

**TITLE 10. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 162. INTOXICATED DRIVING PROGRAM**

**SUBCHAPTER 1. INTOXICATED DRIVING PROGRAM/INTOXICATED DRIVER RESOURCE CENTER**

**10:162-1.1. Purpose and scope**

The purpose of this chapter is to improve the driving behavior of individuals who have been identified as having some alcohol or drug involvement in connection with the operation of a motor vehicle or vessel. The chapter applies to all county Intoxicated Driver Resource Centers, all affiliated treatment programs, and the Department of Human Services, and all individuals convicted in New Jersey or New Jersey licensees convicted in other States of a drug or alcohol offense related to the operation of a motor vehicle or vessel after May 25, 1977 and individuals subject to N.J.A.C. 13:20-31, adopted December 15, 1972.

**10:162-1.2. Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Affiliated treatment agency" means an agency or practitioner affiliated with an Intoxicated Driver Resource Center with the approval of the Intoxicated Driving Program pursuant to *N.J.A.C. 10:162-5.3* to provide alcohol and drug treatment services for the education, rehabilitation, and treatment of clients.

"Affiliation agreement" means a written contract wherein the treatment program in consideration of being approved agrees to abide by State rules.

"Alcohol abuser" means any person who chronically, habitually, or periodically consumes alcoholic beverages to the extent that such use substantially injures his or her health or substantially interferes with his or her social or economic functioning in the community on a continuous basis, or he or she has lost the power of self-control with respect to the use of such beverages. The 1994 edition of the Diagnostic and Statistical Manual on Mental Disorders (DSM-IV) published by the American Psychiatric Association, 1400 K Street, NW, Washington, DC 20005, as amended and supplemented, incorporated herein by reference, shall be used as a guide in evaluating persons under this definition.

"Alcohol or drug related offense" means a conviction by a court of law or a finding by the Division of Motor Vehicles of operating under the influence, pursuant to *N.J.S.A. 39:4-50* et seq. or *N.J.S.A. 12:7-34.19* et seq. or *N.J.S.A. 12:7-46* et seq., or refusal to submit to a chemical test, pursuant to *N.J.S.A. 39:4-50.4(a)* et seq., or *N.J.S.A. 12:7-57* et seq., or *N.J.S.A. 39:4-50.14* et seq., *N.J.S.A. 39:3-10.24*, et seq. or *N.J.S.A. 39:4-14.3g*.

"Alcohol Safety Institute" (ASI) means the designation given to clients who have been evaluated by the Intoxicated Driver Resource Center/Intoxicated Driving Program and are not referred to treatment.

"Approved grantee" means an eligible applicant awarded a provider service contract or subcontract pursuant to N.J.A.C. 10:162-10.

"ASAM PPC 2R" means the publication of the American Society of Addiction Medicine, Inc., Chevy Chase, Maryland titled "ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition-Revised," available from ASAM Publications Distribution, PO Box 101, Annapolis Junction, MD 20701-0101, Tel: 1-800-844-8948, Fax: 301-206-9789; [www.asam.org](http://www.asam.org), which is incorporated herein by reference.

"Cancellation" means that a previous suspension has been rescinded and removed from the driver's abstract by the Division of Motor Vehicles.

"Client" means a person who has been convicted of an alcohol or drug related offense or other person who is referred or is otherwise within the jurisdiction of the Intoxicated Driving Program/Intoxicated Driver Resource Center program.

"Coordinating grantee" means an entity authorized by the Division of Addiction Services to administer the distribution of funds to approved sub-grantees or to itself to provide services and receive payment pursuant to *N.J.A.C. 10:162-6.13(c)* and (d) and 10:162-10.

"Counselor" means a person certified or licensed by the New Jersey Division of Consumer Affairs, State Board of Marriage and Family Therapy Examiners, Alcohol and Drug Counselor Committee, as required by *N.J.S.A. 45:2D-1* et seq. and *N.J.A.C. 13:34C*, or a counselor-intern pursuing certification or licensure pursuant to *N.J.A.C. 13:34C-6.2*.

"Covered treatment episode" means a course of alcohol or drug treatment, including intake evaluation conducted pursuant to *N.J.A.C. 10:162-6.1*, for which there is documentation of clinical necessity and which takes place as a result of a court order from a conviction for an alcohol or drug related offense as defined in *N.J.A.C. 10:162-1.2*, or a referral from the Intoxicated Driving Program or an Intoxicated Driver Resource Center pursuant to *N.J.A.C. 10:162-2.3*, or a course of alcohol or drug treatment, including intake, for others defined as eligible recipients.

"Detoxification" means services that are consistent with the definition of "non-hospital based (medical) detoxification" included at *N.J.A.C. 8:42A-1.3*.

"Didactic" means group education using lectures, group interaction or audio visual aids.

"Director" means the Assistant Commissioner or successor official who serves as head of the Division of Addiction Services in the Department of Human Services.

"Driving under the influence (DUI)" means any offense related to drunk driving, impaired driving, intoxicated driving, driving under the influence or driving while intoxicated, as defined in the applicable statute, or such other offenses as may require referral to an Intoxicated Driver Resource Center, and is interchangeable with the term "DWI" for the purpose of this chapter.

"Drug abuser" means a person who is using a controlled dangerous substance or other drug and who is in a state of physis or physical dependence, or both, arising from the use of that controlled substance on a continuous basis. Drug abuse is characterized by behavioral and other responses, including, but not limited to, a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence. The 1994 edition Diagnostic and Statistical Manual on Mental Disorders (DSMIV) published by the American Psychiatric Association shall be used as a guide in evaluating persons under this definition.

"Eligible applicant" means an entity qualified to administer the distribution of funds to approved sub-grantees for achieving the purpose of this chapter and/or an entity providing inpatient, intensive outpatient or outpatient treatment licensed pursuant to *N.J.S.A. 26:2H-1* et seq., and *N.J.A.C. 8:42A* et seq. or *N.J.A.C. 8:42B* or 8:43A-26 and affiliated in good standing with the Intoxicated Driver Resource centers pursuant to *N.J.S.A. 39:4-50(f)* and *N.J.A.C. 10:162-5*.

"Eligible recipient" means a person required to satisfy the requirements of the Intoxicated Driving Program and the Intoxicated Driver Resource Centers pursuant to *N.J.S.A. 39:4-50* et seq. and *N.J.A.C. 10:162-2.1*, or authorized to be referred to the Intoxicated Driving Program pursuant to *N.J.A.C. 10:162-2.3*, and who meets the criteria of eligibility established in *N.J.A.C. 10:162-6.16(c)* and priorities established in *N.J.A.C. 10:162-10.4(a)* through (d), or other person in need of alcohol or drug abuse treatment who meets the criteria of eligibility established in *N.J.A.C. 10:162-6.16(c)* and *10.4(e)*.

"First offender" means a person who is convicted once, pursuant to *N.J.S.A. 39:4-50* or *N.J.S.A. 12:7-34.19* or *N.J.S.A. 12:7-46* within the statutory time period, or is convicted of a refusal to take a chemical test in conjunction with one of the above offenses.

"First offender program" means the program administered by the county Intoxicated Driver Resource Centers for detention, evaluation, and referral for first offenders which may also be used to evaluate other offenders or referrals for evaluation. The program normally consists of six hours a day for two consecutive days for a total of 12 hours.

"48-hour program" means the IDRC program for offenders sentenced by a court to 48 consecutive hours of attendance.

"Fund" means monies deposited or accrued in the Alcohol Treatment Programs Fund pursuant to *N.J.S.A. 26:2B-9.2* et seq.

