

Chapter HFS 62

ASSESSMENT OF DRIVERS WITH ALCOHOL OR CONTROLLED SUBSTANCE PROBLEMS

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Note: Chapter HSS 62 was renumbered Chapter HFS 62 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1996, No. 487; **Chapter HFS 62 as it existed on November 30, 2006, was repealed and a new chapter HFS 62 was created, effective December 1, 2006.**

HFS 62.01 Authority and purpose. (1) This chapter is promulgated under the authority of ss. 343.30 (1q) (c) 2. and 343.305 (10) (c) 2., Stats., to establish standards for assessment and driver safety plans for persons who operate a motor vehicle while under the influence of intoxicants or other drugs and who voluntarily, or by court order or by order of the Wisconsin department of transportation undergo an intoxicated driver assessment and complete a driver safety plan.

(2) The intent of this chapter is to engage the intoxicated driving client in assessment, education, and treatment services that address the client's inclination to drive under the influence and their substance use problems so that the client may regain safe driving capability.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.02 Applicability. This chapter applies to the department, county human service boards, intoxicated driver assessment facilities, driver safety plan providers, and individuals who voluntarily or by order of a court or by order of the Wisconsin department of transportation undergo an intoxicated driver assessment and complete a driver safety plan.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.03 Definitions. In this chapter:

(1) "Alternative education" means the traffic safety instruction provided under s. HFS 75.16 (5) that is designed to meet the goals of a group dynamic traffic safety program or a multiple offender traffic safety program for clients that cannot be accommodated by a group dynamic traffic safety program or a multiple offender traffic program.

(2) "Approved private treatment facility" has the meaning given in s. 51.45 (2) (b), Stats.

(3) "Approved public treatment facility" has the meaning given in s. 51.45 (2) (c), Stats.

(4) "Board" means a county human service board established under s. 46.23, Stats., or a county community programs board established under s. 51.42, Stats.

(5) "Client" means a person who is undergoing an intoxicated driver assessment or who is receiving treatment or education under a driver safety plan.

(6) "Controlled substance" has the meaning given in s. 961.01 (4), Stats.

(7) "Controlled substance analog" has the meaning given in s. 961.01 (4m), Stats.

(8) "Department" means the department of health and family services.

(9) "Dependency" means the use of alcohol, a controlled substance, controlled substance analog, or other drug, to the extent

that it interferes with a user's physical or mental health or social or economic functioning.

(10) "Designated coordinator" means a person appointed by a board under s. HFS 62.04 (5) who has completed the driver assessment training described under s. HFS 62.05 (3), and who is knowledgeable in the psychopharmacology of substances, addiction and addiction treatment, and sentencing and other procedures relating to violations of ss. 343.305 (3), 346.63, 940.09, or 940.25, Stats.

(11) "Driver safety plan" means an individualized plan that specifies recommended treatment, education, other services, or a combination of these, directed toward reducing a client's inclination to drive under the influence of alcohol, a controlled substance, or controlled substance analog.

(12) "Driver safety plan provider" or "plan provider" means any one of the following:

(a) An approved public treatment facility or an approved private treatment facility certified by the department under ch. HFS 75 to provide substance abuse services or a comparable agency lawfully established for that purpose in another state.

(b) A traffic safety school under ch. Trans 106 or comparable school established as a traffic safety school in another state.

(c) A substance abuse treatment program administered by the federal veterans administration that is accredited by the joint commission on the accreditation of health organizations or another nationally recognized health care accrediting body.

(13) "Drug" has the meaning given under s. 961.01 (11), Stats.

(14) "Group dynamics traffic safety program" has the meaning given in s. Trans 106.02 (6).

Note: Section Trans 106.02 (6) defines "group dynamics traffic safety program" as a course that is approved by the department of transportation under s. 345.60, Stats., that encourages students to examine their chemical use habits, discuss their chemical use and their driving behavior and formulate an alternative life style which would improve their ability to safely operate a motor vehicle.

Note: For the purposes and use in this chapter, chemical is interpreted to have the same meaning as substance.

(15) "Interagency program for the intoxicated driver committee" or "IPID committee" means a collection of agency and organization representatives appointed by a board to guide the development and implementation of the intoxicated driver program.

(16) "Intoxicated driver assessment" or "assessment" means an examination of a client's use of alcohol; a controlled substance; or a controlled substance analog by an intoxicated driver assessor.

(17) "Intoxicated driver assessment facility" or "assessment facility" means an approved private treatment facility or an approved public treatment facility that is certified under s. HFS 75.13 as an outpatient treatment service or s. HFS 75.16 as an intervention service and designated under s. HFS 62.04 (1) by a board to conduct intoxicated driver assessments.

(18) "Intoxicated driver assessor" or "assessor" means a person who is employed by or under contract with an assessment facility to conduct intoxicated driver assessments.

