.

(m) The department shall deny, cancel or suspend the operating privilege of any person who has an OWI arrest after submitting to a voluntary assessment and prior to completion of the driver safety plan resulting from that assessment.

(n) The department may not deny, cancel or suspend the operating privilege of the following:

1. A person who submits to a department ordered or voluntary assessment and who does not pay the assessment fee, unless the person is convicted of an offense for which assessment is mandatory.

2. A person for noncompliance based upon a report of failure to pay the driver safety plan fees.

NOTE: After conviction, failure to pay assessment fees will result in suspension under s. Trans 107.08(1)(j)3.

(o) When the court or department has ordered an occupational license, but because of requirements in ss. 343.10(1), (2)(e), (5)(a)2 or (10), 343.30(lq)(b), 343.305(10)(b), 343.31(3m) or 343.35(1), Stats., or ch. Trans 117, the person is not eligible for licensing, the occupational license shall be denied.

SECTION 31. Trans 107.08(2)(a), (c), (d) and (f) are amended to read:

Trans 107.08(2)(a) When the person has received inpatient treatment and the hospitalization certificate shows satisfactory release, or there is verification of participation or satisfactory completion in another treatment program approved under s. 51.42 or 51.45, Stats., and there is no evidence from a medical report or assessment of chemical abuse since treatment, and there has been no OWI or OWI arrest, ~~conviction or improper refusal revocation~~ within the past 2 years.

(c) ~~When~~ If the reason for the denial, cancellation, suspension or revocation of the person's operating privilege was not an assessment, and a medical report submitted by the person's personal physician indicates the person is receiving, or has received, adequate treatment for chemical abuse or dependency, and the person has responded favorably to the treatment and is no longer abusing chemicals.

(d) When a new driver safety plan is received after the person has an OWI conviction that occurs while the person is suspended or canceled for noncompliance as a result of pars. (1), ~~(b)~~, ~~(c)~~, (d), (e) ~~or~~ (f) or ~~(hm)~~.

(f) When a ~~treatment facility~~ program in another state submits a report showing the person ~~has completed or is in compliance with an assessment or a program~~ been examined for chemical abuse or dependency and has followed a recommended program of education or treatment established to meet the requirements of the ~~that~~ other state.

SECTION 32. Trans 107.08(3) is repealed and recreated to read:

Trans 107.08(3) REFUSAL, PERSONS UNDER AGE 19. If a person less than 19 years of age refuses to submit to chemical tests upon arrest for a violation of s. 346.63(2m) or a local ordinance or a law of a federally-recognized American Indian tribe or band in this state in conformity therewith, the person is eligible for an occupational license under s. 343.10, Stats., after the first 15 days of the revocation period. The person shall not be required to comply with any assessment or driver safety plan for the refusal.

NOTE: s. 343.63(2m), Stats., requires absolute sobriety of drivers less than 19 years of age.
s. 343.305(10)(em), Stats., provides for a 15-day occupational license waiting period.

SECTION 33. Trans 107.08(6) is amended to read:

Trans 107.08(6) RECORD RETENTION. Computer records of suspension for noncompliance with assessment or driver safety plan ~~are~~ shall be maintained by the department

at least 5 years or until the person whose operating privilege is suspended is in compliance, whichever is greater.

NOTE: Nothing herein requires the department to purge a record at any time.

SECTION 34. Trans 107.09(4)(a)(intro.), 1 to 4, NOTE, (b)(intro.) and 1 to 4 are amended to read:

Trans 107.09(4)(a) The diagnostic or certainty level of symptoms identified on the assessment report of physiological, behavioral, psychological, or attitudinal symptoms, or a combination of symptoms, do not support the assessment findings ~~recommended~~ made by the assessor on the forms provided by the department of health and social services as follows:

1. When one or more level 1 indicators of physiological dependency from the major criteria ~~in track I (indicators 32-35)~~ are present, AN ASSESSMENT FINDING OF ALCOHOL CHEMICAL DEPENDENCY IS APPROPRIATE, or

2. When one or more level 1 indicators of psychological and attitudinal or behavioral dependency from the minor and major criteria ~~in track II (indicators 28 and 29)~~ are present along with any 3 or more level 2 indicators, AN ASSESSMENT FINDING OF ALCOHOL CHEMICAL DEPENDENCY IS APPROPRIATE, or

3. When 5 or more level 2 indicators of psychological, attitudinal, physiological, and behavioral indicators from the minor or major criteria ~~in track II~~ are present but overall evidence is not conclusive, AN ASSESSMENT FINDING OF SUSPECTED ALCOHOL CHEMICAL DEPENDENCY IS APPROPRIATE, or

4. When there is insufficient evidence for a progressive pattern of ~~abusive drinking~~ chemical dependency (that is, in the absence of level 1 indicators, fewer than 5 level 2 indicators, or any number of level 3 indicators) or the only evidence ~~was a conviction for~~ of

chemical abuse is an OWI, AN ASSESSMENT FINDING OF IRRESPONSIBLE USE OF ALCOHOL CHEMICAL ABUSE IS APPROPRIATE.

NOTE: Department of Health and Social Services Form forms DSC 753 and 756. Chemical abuse is described as "Irresponsible Use of Chemicals" on DSC 753 and 756.

(b)(intro.) The diagnostic or certainty levels support the findings as described in sub. (1), but the findings do not support the driver safety plan as follows:

1. A finding of ~~irresponsible use~~ chemical abuse does not support in-patient treatment or extensive out-patient treatment.
2. A finding of suspected alcohol dependency does not support in-patient treatment.
3. A finding of ~~irresponsible use~~ chemical abuse does support educational program recommendations.
4. A finding of suspected ~~alcohol~~ chemical dependency does support out-patient treatment or a combination of education and out-patient treatment.

SECTION 35. Trans 107.09(4)(d) is created to read:

Trans 107.09(4)(d) It is a program in another state that does not meet the standards of sub. (9).

SECTION 36. Trans 107.09(7) and (9) are amended to read:

Trans 107.09(7) When the driver safety plan is found to be inappropriate by the department or a court, the person shall be ~~requested~~ required to furnish the department with another assessment and driver safety plan within 30 days under s. 343.30(1q)(d), or 343.305(10)(d), Stats.

(9) ~~A Driver driver safety plans plan recommending treatment in other states are another state is acceptable if approved by the 51.42 board.~~ county department or another state's program,

it includes an examination of the driver's chemical abuse or dependency level, and it recommends an individualized plan or a program of education or treatment.

SECTION 37. Trans 107.10(1) is amended to read:

Trans 107.10 REVIEW BOARDS. (1) If the decision to deny or cancel operating privileges is based in part on the results of a special examination and a medical report involving chemical abuse or dependency under s. ~~343.16(2)~~ 343.16(5), Stats., a person may request an appearance before a review board, or a review by a board of the information on file with the department.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 13 day of April, 1993.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

RECEIVED

APR 15 1993

Revisor of Statutes
Bureau



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

April 14, 1993

RECEIVED

APR 15 1993

Revisor of Statutes
Bureau

Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703

RE: **CLEARINGHOUSE RULE 92-144**

In the Matter of the Adoption of **TRANS 107**, Wisconsin Administrative Code, relating to **driver licensing of persons who have chemical abuse or chemical dependency problems.**

Dear Mr. Poulson:

Gary
Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 92-144**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

Julie A. Johnson
Julie A. Johnson
Paralegal

Enclosures

cc: Tom Walker
Dorothy Kapke
Jim McDonnell
Roger Cross
Wes Geringer
Rick Kleist