"Incapacitated" means the condition of a person who is:

1. Unconscious, as a result of the use of alcohol or drugs, or whose judgment is so impaired that the person is incapable of realizing and making a rational decision with respect to his or her need for treatment;
2. In need of substantial medical attention; or
3. Likely to suffer substantial physical harm ( *N.J.S.A. 26:2B-7*).

"Individual provider" means a person engaged in the practice of alcohol and drug counseling licensed or certified by the Alcohol and Drug Counselor Committee pursuant to P.L. 1997, c. 331, approved January 9, 1998.

"Inpatient treatment" means treatment for alcohol and/or drug dependence within a residential alcohol or drug treatment facility licensed by the Department of Human Services, Division of Addiction Services.

"Intensive outpatient treatment" means the type of treatment defined as Level II in the ASAM PPC 2R, consistent with the Standards for Licensure of Outpatient Substance Abuse Treatment Facilities (N.J.A.C. 8:43A-26 or any successor rules).

"Intoxicated" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs.

"Intoxicated Driver Resource Center" or "IRDC" means the personnel and facilities approved by the Intoxicated Driving Program that detain and determine, on the basis of an evaluation instrument and counselor evaluation and other information, the extent, if any, of a client's alcohol or drug related problem and that monitor and report on referrals to approved treatment programs.

"Intoxicated Driving Program" or "IDP" means the unit within the Division of Addiction Services responsible for administering the State post-conviction evaluation and referral program for persons convicted of alcohol or drug-related offenses.

"Multiple offender" means a client with three or more intoxicated driving related offenses.

"New law client" means those clients arrested for a violation of *N.J.S.A. 39:4-50* after October 4, 1984.

"Noncompliance" means when a client or other person who has been convicted of an alcohol or drug related offense or who is otherwise under the jurisdiction of the Intoxicated Driver Resource Center/Intoxicated Driving Program, refuses, neglects, or inadvertently fails to comply with any ordered referral or evaluation or appointment for education, evaluation, or treatment or who fails to pay the appropriate fees.

"Old law client" means those clients arrested for a violation of *N.J.S.A. 39:4-50* et seq. before October 4, 1984.

"Out of State" means an out of State resident who is convicted in New Jersey of an alcohol or drug related driving offense.

"Outpatient treatment" means the type of treatment defined as Level 1 in the ASAM PPC 2R, consistent with the Standards for Licensure of Outpatient Substance Abuse Treatment Facilities (N.J.A.C. 8:43A-26 or any successor rules).

"Recidivist" means a client who has been convicted of an alcohol or drug related driving offense and who has completed the Intoxicated Driver Resource Center/Intoxicated Driving Program or its predecessor, and who has been convicted again of an alcohol or drug related driving offense.

"Refusal offense" means a conviction under *N.J.S.A. 39:4-50.4(a)* or *N.J.S.A. 12:7-57*.

"Repeater" means a client with two alcohol or drug related offenses.

"Restoration" means driving privileges have been restored after suspension.

"Roster" means a list of clients scheduled to attend an Intoxicated Driver Resource Center.

"Second offender" means a person convicted of two offenses of *N.J.S.A. 39:4-50* or *N.J.S.A. 12:7-46* or *N.J.S.A. 12:7-34.19* within the statutory time period, or two offenses of refusal to take a chemical test under *N.J.S.A. 39:4-50.4(a)* or *N.J.S.A. 12:7-57*.

"Self-help group" means a peer support group that is of no cost to its members.

"Sub-grantee" means an entity licensed pursuant to *N.J.S.A. 26:2H-1* et seq., and *N.J.A.C. 8:42A* or *8:43A-26* or any successor rules governing the operation of substance abuse treatment facilities that provides direct treatment services as defined in this chapter to eligible recipients through a subcontract with a coordinating grantee.

"Third and subsequent offenders" means a person convicted of three or more offenses under *N.J.S.A. 39:4-50(a)(3)* or *N.J.S.A. 12:7-54(a)(3)* within the statutory period.

"Treatment" means a structured intervention into a client's drinking or drug use, care for alcohol or drug abuse or related problems.

"Z client" means a New Jersey licensed driver convicted of an alcohol or drug-related offense in another state or country who has been ordered to attend alcohol or drug abuse education, evaluation or treatment.

### **10:162-1.3. Establishment of an Intoxicated Driver Resource Center (IDRC)**

(a) Subject to the approval of the Intoxicated Driving Program, the counties shall, with its cooperation, designate or establish Intoxicated Driver Resource Centers on a county or regional basis as required by *N.J.S.A. 39:4-50(f)*. The counties may establish such a center themselves or in cooperation with other counties. The counties may either operate the IDRCs themselves, or they may contract for the operation of the IDRCs.

(b) A county or regional program proposing to establish or substantially change an Intoxicated Driver Resource Center shall notify the Intoxicated Driving Program of its intent to do so in writing 180 days prior to the proposed effective date. The notice shall indicate whether the county intends to operate the Intoxicated Driver Resource Center itself, or contract for services. Within 60 days of the notice of intent the county shall provide a program description, action plan, budget, table of personnel, proposed program schedule and curriculum to the Intoxicated Driving Program. If the county proposes to contract for services, it shall provide the Intoxicated Driving Program with a schedule for calling for proposals, containing, but not limited to, the information specified above, and shall review, rank and approve such proposals in accordance with applicable State and county laws and rules governing the issuance of contracts for such services.

(c) The Intoxicated Driving Program shall consult with the county and provide assistance as needed in the course of the process established pursuant to (a) and (b) above.

## **SUBCHAPTER 2. ACTIONS SUBSEQUENT TO CONVICTION FOR N.J.S.A. 39:4-50 ET SEQ. OR 39:4-50.4(A) OR 39:4-50.14 OR 12:7-57 OR 12:7-34.19 OR 12:7-46 OR 39:3-10.24 OR 39:4-14.3G**

### **10:162-2.1. Notification and evaluation**

(a) The Intoxicated Driving Program shall be notified of every conviction for violation of *N.J.S.A. 39:4-50* et seq., *39:4-50.4(a)*, *39:4-50.14*, *12:7-54*, *12:7-34.19*, *12:7-46*, *12:7-57*, *39:4-14.3g*, and *39:3-10.24* by the sentencing court.

(b) The Intoxicated Driving Program shall schedule persons who have been convicted in (a) above, or referred, in accordance with *N.J.A.C. 10:162-2.3*, for attendance at an appropriate Intoxicated Driver Resource Center.

(c) The Intoxicated Driver Resource Center shall take the following types of actions:

1. Evaluate, detain if appropriate and interview all persons referred to the Intoxicated Driver Resource Center by the Intoxicated Driver Program; and
2. Refer a person to an appropriate treatment level upon completion of detention at the Intoxicated Driver Resource Center based upon the evaluation instrument, counselor evaluations, the driving record, blood alcohol concentration and other relevant information.

### **10:162-2.2. Report to court and the Division of Motor Vehicles following noncompliance**

(a) Failure on the part of the client to appear at an Intoxicated Driver Resource Center shall result in a referral to Division of Motor Vehicles for appropriate action, and, referral to the court of conviction for appropriate action.

(b) Failure on the part of the client to comply with the course of action or fee schedule required by the Intoxicated Driving Program/Intoxicated Driver Resource Center or the course of action at an affiliated agency or provide shall result in a report of noncompliance to the sentencing court and the Division of Motor Vehicles for appropriate action pursuant to *N.J.S.A. 39:4-50(b)*.