(19) "Local traffic safety school coordinator" means an individual appointed by the Wisconsin technical college district to oversee traffic safety school programs.

(20) "Multiple offender traffic safety program" has the meaning given in s. Trans 106.02 (8).

Note: Section Trans 106.02 (8) defines "multiple offender traffic safety program" as a course that is approved by the department of transportation under s. 345.60, Stats., that encourages students who have multiple traffic offenses involving chemical use to examine their chemical use habits, discuss their chemical use and their driving behavior and formulate an alternative life style which would improve their ability to safely operate a motor vehicle.

Note: For the purposes and use in this chapter, chemical is interpreted to have the same meaning as substance.

(21) "Substance" means alcohol, a psychoactive agent, or chemical that principally affects the central nervous system and alters mood or behavior.

(22) "Substance abuse" means use of alcohol or other drugs individually or in combination in a manner that interferes with functioning.

(23) "Traffic safety school" means all of the following:

(a) A group dynamics traffic safety program certified under s. Trans 106.02 (6).

(b) A multiple offender traffic safety program certified under s. Trans 106.02 (8).

(24) "Treatment" means the planned provision of services under ss. HFS 75.05 to 75.15 that are sensitive and responsive to a client's age, disability, if any, gender and culture that are conducted under clinical supervision to assist the client through the process of recovery.

Note: Treatment functions include screening, application of approved placement criteria, intake, orientation, assessment, individualized treatment planning, intervention, individual or group and family counseling, medication management, referral discharge planning, after care or continuing care, recordkeeping, consultation with other professionals regarding the client's treatment, recovery, or case management, and may include crisis intervention, client education, vocational assistance and problem resolution in life skills functioning.

(25) "Wisconsin assessment of the impaired driver" or "WAID" means the tool required for use in conducting intoxicated driver assessments.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.04 Board responsibilities for the intoxicated driver program. Pursuant to authority under s. 51.42, Stats., a board shall implement an intoxicated driver program in the board's geographic area. To implement the intoxicated driver program, the board shall do all of the following:

(1) Designate a single intoxicated driver assessment facility that meets the qualifications and standards set forth under s. HFS 62.05.

(2) Designate driver safety plan providers who provide treatment to clients.

(3) Implement written policies, procedures, and guidelines that address all of the following:

(a) Client records. Policies, procedures, and guidelines shall address all of the following:

1. Custodian of client records.

2. Confidentiality of client records. Policies, procedures, or guidelines shall be consistent with s. HFS 62.13, ch. HFS 92 and applicable state and federal laws.

3. Client record retention and disposal.

4. Transfer of client records between agencies.

(b) Collaboration with and consultation to the courts, assessment facilities, out-of-state assessment agencies, and driver safety plan providers.

(c) Fees that may be charged to clients under ch. HFS 1 and s. HFS 62.11 including notification to clients of the client's liability for fees.

(d) Client rights and appeals of assessments, driver safety plans, and reports of noncompliance.

(e) Conflict of interest guidelines.

(f) Client referrals to driver safety plan providers, to assessment facilities within the geographic area and other counties, and to out-of-state assessment agencies.

(g) Illegal discrimination by programs and staff.

(h) Training requirements.

(i) Assessments, including screening instruments and driver safety plans.

(j) Alternative education, including method for approvals.

(k) Procedures for assessments and driver safety plan services for persons referred from another board's geographic area, another state, or the Wisconsin department of corrections.

(L) Requests from assessment facilities to extend the time to conduct assessments or driver safety plans.

(4) Establish an IPID committee, if appropriate.

(5) Appoint a designated coordinator to be responsible for the intoxicated driver program on behalf of the board. The designated coordinator shall provide or arrange for all of the following:

(a) Participation in intoxicated driver program development, implementation and problem resolution.

(b) Consultation as needed to assessment facilities, driver safety plan providers, local traffic safety coordinators, clients, and the public as appropriate on board policy and procedures, requirements of this chapter, and fees.

(c) Information or assistance and consultation, to the courts which includes all of the following:

1. Informing the courts of the location, telephone number, and fees of the assessment facility.

2. Providing information about that board's assessment process that the court may use to inform adjudicated clients.

3. Making the court aware that the court's order should refer a Wisconsin resident directly to an assessment facility in the resident's county of residence, refer an individual without an established residence to the facility in the county of conviction, and refer an out-of-state resident to the facility in the county of conviction or to a Wisconsin border county facility when this is more convenient for the individual.

4. Informing the court about the use of the form MV 3632, Court Order for Intoxicated Driver Assessment and Driver Safety Plan.

Note: Form MV 3632, Court Order for Intoxicated Driver Assessment and Driver Safety Plan can be obtained by mailing or faxing a completed form DT1435 to Maps and Publications Sales, Department of Transportation, P.O. Box 7713, Madison, WI 53707-7713. Fax number 608-246-5632. Form DT1435 may be obtained at <http://www.dot.wisconsin.gov/drivers/forms/dt1435.pdf>.

5. Explaining to the court the confidential nature of reports and the need for client consent for disclosure.

(d) Facilitate an IPID committee if a committee is appointed by the board under sub. (4).

(e) Receive and maintain assessment facility and driver safety plan provider policies and procedures.

(f) Approve all of the following:

1. Screening instruments, in addition to the WAID, used by assessment facilities.

2. In conjunction with the local traffic safety school coordinator, approve driver safety plans that recommend alternative education when factors such as the client's language, developmental disability, mental illness, cognitive deficit, illiteracy, or extreme hardship are present.

3. Requests by an assessment facility under s. HFS 62.07 (1)

(a) for an extension of the time to complete the assessment and driver safety plan.

(g) Provide reports requested by the board.

(h) Train assessment facilities and driver safety plan providers on procedures of the intoxicated driver program.

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HFS 62.05 Intoxicated driver assessment facilities.

(1) GENERAL REQUIREMENTS. No agency may conduct intoxi-

cated driver assessments and develop driver safety plans unless appointed by the board as a designated intoxicated driver assessment facility under s. HFS 62.04 (1). The policies and procedures required under par. (a) shall be uniformly applied to all clients. An assessment facility shall do all of the following:

(a) Implement written policies and procedures for all of the following:

1. Client intake and orientation.
2. Maintaining client records. Policies implemented for client records shall be consistent with the policies, procedures and guidelines on confidentiality of client records created by the board under s. HFS 62.04 (3) (a) 2., ch. HFS 92, 45 CFR Part 164, Subpart E and other applicable state and federal laws.
3. Assessment and driver safety plans. Policies implemented for assessments and driver safety plans shall include a process for referring residents to appropriate plan providers and non-residents to an appropriate comparable intoxicated driver program in the person's state of residence.
4. Prohibit illegal discrimination by the program and staff.
5. Client rights and appeals process, including client notification of those rights.
6. Collaboration and correspondence with other assessment facilities, the courts, the designated coordinator, the Wisconsin department of transportation, traffic safety schools, driver safety plan providers, and clients.
7. Staff training.
8. Reporting requirements.
9. Fees.
10. Conflict of interest guidelines.
11. Quality assurance.

(b) Maintain a list of plan providers and fees policies of these providers that is updated annually.

(c) Perform other appropriate duties under this chapter as authorized by the board.

(2) STAFFING. (a) *Required staff.* 1. An assessment facility shall employ or contract with at least one intoxicated driver assessor. Each intoxicated driver assessor employed or under contract with the facility shall have successfully completed the intoxicated driver assessor training under sub. (3) and have the qualifications of one of the following professions:

- a. A substance abuse counselor as defined under s. HFS 75.02 (84) (a).
- b. A clinical supervisor as defined under s. HFS 75.02 (11).
- c. A professional as defined in s. HFS 61.06 (1) to (13).
- d. A social worker; marriage and family therapist; or professional counselor licensed under ch. 457, Stats.

2. The department may approve the employment of individuals with lesser qualifications than those stated in subd. 1. if the assessment facility can demonstrate and document need. The department may limit the duration of any exception granted under this subdivision.

(b) *Supervision.* Competency in intoxicated driver assessment skills shall be documented through supervisor evaluations. The intoxicated driver program assessor shall be supervised by a superior who has completed the intoxicated driver assessment training required under sub. (3) and be knowledgeable in psychopharmacology of substances, addiction, and addiction treatment as evidenced by education, training, or experience.

(3) TRAINING. (a) Assessment facilities shall arrange for attendance of its intoxicated driver assessors at department-approved assessor training and other staff development training including training in local procedures provided or arranged by the designated coordinator.

(b) Each assessor shall successfully complete a minimum of 6 hours of continuing education each year. Continuing education may include formal courses awarding credits or continuing educa-

tion units, workshops, seminars, or correspondence courses in any of the following areas:

1. Psychological and socio-cultural aspects of alcohol and drug abuse.
2. Pharmacology.
3. Communication and interviewing skills.
4. Screening, intake, assessment and treatment planning.
5. Human development, abnormal behavior, mental illness, or social learning theory.
6. Motivational interviewing.
7. Brief intervention.
8. Case management.
9. Record keeping.
10. Ethics.
11. Crisis intervention.
12. Outreach.
13. Quality assurance.
14. Other topics approved by the designated coordinator or the department.

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HFS 62.06 Driver safety plan providers. In addition to complying with applicable provisions under this chapter, driver safety plan providers shall operate as follows:

(1) A driver safety plan provider who provides treatment to a client under ss. HFS 75.05 to 75.15 shall comply with the applicable provisions of ch. HFS 75.

(2) A driver safety plan provider who provides services to a client under ss. HFS 75.05 to 75.16 and this chapter shall include the intoxicated driver assessment findings and driver safety plan recommendations in their assessment and treatment planning.