#### **10:162-2.3. Authorized referrals to the Intoxicated Driving Program**

(a) The Chief of the Intoxicated Driving Program may receive referrals in writing from courts, Motor Vehicle licensing authorities, highway safety agencies, law enforcement agencies, physicians, family members, health agencies or social service agencies regarding persons who are believed to be posing a public danger in the operation of a motor vehicle or vessel as a result of the misuse of alcohol and/or drugs. The Intoxicated Driving Program may schedule an interview with the referred individual at an appropriate Intoxicated Driver Resource Center or at the Office of Intoxicated Driving Program for evaluation and appropriate action. A copy of the referral document will be given to the client at the time of the interview. Client failure to attend the interview or any ordered treatment or referral under this chapter shall result in a recommendation to the Division of Motor Vehicles for appropriate action.

(b) The Intoxicated Driving Program may receive referrals from any Division of Motor Vehicles hearing in which it is determined that alcohol or drugs may have been involved in the operation of a motor vehicle or vessel, independent of court findings reported to the Division as a result of court action for an alcohol or drug related offense.

(c) The Intoxicated Driving Program may refer a licensee who is referred as a result of a Division of Motor Vehicles hearing to a treatment or a rehabilitation program.

#### **10:162-2.4. Fees**

Fees shall be paid as provided for at *N.J.S.A. 39:4-50, 39:4-50.4, 39:4-50.14, 39:4-14.3g, 12:7-57, 12:7-34.19, 12:7-46* and *39:3-10.24* or any amendment thereto and shall be payable as designated by the Division of Addiction Services from every person each time the person is convicted of a relevant alcohol or drug-related offense. These fees are owed and due upon conviction, pursuant to *N.J.S.A. 39:4-50* if the conviction occurred on or after October 9, 1986, and upon referral or evaluation to the Intoxicated Driver Resource Center and the Intoxicated Driving Program if the conviction occurred prior to October 9, 1986.

#### **10:162-2.5. Authorized license actions**

(a) The Intoxicated Driving Program may recommend to the Division of Motor Vehicles and to the sentencing court the following types of license actions:

1. Restoration of New Jersey driving privileges upon termination of a court-imposed suspension based on satisfaction of Intoxicated Driving Program and Intoxicated Driver Resource Center program requirements; or
2. Suspension of the driver's license if he or she fails to comply with the Intoxicated Driving Program/Intoxicated Driver Resource Center program or fee requirements.

#### **10:162-2.6. Conflict of interest**

The county freeholders, through the county counsel or solicitor, shall be responsible for making an initial determination of whether a conflict of interest exists with respect to the management and staff of an Intoxicated Driver Resource Center. The county shall be responsible for eliminating such a conflict of interest, in accordance with *N.J.S.A. 40A:9-22.1* et seq. and/or county conflict of interest standards. The county counsel or solicitor shall notify the Intoxicated Driving Program in writing that the Intoxicated Driver Resource Center treatment referral process is not in conflict of interest. Should there be a change in the treatment referral process, it shall be approved by the county counsel or solicitor and a new letter provided to the Intoxicated Driving Program prior to initiating the change. If an Intoxicated Driver Resource Center wishes to employ staff who are also working for an affiliated treatment program, a procedure to avoid conflict of interest shall be established by the Intoxicated Driver Resource Center and approved by the county counsel or solicitor. If, in its discretion, the Intoxicated Driving Program determines that a conflict of interest still exists

after county review and action, it may refer the matter to the Commissioner of Human Services, to the Local Finance Board in the Department of Community Affairs or to the Attorney General for advice or action, as appropriate.

#### **10:162-2.7. Intoxicated Driver Resource Center Income and Expenditure Report**

(a) No later than April 1 of each calendar year, each Intoxicated Driver Resource Center shall submit to the Intoxicated Driving Program a detailed income and expenditure report for the previous calendar year as specified by Intoxicated Driving Program which shall include:

1. Salary and fringe;
2. Rental costs for office;
3. Supplies;
4. Travel;
5. Maintenance of building;
6. Equipment purchase and rental;
7. Telephone;
8. Computer-data processing;
9. Printing and copying;
10. Security;
11. Staff training;
12. Subcontractors;
13. Fee collections; and
14. Other expenses.

#### **10:162-2.8. Curriculum**

(a) The information provided in the Intoxicated Driver Resource Center curriculum shall be approved by the Intoxicated Driving Program.

(b) Suggestions for changes to the curriculum shall be submitted in writing to the Chief of the Intoxicated Driving Program.

(c) The Chief of the Intoxicated Driving Program shall have authority to alter and approve the curriculum after consultation with the Intoxicated Driver Resource Center Directors.

#### **10:162-2.9. Confidentiality of computer data base**

Access to all Intoxicated Driver Resource Center computer data files shall be limited to Intoxicated Driver Resource Center or Intoxicated Driving Program personnel, through a coding mechanism.

#### **10:162-2.10. Data collection**

The Intoxicated Driver Resource Centers shall file monthly operational data reports with the Intoxicated Driving Program.

### **SUBCHAPTER 3. ATTENDANCE AND SCHEDULING AT AN INTOXICATED DRIVER RESOURCE CENTER**

#### **10:162-3.1. Scheduling**

All initial scheduling shall be done by the Intoxicated Driving Program or an Intoxicated Driver Resource Center. If scheduling is done by the Intoxicated Driving Program, the Intoxicated Driver Resource Center shall advise the Intoxicated Driving Program of the number of clients they wish to routinely schedule.

#### **10:162-3.2. Scheduling clients convicted of refusal to take a chemical test**

Persons who are convicted of refusing a chemical test, but who are not convicted of intoxicated driving, are required to participate in the Intoxicated Driving Program/Intoxicated Driver Resource Center program of education, evaluation, and referral to any education or treatment program. The Intoxicated Driving Program shall refer the driver to an Intoxicated Driver Resource Center in accordance with *N.J.S.A. 39:4-50.4(a)* et seq. or *N.J.S.A. 12:7-57* et seq. for this program.

#### **10:162-3.3. Rescheduling**

(a) A rescheduling of a client for attendance at the Intoxicated Driver Resource Center may be granted for the following reasons only:

1. Health emergency, either personal or family;
2. Death in the family within 10 days prior to scheduled appointment;
3. Documented work emergency; or
4. Family emergency.

(b) The reasons or instances in (a)1 through 4 above shall be proved by suitable documentation, such as a physician's letter, obituary notice, or a letter from an employer.

(c) Persons who fail to attend without having been excused by the IDRC Director shall be found in non-compliance and shall be referred to the sentencing court and the Division of Motor Vehicles for appropriate action.

#### **10:162-3.4. Forty-eight hour detainment of second offenders who have been in jail or treatment**

(a) A person convicted for a second offense pursuant to *N.J.S.A. 39:4-50* et seq. or *N.J.S.A. 12:7-46* or *12:7-34.19* et seq. shall be imprisoned at a jail or workhouse or an Intoxicated Driver Resource Center or inpatient program for at least 48 consecutive hours and satisfy the other program requirements.

(b) A second offender sentenced by a court to imprisonment or inpatient treatment for at least 48 hours, or who is given detention credit for 48 hours of inpatient treatment by a court, shall be scheduled by the Intoxicated Driving Program for a first offender program in his or her county of residence. All other second offenders shall be scheduled for evaluation, education and referral at the 48-hour program as specified in (a) above.

(c) A second offender who voluntarily attends any licensed inpatient treatment facility, whether or not affiliated with an Intoxicated Driver Resource Center, before or after sentencing, but before scheduling at an Intoxicated Driver Resource Center, shall not be given credit for detention unless approval is given by the court.