(3) Traffic safety schools shall operate in accordance with applicable provisions under ch. Trans 106.

(4) Providers of alternative education shall operate in accordance with applicable provisions of this chapter and applicable provisions of s. HFS 75.13 or 75.16.

Note: Section 51.45 (8) (a), Stats., permits a board or its designee to establish reasonable higher standards for approving driver safety plan providers who provide treatment or alternative education services for intoxicated drivers.

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HFS 62.07 Assessments and driver safety plans.

(1) GENERAL ASSESSMENT AND DRIVER SAFETY PLAN PROVISIONS.

(a) The assessment facility shall complete and submit the intoxicated driver assessment and driver safety plan to the Wisconsin department of transportation; the designated coordinator; the driver safety plan provider; and the client within 14 calendar days of an order by the court or by the Wisconsin department of transportation for an assessment and driver safety plan, or voluntary submission of an individual for an assessment and driver safety plan. The assessment facility shall obtain the client's informed written consent to release information before the assessment and driver safety plan are submitted to the parties specified and ensure that the assessment findings and the driver safety plan are restricted for use only by these parties.

(b) The assessment facility and the client may make a written request to the designated coordinator for an extension of up to 20 additional working days of the time for completing and submitting an assessment and driver safety plan as required under par. (a). The designated coordinator shall notify the department of transportation upon granting an extension.

Note: The requirements for completing and distributing the assessment and driver safety plan that is set forth under par. (a), including the specified time limits, are mandated by the legislature under s. 343.30 (1q) (c) 3., Stats.

(c) Driver safety plan recommendations shall be supported by assessment findings, documented on form MV 3633, Driver Safety Plan Order, and made in accordance with the policies and procedures established by the assessment facility under s. HFS 62.05 (1) (a).

Note: Copies of form MV 3633, Driver Safety Plan Order can be obtained by mailing or faxing a completed form DT1435 to Maps and Publications Sales, Department of Transportation, P.O. Box 7713, Madison, WI 53707-7713. Fax number 608-246-5632. Form DT1435 may be obtained at <http://www.dot.wisconsin.gov/drivers/forms/dt1435.pdf>.

(d) Unless amended under sub. (7), driver safety plans shall have a termination date that is no longer than one year from the date of the client's signature on the driver safety plan.

(e) Each client shall be permitted and encouraged to participate in the development of the client's driver safety plan and selection of an appropriate plan provider.

(f) The driver safety plan shall be signed and dated by the client, stating that the client has reviewed the plan and is aware of the plan.

(g) Each driver safety plan shall designate one or more driver safety plan providers.

(h) A driver safety plan recommending treatment under sub. (5) (b) to (d) shall recommend the least restrictive treatment. The screening procedures under s. HFS 75.03 (10) may be used to develop the driver safety plan recommendation if the finding is one of the findings in sub. (4) (b) 2. to 5.

(i) Driver safety plans may include an assessor's recommendation for driver licensing action only as it relates to a client's use of alcohol or other drugs. Driver safety plans may include a recommendation for license denial until plan completion if there is a documented reason to believe the client will not participate in the driver safety plan to completion or that the client will drive while intoxicated.

(2) CONDUCTING AN ASSESSMENT. Only an intoxicated driver assessor may conduct assessments and develop driver safety plans. The assessment facility shall follow the board's procedures for registering clients and notify the client orally and in writing of all of the following before conducting an assessment:

(a) The appeal procedures under s. HFS 62.15.

(b) Applicable policies of the assessment facility.

(c) The client's liability for fees under s. HFS 62.11.

Note: Board registration procedures can be found in the board's information system manuals, handbooks and policy directives.

(3) METHOD OF ASSESSMENT. (a) The principal method for assessment shall be a personal interview with the client using the Wisconsin assessment of the impaired driver tool. The WAID may not be copied or distributed.

(b) Assessments may include information provided by other persons; review of relevant records or reports on the client; an interview using substance use disorder diagnostic criteria; an approved mental health screening tool; and additional information—gathering measures, instruments, and tests, including alcohol or drug testing, or lab tests deemed to be clinically useful and approved by the designated coordinator.

(4) ASSESSMENT FINDINGS. (a) Assessment findings shall be documented on form MV 3634, Order for Assessment and Driver Safety Plan Report, and include all of the following:

1. The applicable assessment finding as specified in par. (b) and a description of the information and WAID criteria that support the finding.

2. A description of the evaluation instruments applied during the assessments.

3. A description of any supplemental information obtained during the assessment.

(b) Assessment findings shall be any one of the following:

1. Irresponsible use of alcohol, controlled substance, controlled substance analog, or other drug.

2. Irresponsible use—borderline of alcohol, controlled substance, controlled substance analog, or other drug.

3. Suspected alcohol, controlled substance, controlled substance analog, or other drug dependency.

4. Alcohol, controlled substance, controlled substance analog or other drug dependency.

5. Alcohol, controlled substance, controlled substance analog or other drug dependency in remission.

Note: Copies of form MV 3634, Order for Assessment and Driver Safety Plan Report can be obtained by mailing or faxing a completed form DT1435 to Maps and Publications Sales, Department of Transportation, P.O. Box 7713, Madison, WI 53707-7713. Fax number 608-246-5632. Form DT1435 may be obtained at <http://www.dot.wisconsin.gov/drivers/forms/dt1435.pdf>.

(5) DRIVER SAFETY PLAN RECOMMENDATIONS. (a) *Traffic safety education recommendations.* 1. 'Finding of irresponsible use'. If an assessment finding for a client is irresponsible use of alcohol, a controlled substance, a controlled substance analog, or other drug, the driver safety plan recommendation shall be any one of the following:

a. Group dynamic traffic safety program, if the assessment is for a first offense.

b. Multiple offender traffic safety program, if the assessment is for a second offense.

c. Alternative education. Alternative education driver safety plan recommendations shall have the prior approval of the local traffic safety school coordinator and the designated coordinator in the client's county of residence. If alternative education is approved for a client who does not have a language barrier, literacy barrier, developmental disability, mental illness, or cognitive deficit, the alternative education program shall be comparable to the appropriate group dynamic traffic safety program or multiple offender traffic safety program as it pertains to purpose, content, instructor qualifications, and hours as prescribed under s. HFS 75.16 (5). If the traffic safety school coordinator and the designated coordinator disagree regarding a referral to alternative education, the designated coordinator shall make a written request to the department for mediation.

Note: A request for mediation should be sent to Department of Health and Family Services, Division of Disability and Elder Services, Bureau of Mental Health and Substance Abuse Services, IDP Coordinator, 1 West Wilson Street, P.O. Box 7851, Madison, WI 53707-7851.

2. 'Finding of irresponsible use—borderline'. If the assessment finding for a client is irresponsible use—borderline of alcohol, a controlled substance, controlled substance analog, or other drug, the driver safety plan recommendation may be any one of the following:

a. Group dynamic traffic safety program, if the assessment is for a first offense.

b. Multiple offender traffic safety program, if the assessment is for a second offense.

c. Alternative education. Driver safety plans recommending alternative education shall be approved by the local traffic safety school coordinator and the designated coordinator in the client's county of residence. If alternative education is approved for a client who does not have a language barrier, literacy barrier, developmental disability, mental illness, or cognitive deficit, the alternative education program shall be comparable to the appropriate group dynamic traffic safety program or multiple offender traffic safety program as it pertains to purpose, content, instructor qualifications, and hours as prescribed under s. HFS 75.16 (5). If the traffic safety school coordinator and the designated coordinator disagree regarding a referral to alternative education, the designated coordinator shall make a written request to the department for mediation.

Note: A request for mediation should be sent to Department of Health and Family Services, Division of Disability and Elder Services, Bureau of Mental Health and Substance Abuse Services, IDP Coordinator, 1 West Wilson Street, P.O. Box 7851, Madison, WI 53707-7851.

(b) *Treatment and other service recommendations.* 1. 'Finding of irresponsible use—borderline'. If the assessment finding for a client is irresponsible use—borderline of alcohol, a controlled substance, controlled substance analog, or other drug, the driver safety plan may recommend short-term outpatient substance abuse treatment under s. HFS 75.13.

2. 'Finding of suspected dependency'. If the assessment finding for a client is suspected alcohol, controlled substance, controlled substance analog, or other drug dependency, the driver

safety plan shall recommend substance abuse treatment that does not include residential or inpatient services under s. HFS 75.10, 75.11, or 75.14.

3. 'Finding of dependency'. If the assessment finding for a client is alcohol, controlled substance, controlled substance analog, or other drug dependency, the driver safety plan shall recommend substance abuse treatment under ss. HFS 75.10 to 75.15. If residential or inpatient services are recommended, the residential or inpatient services may not exceed 30 days.

4. 'Finding of dependency in remission'. If the assessment finding for a client is suspected alcohol, controlled substance, controlled substance analog, or other drug dependency in remission, the driver safety plan shall recommend substance abuse treatment.

(c) *Recommendations for traffic safety school and treatment.* A driver safety plan may recommend a combination of traffic safety school and treatment for assessment findings specified under sub. (4) (b) 2. to 5.

(d) *Other recommendations.* In addition to the recommendations under pars. (a) to (c), a driver safety plan may recommend any of the following:

1. Victim impact panel involvement. "Victim impact panel" means a component of a driver safety plan that is designed to create awareness in the client of the effects of his or her offense on a victim and the victim's family.