(d) A person sentenced to a 48-hour Intoxicated Driver Resource Center shall be scheduled there, or if such a facility is not available, referred to an appropriate facility for 48 hours.

### **10:162-3.5. Transfers from one county to another prior to initial attendance at an Intoxicated Driver Resource Center**

(a) A client may be transferred from one county's program to another with the consent of the Intoxicated Driver Resource Center Director. The recipient Intoxicated Driver Resource Center shall not be responsible for any administrative client details until a transfer form is received. A transfer form shall be sent by the transferring Intoxicated Driver Resource Center and shall include: The original abstract from the Intoxicated Driving Program, the record of the conviction, the original scheduling notice from the Intoxicated Driving Program and a noncompliance form, if one has been issued. If a client has a new address, it shall be noted. Upon receipt of the transfer documents, the recipient county shall become responsible for all administrative procedures. The transferring Intoxicated Driver Resource Center shall maintain a log of transferred clients.

(b) The Intoxicated Driver Resource Center transferring the client shall note on the roster, opposite the name of the client, the Intoxicated Driver Resource Center to which the client has been transferred. The Intoxicated Driver Resource Center receiving the client shall add the client's name to its roster and indicate the Intoxicated Driver Resource Center from which the client was transferred. The transferring Intoxicated Driver Resource Center shall forward all client records (maintaining a copy) to the receiving Intoxicated Driver Resource Center with a brief statement of the reason for the transfer. The receiving Intoxicated Driver Resource Center shall be responsible for collection of fees, treatment monitoring, and follow up, to include maintenance of client records. Once the client has been evaluated and referred, he or she remains in the control of the receiving Intoxicated Driver Resource Center.

### **10:162-3.6. Second offender treatment referral and monitoring**

If a 48 hour program sends a second offender to treatment, the Intoxicated Driver Resource Center in the client's home county shall monitor treatment. All client records shall be sent to the monitoring county.

### **10:162-3.7. Scheduling and monitoring of third and subsequent offenders**

Third and subsequent offenders shall be referred to the 12 hour Intoxicated Driver Resource Center for evaluation, referral to treatment and/or self-help group participation, pursuant to *N.J.A.C. 10:162-4.2*, and *N.J.A.C. 10:162-4.5*. Third and subsequent offenders shall be monitored by the Intoxicated Driver Resource Center for one full year from the time the client begins treatment.

## **SUBCHAPTER 4. EVALUATION AND TREATMENT PROCEDURES**

### **10:162-4.1. Evaluation procedures**

(a) During the first offender program or the 48-hour program, IDRC staff shall distribute to each client, for completion, the Intoxicated Driver Program Questionnaire ("evaluation instrument"), which is a self-administered drinking and driving inventory that addresses the following areas: quantity/frequency of alcohol intake, current binge behavior, symptomatic drinking, spouse-relative problems, friend-neighbor problems, job problems, law and accident problems, health problems, financial problems, belligerent drinking, and dependency.

(b) The client shall finish and return the evaluation instrument at the time requested. The test score shall be entered on the client screening evaluation scoring sheet in the space provided. Any observations by staff, which may be helpful to the counselor's evaluation, may be noted on this sheet.

(c) Referrals to ASI shall be so noted on the roster. Referrals to treatment or self help shall also be noted on the roster. If a client is referred to a treatment program, a packet shall be prepared for transmittal to the treatment program which shall include the following information:

1. The court's record of the conviction;
2. Driver abstract;



3. Client screening evaluation scoring sheet;
4. Agreements to participate in treatment;
5. Records release authorization form;
6. Answer sheet to the questionnaire;
7. Autobiographical statement; and
8. The court order.

(d) The records release authorization form shall be filled out to allow information to be released to the court, Intoxicated Driving Program, and the Division of Addiction Services, the treatment program, the Division of Motor Vehicles, the Intoxicated Driver Resource Centers, and the client's attorney. In addition, the client may authorize any other persons to receive protected information by so indicating on the form.

#### **10:162-4.2. Criteria for client referral to treatment**

(a) The purpose of Intoxicated Driver Resource Center screening is to identify clients who may be alcohol or drug abusers or who need a structured intervention into their alcohol or drug use.

(b) A referral to treatment or for further evaluation shall take into consideration the following facts as relevant to a client's need for treatment or further evaluation:

1. The client is a repeater;
2. A blood alcohol concentration of .15 percent or higher, as evidenced by the client's arrest record if he or she pled guilty, or if convicted at trial with a blood alcohol concentration of .15 percent or higher. Blood alcohol concentration shall only be used to refer where other supporting information exists that indicates a need for treatment;
3. A counselor's evaluation of the answers recorded on the evaluation instrument based on the definition of alcohol or drug abuser;
4. Any prior outpatient or inpatient treatment for alcohol or drug abuse;
5. Any prior self help group attendance for an alcohol or drug abuse problem;
6. Driving record. There must be a clear, independent reason for a treatment referral other than the driving record; however, a driving record that includes motor vehicle or boat accidents, reckless or careless driving, or persistent moving or other motor vehicle violations shall be considered in making a treatment referral and shall be mentioned on any client evaluation documents;
7. Counselor interview and observations. All counselor observations and data used to determine treatment appropriateness shall be documented. They may include symptoms of alcohol or drug abuse including voluntary admission by the client that an alcohol or drug problem exists. A counselor's evaluation based on documented observations and data that a client is an alcohol or drug abuser (as defined herein) is sufficient to refer a client to treatment;
8. Outside information. The Intoxicated Driver Resource Center/Intoxicated Driving Program staff may receive information from outside sources such as a client's family, treatment facilities counselors or physicians. Such information may be utilized if the source of the information is disclosed to the client and he or she is given the opportunity to review and comment on the information; and
9. Age. The age of an offender may be considered as a factor, but only in addition to other criteria listed in this subsection indicating the appropriateness of a referral to treatment.

#### **10:162-4.3. Evaluation approval**

(a) Any Intoxicated Driver Resource Center/Intoxicated Driving Program initial evaluation and referral to treatment shall be approved by a counselor.

(b) If a counselor decides not to refer a client who meets any of the above criteria in *N.J.A.C. 10:162-4.2(b)* then documentation must be provided to support the nonreferral.

**10:162-4.4. (Reserved)**

**10:162-4.5. Determining levels of treatment**

(a) Outpatient treatment is appropriate for clients who are alcohol or drug abusers.

(b) Inpatient treatment is appropriate for clients who are alcohol or drug abusers, who are experiencing physical dependence on alcohol or drugs, and/or who have had previous outpatient failure.

(c) Intensive outpatient is appropriate for clients who meet the criteria for inpatient treatment but who are required by the Intoxicated Driver Resource Center/Intoxicated Driving Program to attend intensive outpatient treatment in lieu of inpatient treatment. Such clients must attend more than 16 treatment sessions within 16 weeks. Clients may be referred to intensive outpatient treatment because the Intoxicated Driver Resource Center/Intoxicated Driving Program determines that the client's treatment can be better addressed in an outpatient program and/or inpatient treatment is not available.

(d) Self help groups are appropriate for clients under the following circumstances:

1. A self help group may be used as a treatment source if the client has been in the self help group for a minimum of three months and is currently active; or
2. Self help groups may also be used for clients in addition to inpatient or outpatient treatment.