2. Case management as described under s. HFS 75.16 (6) if a treatment service is also recommended.

3. Intensive supervision as described under s. HFS 75.16 (7) if a treatment service is also recommended.

4. Mental health or psychiatric evaluation or services. Mental health or psychiatric evaluation or services recommendations shall have the prior authorization of a licensed psychiatrist, psychologist, clinical social worker, marriage and family therapist, professional counselor, or a master's level psychiatric advanced practice nurse.

5. Follow-up interviews with the assessment facility for clients who may need to be re-evaluated because of the validity of the client's responses during the initial assessment, the adequacy of a client's driver safety plan, or a driver safety plan recommendation for reassessment.

(6) **REFERRALS.** (a) *Information to the client.* Before a client is referred to a plan provider, the assessment facility shall do all of the following:

1. Give the client a list of approved driver safety plan providers that are located in the geographic area served by the board to assist the client in choosing a plan provider. The client shall be asked to acknowledge in writing that the client has been given information about approved driver safety plan providers.

2. Give the client information about the client's responsibilities under s. HFS 62.10 and the fee information for assessment and driver safety plan programs under s. HFS 62.11.

3. Ensure that the assessment findings and the driver safety plan information that will be distributed to a plan provider is the same information distributed to the client.

(b) *Non-resident drivers.* Clients who are non-residents of Wisconsin shall be referred to a comparable intoxicated driver assessment and driver safety plan program in the person's state of residence. The client shall request that the assessment agency in the client's state of residence furnish verification of compliance with the assessment to the Wisconsin department of transportation within 60 days after the date of conviction. The client shall have up to one year after the date of their original assessment to comply with the driver safety plan, unless an extension is requested under sub. (7) (c).

(c) *Notification to plan providers.* When a client is referred to a driver safety plan provider, the assessment facility shall do all of the following:

1. Provide a copy of the assessment findings and driver safety plan to each plan provider designated under the driver safety plan.

2. If the driver safety plan provider provides a treatment service under ss. HFS 75.10 to 75.15, the plan provider shall be notified of all of the following:

a. That the client is to be evaluated so that the client's treatment plan may be individualized as directed by s. 51.45 (9) (d), Stats., and s. HFS 75.03 (13).

b. That the use of self-help groups such as Alcoholics Anonymous, Narcotics Anonymous or Women for Sobriety are permitted to supplement the individualized treatment plan services for clients with assessment findings listed under sub. (4) (b) 3. to 5. Participation in any one of these activities may not be a required element of an individualized treatment plan, nor may lack of participation be used as a basis for filing a noncompliance report.

c. The process under which the driver safety plan may be updated or amended.

(7) **DRIVER SAFETY PLAN AMENDMENTS.** (a) A driver safety plan may be amended within the one year driver safety plan time period under any one of the following circumstances:

1. The assessment facility, a plan provider, or an ignition interlock device report identifies additional information that may warrant a reassessment or additional driver safety plan services.

2. An individualized treatment plan becomes substantially different from the driver safety plan.

3. The driver safety plan is not completed within the one-year driver safety plan time period and an extension is granted by the Wisconsin department of transportation.

Note: Section 340.01 (23v), Stats., defines "ignition interlock device" as a device which measures the person's alcohol concentration and which is installed on a vehicle in such a manner that the vehicle will not start if the sample shows that the person has a prohibited alcohol concentration.

(b) Amended plans require informed written client consent to release information. A client may appeal under s. HFS 62.15 if the client disagrees with the amended plan.

(c) Amended plans must stay within the one year driver safety plan time period from the original assessment unless an extension has been granted by the Wisconsin department of transportation. An extension of the one year driver safety plan period shall be requested by the assessment facility before expiration of the client's one year driver safety plan period.

(d) If one year has lapsed since the original assessment and the driver safety plan is not completed, a reassessment of the client shall be conducted and a new driver safety plan period, not to exceed one year, begins with the reassessment.

(e) Amended assessment and driver safety plan reports shall be submitted to the parties listed under sub. (1) (b).

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.08 Compliance and noncompliance reporting for assessments. (1) The assessment facility shall report a client's compliance or noncompliance with an assessment to the Wisconsin department of transportation and the client, using form MV 3631, Driver Safety Plan Report.

Note: Form MV 3631, Driver Safety Plan Report can be obtained by mailing or faxing a completed form DT1435 to Maps and Publications Sales, Department of Transportation, P.O. Box 7713, Madison, WI 53707-7713. Fax number 608-246-5632. Form DT1435 may be obtained at <http://www.dot.wisconsin.gov/drivers/forms/dt1435.pdf>.

(2) The assessment facility shall notify the client of their status of noncompliance with an assessment at least 5 working days before submission of the final report to the Wisconsin department of transportation. The notice shall specify how the client did not comply.

(3) The report required under sub. (1) shall be a report of non-compliance if any of the following circumstances occur:

(a) The client does not register with the assessment facility within 72 hours after the date of an order by a court or by the Wisconsin department of transportation.