**10:162-4.6. Referral procedures**

(a) The Intoxicated Driver Resource Center shall provide each client referred for treatment with a list of affiliated treatment programs. The list shall reflect the following items:

1. Name of program;
2. Location;
3. Days/times of operation of any Intoxicated Driver Resource Center client group sessions;
4. Type of treatment and type of counseling (that is group, individual and number of self help group meetings required, and if family involvement is required);
5. Cost per session (indicate if there is a sliding fee scale or third party payment available and the minimum and maximum fees and any non-treatment fees).

(b) Clients shall choose a program from the list and sign the appropriate form indicating that he or she was shown the list and selected a program.

(c) If the Intoxicated Driver Resource Center chooses a program for the client it shall be because it would substantially benefit the client in his or her present condition.

(d) When a specific modality or program is recommended it shall be noted on the appropriate form with the reason for recommendation. All clients shall sign the form to indicate that they understand the content.

(e) Intoxicated Driver Resource Centers shall not make direct referrals to a self help group following evaluation unless the client can demonstrate that he or she is currently actively participating in the self help group. All other treatment appropriate clients shall be referred to self help groups by a treatment program as an addition to treatment. Referrals to self help groups shall not be made on the basis of indigence.

(f) All clients referred to treatment shall sign a records release authorization prior to leaving the Intoxicated Driver Center in order to allow the Court, the Intoxicated Driver Resource Center, the Intoxicated Driving Program, the Division of Addiction Services, the Division of Motor Vehicles, the client's attorney, the treatment program and other specifically named individuals or entities to exchange information.

(g) If a client refuses to sign the form, the Intoxicated Driver Resource Center shall inform the client that such refusal shall be considered noncompliance. If the client continues to refuse to sign, the client shall be considered noncompliant for refusing to sign the Records Release Authorization form necessary to complete program requirements.

(h) The client's refusal to sign the form shall not interfere with any lawful right of the above agencies to communicate.

## **SUBCHAPTER 5. TREATMENT PROGRAM AFFILIATION REQUIREMENTS**

### **10:162-5.1. Affiliation and renewal-of-affiliation agreements**

(a) In order to treat Intoxicated Driver Resource Center/Intoxicated Driving Program clients, a treatment agency or provider shall sign a standard affiliation or renewal-of-affiliation agreement (see Appendices A and B). All affiliation and renewal-of-affiliation agreements are subject to approval by the Intoxicated Driving Program for compliance with the requirements of *N.J.A.C. 10:162-5.3* and *5.6* as applicable (see *Alternatives Counseling Center, Inc. v. New Jersey Department of Health and Senior Services*, N.J. Super. Ct., App. Div. No. A-45-98T5, Oct. 8, 1999). All such affiliation and renewal-of-affiliation agreements shall expire at the end of the last day of June of the relevant calendar year.

(b) The chief of the Intoxicated Driving Program or an Intoxicated Driver Resource Center Director may approve an individual treatment plan at a non-affiliated agency or provider in or out of the State. Such approval shall not exceed four months and shall be approved in the best interest of a client.

(c) All approved treatment programs shall report to the Division of Addiction Services through the Division's Alcohol and Drug Abuse Data System or any successor treatment management information system implemented by the Division.

### **10:162-5.2. Application for affiliation**

(a) An applicant for affiliation may contact the Intoxicated Driving Program, PO Box 365, Trenton, NJ 08625-9365, (609) 588-3547, which shall provide the applicant with a list of the IDRCs. The applicant shall make request for affiliation to the IDRC. Upon receipt of a request for affiliation from an applicant, an IDRC shall provide the applicant with a standard affiliation agreement as specified in *N.J.A.C. 10:162-5.1*, which shall serve as the application form. The IDRC shall include as part of the application a current statement of IDRC needs regarding client volume, modalities of service, geographic requirements, cultural needs of the population served, and client accessibility. A copy of this statement shall be filed with the IDP and kept current by the IDRC.

(b) It shall be the responsibility of the IDRC Director initially to evaluate each application for affiliation or renewal of affiliation of each applicant after a site visit or providers meeting for compliance with (c) and (d)1 and 2 below.

(c) Every treatment program and individual provider shall conform to *N.J.S.A. 39:4-50* et seq., *45:2D-1* et seq., *26:2H-1* et seq. and *40A:9-22.1* et seq., *N.J.A.C. 10:162*, as appropriate, and shall submit the following information to the IDP and to the IDRC:

1. A statement that the program or provider conforms to and will abide by *N.J.S.A. 39:4-50* et seq., *45:2D-1* et seq., *26:2H-1* et seq. and *40A:9-22.1* et seq., *N.J.A.C. 10:162*, as amended and supplemented and any rules adopted pursuant thereto;
2. Copies of valid State licenses or certifications, as applicable, required by *N.J.S.A. 26:2H-1* et seq. or *45:2D-1* et seq.;
3. A fee schedule, including any sliding fee schedule, and whether fees can be paid by health insurance;
4. The address, telephone number, hours of operation and contact person for each office location;

5. A written description of treatment philosophy, program requirements, and treatment curriculum;
6. A list of proposed IDRC-affiliated program staff and their resumes; and
7. Proof of commercial liability insurance, and individual or agency professional liability insurance as appropriate.

(d) The Intoxicated Driver Resource Center shall attach a statement to the agreement signed by the Center Director certifying that:

1. The facility (outpatient facilities only) is accessible to its clients, in that it is convenient to public transportation or reachable by motor vehicle within 30 minutes of normal drive time; and
2. The facility is suitable as a place of treatment in that it is licensed by the Department of Human Services to provide alcohol and drug treatment services if a residential facility, or that it is physically inspected by the Intoxicated Driver Resource Center and approved by the Division of Addiction Services as meeting rules adopted pursuant to *N.J.S.A. 26:2H-1 et seq.* if an outpatient agency or provider.

(e) The Chief of the IDP, after receipt and review of a signed affiliation or renewal of affiliation agreement, using the criteria found at *N.J.A.C. 10:162-5.3* and *5.6* as applicable, shall indicate approval by signing the agreement. Copies of the agreement shall be distributed to all parties to it.

#### **10:162-5.3. Treatment program affiliation criteria**

(a) The Chief of the IDP shall determine that an agency or provider is appropriate for affiliation or renewal of affiliation if it:

1. Conforms to the requirements of *N.J.A.C. 10:162-5.2(c)* and (d);
2. Meets the needs of an Intoxicated Driver Resource Center as set forth in the statement of IDRC needs described in *N.J.A.C. 10:162-5.2(a)*; and
3. Is deemed suitable to accomplish the purposes of the program as defined in *N.J.A.C. 10:162-1.1*.

#### **10:162-5.4. Notification of staffing changes**

An affiliated agency or provider which makes management or staff changes affecting Intoxicated Driver Resource Center clients during the affiliation year shall notify the Intoxicated Driver Resource Center of any such changes immediately and shall submit proof of licenses and certifications as appropriate. The Intoxicated Driver Resource Center shall notify the Intoxicated Driving Program of such changes no later than 30 days from receipt of notification by the affiliated agency or provider.

#### **10:162-5.5. Renewal of affiliation agreements**

The Director of the Intoxicated Driver Resource Center shall be responsible for initiating the process of renewal of affiliation agreements after conducting an annual site visit and/or providers meeting. Each agency renewing its affiliation will complete a standard renewal of affiliation agreement (see appendix B). The Director of the Intoxicated Driver Resource Center shall attach a certification to the renewal agreement as specified in *N.J.A.C. 10:162-5.2(d)* and forward the package to the Intoxicated Driving Program for approval pursuant to *N.J.A.C. 10:162-5.3*.

#### **10:162-5.6. Criteria for renewal**

All affiliated agencies or providers in order to be eligible for renewal shall meet the criteria established in *N.J.A.C. 10:162-5.3*.

### **10:162-5.7. Revocation of affiliation**

(a) The Intoxicated Driving Program shall revoke the affiliation agreements of treatment agencies who do not meet the requirements of this chapter.

(b) Upon receipt of a notification or allegation of a violation of law, rule or affiliation agreement, the Intoxicated Driving Program shall conduct an investigation either independently, or in concert with the applicable Intoxicated Driver Resource Center(s).

(c) The Intoxicated Driving Program and/or the Intoxicated Driver Resource Center may suspend the affiliation of an agency or provider pending the outcome of an investigation and review if the Intoxicated Driver Resource Center and/or the Intoxicated Driving Program conclude that a violation of law, regulation or the affiliation agreement may have occurred, that client health, well being or safety are, or have been threatened, that a crime may have been committed or that the integrity of the driver license restoration process may have been breached. The suspension shall remain in effect pending the final result of administrative and judicial appeals of the resulting revocation.

(d) The agency or provider shall be notified by the Intoxicated Driving Program, in writing, of the reasons for the proposed revocation, and suspension if applicable, and be offered an opportunity to respond to the Chief of the Intoxicated Driving Program in writing within 30 days of the written notice, and to be heard no later than 45 days from date of the written notice.

(e) If, following the agency's or provider's response and hearing, the Intoxicated Driving Program finds that a violation of law, rule and/or the affiliation agreement has occurred, or that client health, well-being or safety are or have been threatened, or that a crime has been committed or may have been committed, or that the integrity of the driver license restoration process has been breached, the Intoxicated Driving Program shall revoke the affiliation of the relevant agency or provider.

(f) An agency or provider whose affiliation is revoked by the Intoxicated Driving Program shall be accorded all applicable rights of judicial appeal.

(g) The Intoxicated Driving Program and/or the Intoxicated Driver Resource Center shall report breaches of law, regulation or the affiliation agreement to the relevant regulatory and law enforcement agencies, as appropriate.

(h) An agency or provider whose affiliation has been revoked may apply for reaffiliation no earlier than one year from the date of the final administrative or judicial confirmation of revocation, whichever is later.

## **SUBCHAPTER 6. TREATMENT PROGRAM OPERATIONAL REQUIREMENTS**

### **10:162-6.1. Intake evaluation**

(a) Each Intoxicated Driver Resource Center client or DUI offender sentenced by a court to treatment in place of jail shall receive an individual intake evaluation, preferably with his or her counselor of record. The purpose of the intake is to make an independent evaluation of the client's needs in treatment, and, if the provider is an approved grantee, to determine if the client is an eligible recipient.

(b) The treatment program shall conduct an independent evaluation of the client's need for treatment, using an instrument approved by the Division of Addiction Services. Any testing tool utilized must be noted in the evaluation. The information packet received from the Intoxicated Driving Program shall also be utilized. The treatment program shall inform the client of his or her specific responsibility under the treatment plan. If a client is determined by the treatment program to need treatment, a treatment plan shall be developed and a copy of the plan shall be provided to the client. Clients shall be advised that failure to participate in treatment will result in license suspension and a minimum two-day jail sentence, or if he or she has been sentenced to treatment in place of jail, imposition of the applicable jail sentence. The treatment agency shall establish a written, signed contract with the client regarding the treatment plan. The client shall sign a records release authorization during the intake process. The form shall be completed to allow the

court, the Intoxicated Driver Resource Center, the Intoxicated Driving Program, the Division of Addiction Services, the Motor Vehicles Commission, the client's attorney, and the treatment program/approved grantee and coordinating grantee as appropriate to exchange information.

(c) The treatment program shall report the result of the treatment evaluation of the client and the client's progress in treatment to the Intoxicated Driver Resource Center/Intoxicated Driving Program, as appropriate.

(d) When determining whether a client is an eligible recipient, an approved grantee shall require proof of income and, when applicable, documentation of medical indigency status pursuant to *N.J.A.C. 10:162-6.16(c)* in the form of the prior year's tax returns, pay stubs or other documentation deemed suitable by the Division of Addiction Services.

#### **10:162-6.2. Client intake form**

The client intake form and the results of the evaluation by the treatment program shall be sent to the Intoxicated Driver Resource Center within seven working days after the intake with the records release authorization. The client's full name, address and phone number, driver license number, the evaluation, the counselor's signature, name of program and the date shall be included in the material sent to the Intoxicated Driver Resource Center.

#### **10:162-6.3. Length of treatment**

The minimum length of treatment for outpatient shall be 16 sessions, one session per week. Each session shall be a minimum of one hour. The Intoxicated Driver Resource Center may require a mixture of outpatient, intensive outpatient and/or inpatient, and self help for a total time of one year from the date treatment commences.

#### **10:162-6.4. Treatment plan**

(a) The purpose of the treatment plan is to provide information and personal insight to the client so that he or she will recognize the extent of his or her alcohol and/or drug abuse problems and acquire the basic tools to begin recovery and maintain sobriety, if such a goal is part of the plan. The plan shall also educate the client about the danger of alcohol and drug use in conjunction with driving.

(b) A treatment plan shall include the following;

1. Education on alcohol and drug abuse problems;
2. Information on the effects of addiction on families, work and personal health; and
3. Individual and group counseling aimed at providing personal insight and information on how to recover. The information shall include:
  - i. The location of self-help groups;
  - ii. Information on how self-help groups work;
  - iii. Information on family treatment resources;
  - iv. An opportunity for the client to involve family and friends in the recovery process and treatment; and
  - v. A statement informing the clients of any confidentiality protection he or she is entitled to.

#### **10:162-6.5. Failure to comply with treatment requirements**

(a) Once the client has been accepted for treatment, any failure to comply with the treatment program shall be reported by the treatment program to the Intoxicated Driver Resource Center in writing within seven working days. Failure to comply with the treatment program shall include, but not be limited to:

1. Failing to attend specific meetings;
2. Failing to comply with the treatment contract;

3. Failing to participate in individual and group counseling; or
4. Failing to attend self-help group meetings.

#### **10:162-6.6. Self help group involvement**

The treatment plan for clients shall include some exposure to a self help group. This may be accomplished by requiring a specified number of monitored meetings, having someone from a self help group do a presentation, or educating the client about group purposes and functions. In any event, a client shall not be referred to a self help group without being given specific orientation and education about self help group functions and purposes. Self help group meetings shall not be substituted for individual or group sessions during the 16 week minimum period.

#### **10:162-6.7. Determining number of self help group meetings per week**

(a) If a client is referred to self help in lieu of treatment by the Intoxicated Driver Resource Center or Intoxicated Driving Program, the client shall attend no less than one, and no more than three, meetings during any seven day period. If three meetings are required during any seven day period, there must be documentation by the Intoxicated Driver Resource Center to support the decision.

(b) Required self help attendance as an adjunct to treatment shall be determined on an individual basis pursuant to *N.J.A.C. 10:162-4.2* and *4.5*.

#### **10:162-6.8. Objections to being sent to self help group**

Some self help groups are based on religious or spiritual principles. Upon a written petition to the Intoxicated Driver Resource Center or Intoxicated Driving Program by the client stating his or her objection to a referral to such a self help group, the Intoxicated Driver Resource Center or Intoxicated Driving Program shall place the person in a self help program that is not based on religious or spiritual principles or to out-patient or other treatment

#### **10:162-6.9. Evaluation of client progress**

The progress of the client shall be monitored and recorded by the treatment program staff on a weekly basis. A client who may be in need of additional treatment, such as detoxification, intensive outpatient, or inpatient treatment, may be assigned to such treatment, with approval from the Intoxicated Driver Resource Center. Clients who continue to abuse alcohol/drugs, or otherwise fail to comply with program requirements, shall be reported to the Intoxicated Driving Program by the Intoxicated Driver Resource Center.