- (b) The client does not appear for a scheduled assessment.
- (c) The client does not give informed written consent to release information.
- (d) The client does not provide sufficient information to complete the WAID or allow any collateral contacts to verify unclear areas, thus preventing completion of a competent assessment.
- (e) The client does not pay for the assessment.
- (f) The client does not complete the assessment within 14 days after the court order or Wisconsin department of transportation order or within an approved request for an extension made under s. HFS 62.07 (1) (a).

(4) The designated coordinator or board-designated staff may approve submission of a noncompliance report to the department of transportation during an appeal process under s. HFS 62.15 (1) only if there is documented evidence that the client's use of alcohol, controlled substances, or any combination of alcohol and drugs is an impediment to the client's safe driving capability.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.09 Compliance and non compliance reporting for driver safety plans. (1) The assessment facility shall report a client's compliance or noncompliance with a driver safety plan to the Wisconsin department of transportation; the driver safety plan provider; and the client using form MV3631, Driver Safety Plan Report. A report of a client's compliance or noncompliance with a driver safety plan may not be further distributed.

Note: Form MV 3631, Driver Safety Plan Report can be obtained by mailing or faxing a completed form DT1435 to Maps and Publications Sales, Department of Transportation, P.O. Box 7713, Madison, WI 53707-7713. Fax number 608-246-5632. Form DT1435 may be obtained at <http://www.dot.wisconsin.gov/drivers/forms/dt1435.pdf>.

(2) The assessment facility shall notify the client of their status of noncompliance with a driver safety plan at least 5 working days before submission of the final report to the Wisconsin department of transportation. The notice shall specify how the client did not comply.

(3) Except for participation in self-help groups, the report submitted by the assessment facility under sub. (1) shall be a report of noncompliance if any of the following circumstances occur:

- (a) The client does not give written consent to the driver safety plan.
- (b) The client does not register with the driver safety plan provider within 3 working days after the assessment or does not participate within a reasonable period of time.
- (c) The client does not accept driver safety plan programs by not attending or not cooperating.
- (d) The client does not show reasonable progress in completing the driver safety plan according to the goals set out in the individualized treatment plan or the criteria for successful completion of an alternative education program.
- (e) The client does not complete the driver safety plan within the documented driver safety plan period and no later than one year after the original assessment, or reassessment, or an extension granted by the Wisconsin department of transportation.
- (f) The client does not pay the driver safety plan fee required under s. HFS 62.11.

(4) The designated coordinator or department-designated staff may approve submission of a noncompliance report to the Wisconsin department of transportation during an appeal process under s. HFS 62.15 (2) only if there is documented evidence that the client's use of alcohol, controlled substances, or any combination of alcohol and drugs is an impediment to the client's safe driving capability.

(5) Driver safety plan providers that are not traffic safety schools shall report a client's progress to the referring assessment facility and the client on a form provided by the assessment facility.

(6) For driver safety plans recommending only traffic safety school, the traffic safety school shall submit the reports of compliance and noncompliance to the Wisconsin department of transportation; the referring assessment facility; and the client. The report's use shall be restricted to these parties.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.10 Client responsibilities. (1) An individual who has been ordered by the court or by the Wisconsin department of transportation for an assessment and driver safety plan shall register with the assessment facility within 72 hours after the date of the court order or order of the Wisconsin department of transportation.

(2) The client shall register with the driver safety plan provider within 3 working days after the date of the client's signature on the driver safety plan.

(3) (a) The client shall pay the fees required by an assessment facility and driver safety plan provider.

(b) If a client elects to receive driver safety plan services from a plan provider other than a driver safety plan provider designated to serve the board's geographic area under s. HFS 62.04 (1) and (2), the client is responsible for the full cost of services.

(4) If a driver safety plan is being developed for a client who voluntarily submitted for an assessment prior to conviction and the assessment finding is one of the findings that is described in s. HFS 62.07 (4) (b) 3. to 5., the client shall comply with the recommended driver safety plan.

(5) Wisconsin residents convicted of driving under the influence in another state shall comply with the assessment and driver safety plan requirements of the state or jurisdiction of conviction provided the requirements are comparable to the requirements set forth in this chapter.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.11 Fees. (1) A client is required to pay a reasonable fee for an assessment or driver safety plan program to the appropriate agency. A client may be allowed to pay the assessment fee in 1, 2, 3, or 4 equal installments before an assessment is conducted. The fee for driver safety plan programs may be reduced or waived if the person is unable to pay the entire fee, but no fee for assessment, attendance at a traffic safety school or attendance at an alternative education program may be reduced or waived.

(2) Each client shall be informed of the fee policies of each assessment facility and each driver safety plan provider. Information provided to the client shall include whether the client is liable for the full cost of the services or whether the client may be eligible for reduced costs according to the client's ability to pay and the conditions of eligibility for reduced fees.