#### **10:162-6.10. Monitoring the attendance of clients sent to self help groups**

(a) Clients sent to self help groups will be monitored by the Intoxicated Driving Program/Intoxicated Driver Resource Center or treatment program using the Intoxicated Driving Program attendance card system or some other system to monitor attendance.

(b) All clients referred to self help groups shall assume the responsibility of inquiry as to who in the group has Intoxicated Driving Program attendance cards.

#### **10:162-6.11. Family involvement**

Each client may be requested to have one counseling session with a member of his or her family or a friend. The counselor may make every effort, with the client's consent, to involve the family in the treatment process, including one session on family aspects of alcohol and drug abuse. If necessary, marriage and family counseling shall be available to the client and can be substituted for regular group sessions. If family or friend refuse to attend, or the client does not desire to reveal that he or she is in treatment to the family and friends, this is not non-compliance on the part of the client. Self help group information should also be made available.

### **10:162-6.12. Client transfers from one treatment program to another**

Client transfers from one treatment program to another are permitted, if approved by the Intoxicated Driver Resource Center, and if a client is in compliance and a conflict between a program and a client has progressed to the point that treatment is jeopardized. Other valid reasons, such as change of address, or to make more suitable arrangements between clients and programs, may be honored. Credit for successful prior treatment shall be given by the receiving Intoxicated Driver Resource Center. There shall be a presumption of credit for attendance if the client was in compliance and was successful in treatment and this is documented. Transfer of records shall be channeled through the Intoxicated Driver Resource Center office. The Intoxicated Driver Resource Center who received the fee and provided the evaluation is responsible for administration and follow-up of client monitoring.

### **10:162-6.13. Final client treatment release, evaluation, and request for payment**

(a) In releasing a client from treatment, the counselor is making a professional judgment about the client's alcohol/drug behavior. The client should be in control of his or her problem. For alcohol or drug abusers, this will mean abstinence; for others who are not alcohol or drug abusers, this will mean the ability for the client to make rational decisions regarding alcohol/drug use and driving.

(b) The following criteria shall be considered by the treatment program counselor to support the counselor's professional judgment:

1. Client cooperation during treatment;
2. Development of positive attitude;
3. Achievement of abstinence;
4. Quality of involvement in treatment or self help group;
5. Family involvement in treatment;
6. Participation in group interaction;
7. Change of behavior patterns related to alcohol/drug use;
8. Significant life style changes;
9. Reduction of alcohol/drug intake;
10. Improvement of self image;
11. Use of support systems;
12. Positive observations by family members, other clients, and other counselors; and
13. Chemical test results where available.

(c) An approved sub-grantee shall present suitable documentation to a coordinating grantee designated by the Division of Addiction Services for payment for a covered treatment episode, indicating the date or dates on which services were provided, the number of units of service provided, the modality or modalities of service provided and proof that the client was an eligible recipient.

(d) The Division of Addiction Services may authorize provider service sub-contracts in the form of payments by a coordinating grantee to approved grantees based on the documentation provided pursuant to *N.J.A.C. 10:162-6.13(c)* and *10.4(a)* through (c).



#### **10:162-6.14. Client treatment procedures**

(a) The Intoxicated Driver Resource Center or Intoxicated Driving Program, as appropriate, and the treatment program must conclude that the client is appropriate for treatment before treatment commences. If the treatment program, after performing a proper evaluation under this chapter, indicates the client is not appropriate for treatment or needs an alternate treatment referral, the client shall be referred back to the Intoxicated Driver Resource Center for appropriate action. The Intoxicated Driver Resource Center or Intoxicated Driving Program will close the case unless it is determined that the criteria used, in accordance with *N.J.A.C. 10:162-4.2*, justify treatment. A client refusing to participate in treatment after two findings that treatment is appropriate shall be referred to the sentencing court as non-compliant, in accordance with *N.J.A.C. 10:162-8*.

(b) If a convicted intoxicated driver or licensed driver is sent to treatment by the Intoxicated Driver Resource Center or by Intoxicated Driving Program, he or she must successfully complete a minimum of 16 weeks of treatment. Each session shall consist of one session per week which shall last no less than one hour in duration. The requirement of treatment within a 16 week period can be waived by the Intoxicated Driver Resource Center Director to meet the extraordinary circumstances of the client, upon a written petition from the client and with the approval of the Intoxicated Driving Program (for example, if the client has an out-of-State work assignment or is attending an out-of-State educational institution). The requirement of 16 sessions of treatment cannot be waived.

(c) If the treatment program decides that the client needs additional treatment beyond 16 sessions, the program shall state its reasons in writing to the Intoxicated Driver Resource Center or Intoxicated Driving Program as appropriate and receive written approval before commencing any additional treatment. The client shall receive written notice regarding the request for the extension and may submit comments regarding the appropriateness of the decision to the Intoxicated Driver Resource Center or the Intoxicated Driver Program, as appropriate, within 10 days of this notice.

(d) If a client is not able to safely resume driving after a year of continuous treatment, the Intoxicated Driver Resource Center/Intoxicated Driving Program shall report this to the Division of Motor Vehicles.

(e) All clients referred to treatment shall contact the treatment program within 10 working days of the referral. Treatment agencies must report to the Intoxicated Driver Resource Center or Intoxicated Driving Program as appropriate that the client has commenced treatment within 30 days of the initial contact.

#### **10:162-6.15. Unauthorized use of intoxicated driving program cards**

(a) The Intoxicated Driver Resource Centers and Intoxicated Driving Program and approved treatment programs use computer cards generated by the Intoxicated Driving Program to monitor attendance of Intoxicated Driver Resource Center/Intoxicated Driving Program clients at self help groups. Such cards shall remain the property of the Intoxicated Driving Program. Any other person, organization, public or private, who uses the cards to monitor self help group attendance without the written permission of the Chief of the Intoxicated Driving Program or who uses the cards in an unauthorized manner may be reported by the Intoxicated Driving Program to the Office of the Attorney General for investigation.

(b) Prior to sending a client to a self help group, an Intoxicated Driving Program self help group agreement form shall be executed. The client shall bring the form to the self help group as proof that he or she is a client.

#### **10:162-6.16. Treatment costs**

(a) The Division of Addiction Services shall not be responsible for any treatment costs for any treatment or treatment agency evaluation costs for a client unless the client provides proof that he or she is an eligible recipient, and the grantee or sub-grantee providing such services indicates what percentage of the costs have been or will be paid from other sources. The Division of Addiction Services may then make payments from the Fund on a sliding scale up to 100 percent of the costs.

(b) If a client is an eligible recipient and meets the criteria set forth in (c) and (d) below, treatment shall be provided by an approved grantee to the client at no cost to the client when monies from the Fund are available, subject to the provisions of (d) below regarding nominal co-payments. When monies from the Fund are not available, affiliated

treatment programs and approved grantees shall provide treatment on a sliding scale basis or at no cost for up to 10 percent of their Intoxicated Driver Resource Center/Intoxicated Driving Program clients.