Note: Nothing in this chapter prevents an assessment facility from charging reasonable fees to recoup costs.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.12 Conflict of interest guidelines. (1) (a) An assessment facility may not also be a client's driver safety plan provider unless at least one of the following conditions applies:

1. The board operates or contracts for both assessment and treatment programming from the same agency and there are limited resources in the area.

2. The board does not thereby duplicate or support duplication of established and approved programs.

3. The board would be forced to dismantle existing programming or fire personnel to effect separate facilities.

4. The board desires to support client choice and not exclude any provider.

(b) Paragraph (a) does not prohibit development of programming where appropriate programming is not available.

(2) An assessment facility that provides both assessment and driver safety plan services shall give each client a list of driver

safety plan providers in compliance with s. HFS 62.07 (6) (a) and (b).

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.13 Confidentiality of client records.

(1) CONFIDENTIALITY. Confidentiality of clients' records shall be consistent with all applicable state and federal laws.

(2) INFORMED CONSENT. No assessment or driver safety plan, compliance report or any other report related to a client may be shared with a court without the informed, written consent of the client.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.14 Client rights. (1) Any client may file a grievance under ch. HFS 94 or s. 51.61, Stats., if the client believes that the client rights specified under ch. HFS 94 or s. 51.61, Stats., have been violated.

(2) If a client files a grievance under ch. HFS 94 or s. 51.61, Stats., the grievance review and resolution process does not change the timelines or reports of compliance or noncompliance specified in s. HFS 62.07, 62.08, or 62.09 to complete the assessment and driver safety plan and the department of transportation notification of compliance or noncompliance.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.15 Appeals. (1) APPEALS DURING ASSESSMENT AND DEVELOPMENT OF THE DRIVER SAFETY PLAN RECOMMENDATION.

(a) A client who does not agree with an assessment finding or with driver safety plan recommendations is encouraged to discuss the assessment findings and recommended plan with the client's assessor at any time during the assessment process to provide additional information or clarification. If disagreement still exists, the client may appeal the assessment findings or driver safety plan to the director of the assessment facility or designee or if the assessment facility is a board, to the designated coordinator, in writing within 5 working days of receipt of the assessment finding and driver safety plan. If the director, designee or designated coordinator determines that the assessment findings and driver safety plan are substantially correct, the client shall be given written notification that the client may appeal the determination to the board within 5 working days of receipt of the determination.

(b) The client shall be informed of the client's right to undergo another assessment at another assessment facility at his or her own expense. The client shall be informed that the designated coordinator or designee of the county of residence will review the results of the alternate assessment and determine the assessment finding and driver safety plan recommendation within 5 working days after receiving the information. If the client chooses to undergo another assessment, the original assessment facility shall obtain releases and forward the assessment findings and driver safety plan recommendations, and other relevant clinical information to the alternate assessment facility with instructions that the facility

not submit a report of noncompliance required under ss. HFS 62.08 and 62.09 to the Wisconsin department of transportation.

(c) Appeals shall be processed according to written agency procedures that will result in a timely, complete, and impartial review and decision.

(2) APPEALS DURING TREATMENT. (a) A client under a treatment-oriented driver safety plan who believes that the individualized treatment plan developed under s. 51.45 (9) (d), Stats., is inappropriate and refuses to consent or withdraws consent to treatment may request the client's counselor or case manager in the treatment agency to review and consider an amendment to the treatment plan. If a conflict still exists, the client may appeal to the treatment agency director or designee in writing within 5 working days of the client requested review. If the director deems it appropriate, the client may be reassigned to a different counselor or case manager.

(b) If the treatment agency director or designee determines that the individualized plan is appropriate and a revision is not warranted, the client shall be given written notice of the client's right to appeal this decision to the board of the client's county of residence within 5 working days of receipt of written notice. The client shall be informed that the designated coordinator or designee will determine whether an amendment to the individualized treatment plan is indicated. The client's records shall be reviewed according to the review procedures established by that board or the department.

(c) The assessment facility or board may seek the advice of and consult with the department for any appeal in which the client remains dissatisfied with the appeal outcome after all local appeal procedures have been completed.

(d) After all appeal procedures have been completed, the assessment facility shall submit a report of noncompliance to the department of transportation as required under s. HFS 62.09.

(e) Appeals shall be processed according to written agency procedures for the review of client treatment plan objectives, activities, and progress by the director or designee and that will result in a timely, complete, and impartial review and decision.

(3) REVIEW OF NONCOMPLIANCE REPORT. The client shall be informed that he or she may request Wisconsin department of transportation review of the noncompliance report within 10 days of license suspension or revocation.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.

HFS 62.16 Funding for services. To support the provision of services under this chapter, the department shall distribute emergency funds authorized under s. 20.435 (7) (hy), Stats., and surcharge revenues authorized under ss. 20.435 (7) (hy) and 346.655, Stats., by an allocation process developed in consultation with county representatives.

History: CR 06-035: cr. Register, November 2006, No. 611, eff. 12-1-06.