(c) Recipients for this program will be required to meet eligibility criteria that consider income, resources, Federal Poverty Guidelines, and medical indigency status. Eligibility for this program will be based on Federal Poverty Guidelines as published annually in the Federal Register by the Secretary of Health and Human Services, with an applicable income threshold of 350 percent for applicants seeking residential treatment, and 250 percent for applicants seeking other levels of treatment. For the purpose of this section, medical indigency is defined to include circumstances where an applicant exceeds these Federal Poverty Guidelines, but due to reduced income or necessary medical, legal, legally-mandated, or educational expenses, still lacks sufficient resources to pay for treatment determined to be clinically necessary pursuant to *N.J.A.C. 10:162-6.1* through *6.4*.

(d) A client who claims to be an eligible recipient shall provide proof of income and, when applicable, documentation of medical indigency status including, but not limited to, garnishments, alimony, child support and legal fines, to an approved grantee pursuant to *N.J.A.C. 10:162-6.1(d)*. Proof of eligibility does not relieve the client of the responsibility to pay the Intoxicated Driving Program and Intoxicated Driver Resource Center fees required pursuant to *N.J.A.C. 10:162-2.4* and *8.1*, and any nominal co-payment charged by an approved grantee for therapeutic purposes, as approved by the Division of Addiction Services.

#### **10:162-6.17. Treatment programs**

Each Intoxicated Driver Resource Center shall update its approved treatment lists quarterly and shall send a copy of the list to the Intoxicated Driving Program.

#### **10:162-6.18. Treatment after arrest**

(a) The Intoxicated Driver Resource Center may give credit for attendance in treatment after arrest, if the treatment was at an approved facility; such time served does not exempt offenders from Intoxicated Driver Resource Center detention requirements.

(b) The Intoxicated Driver Resource Center, subject to applicable confidentiality statutes and rules, shall require the previous treatment program to submit the results of its evaluation. The Intoxicated Driver Resource Center shall perform its own evaluation, and develop a new treatment plan with the offender, as appropriate.

### **SUBCHAPTER 7. CLIENT CONDUCT**

#### **10:162-7.1. Intoxication at the Intoxicated Driver Resource Center**

(a) If a client appears to be under the influence of alcohol or drugs upon arrival or during the Intoxicated Driver Resource Center session, the Intoxicated Driver Resource Center may implement the following procedure:

1. Evaluate the client to see if he or she is incapacitated or intoxicated as defined herein;
2. If the client is incapacitated, the Intoxicated Driver Resource Center may call the police, Service Force, or Emergency Medical Service and have the client removed to a hospital or other facility for detoxification. After detoxification, the client may be processed through the Intoxicated Driver Resource Center. The fact that the client was under the influence shall be noted in the client's file and used as part of the counselor's evaluation;
3. If the client is not incapacitated, but is intoxicated, the Intoxicated Driver Resource Center may admit the client or reschedule the client. This determination shall take into account the welfare and the safety of other clients, and the degree of disruption the client's attendance creates. The fact that the client was under the influence shall be noted in the client's file and shall be used as part of the counselor's evaluation;

4. All persons who appear to be under the influence of alcohol or drugs (clients or non-clients) and are observed driving a vehicle away from the Intoxicated Driver Resource Center may be reported to the police; and

5. Intoxicated clients who are disruptive shall be found in non-compliance.

#### **10:162-7.2. Improper client conduct at Intoxicated Driver Resource Center or Intoxicated Driving Program**

Improper conduct, such as being threatening or disruptive or purposely not completing forms or providing relevant information, shall be considered non-compliance.

### **SUBCHAPTER 8. CLIENT NON-COMPLIANCE PROCEDURES**

#### **10:162-8.1. Failure to attend the Intoxicated Driver Resource Center/Intoxicated Driving Program or pay the required fees**

(a) Failure to attend the Intoxicated Driver Resource Center/Intoxicated Driving Program or to pay the required fees shall be considered noncompliance. In such cases, the Intoxicated Driver Resource Center/Intoxicated Driving Program shall take the following steps:

1. A notice of noncompliance shall be mailed to the client's address on the record of conviction or the client's most recent address if the client has notified the Intoxicated Driver Resource Center/Intoxicated Driving Program of a change of address.

2. If there is no reply, or if the client remains in noncompliance, the Intoxicated Driver Resource Center/Intoxicated Driving Program, within 10 working days of mailing the notice of noncompliance, may issue a noncompliance report:

i. A copy of the report shall be mailed to the client.

ii. If the client is a new law offender, a copy of the report shall be mailed to the court of conviction with a copy of the original notice of noncompliance.

3. If the noncompliance is not resolved within 30 calendar days after issuance of the noncompliance report, a copy of the noncompliance report and supporting documents shall be mailed to the Intoxicated Driving Program. The Intoxicated Driving Program shall request that the Division of Motor Vehicles suspend the client's license.

#### **10:162-8.2. Failure to contact treatment facility**

When the Intoxicated Driver Resource Center/Intoxicated Driving Program has been notified that a client has not contacted the treatment facility by the contact date, the Intoxicated Driver Resource Center/Intoxicated Driving Program shall follow the procedures of *N.J.A.C. 10:162-8.1(a)* through (c) and shall, for new law clients, in addition to the other documents, mail a copy of the treatment agreement to the court of conviction.

#### **10:162-8.3. Failure to comply with the treatment program**

Upon receipt of a Client Treatment Release form indicating that the client did not comply with the treatment program requirements, the Intoxicated Driver Resource Center/Intoxicated Driving Program shall follow the procedures in *N.J.A.C. 10:162-8.1(a)*1 through 3 and shall, for new law clients, in addition to the other documents, mail a copy of the treatment agreement to the court of conviction.

#### **10:162-8.4. Other noncompliance**

If the client is found to be in noncompliance for any reason, the Intoxicated Driver Resource Center/Intoxicated Driving Program will follow the procedures in *N.J.A.C. 10:162-8.1(a)*1 through 3, and shall, for new law clients, mail any necessary documents to the court of conviction.

#### **10:162-8.5. Failure to follow noncompliance procedures**

The failure of Intoxicated Driver Resource Center/Intoxicated Driving Program to follow the noncompliance procedures shall not relieve a client of noncompliance.

#### **10:162-8.6. Conditions for a request for restoration of a client's driving privileges after a finding of noncompliance by a court**

(a) A client referred to treatment who is subsequently found in noncompliance by the court shall satisfactorily complete two consecutive months of treatment before the Intoxicated Driving Program shall be notified by the Intoxicated Driver Resource Center to request that the Division of Motor Vehicles restore the client's licensed driving privilege.

(b) A multiple offender who was found in noncompliance by a court shall satisfactorily complete three consecutive months of treatment before the Intoxicated Driving Program shall be notified by the Intoxicated Driver Resource Center to request that the Division of Motor Vehicles restore the client's driving privilege. However, at the discretion of the Intoxicated Driver Resource Center Director, program completion may be required.

(c) The Intoxicated Driver Resource Center shall receive written notice from the treatment facility of satisfactory performance before notifying the Intoxicated Driving Program to request that the Division of Motor Vehicles restore the client's driving privileges.

#### **10:162-8.7. Noncompliance with treatment**

The treatment programs shall notify the Intoxicated Driver Resource Center/Intoxicated Driving Program of any noncompliance in writing within seven working days. The Intoxicated Driver Resource Center shall notify the courts and the Intoxicated Driving Program utilizing the noncompliance report.

#### **10:162-8.8. Proof of mailing; change of address**

The Intoxicated Driving Program provides a certified mailing list with every roster sent to the Intoxicated Driver Resource Centers. The Intoxicated Driver Resource Centers shall use this as proof of mailing in cases of noncompliance to the original scheduling notice. Intoxicated Driver Resource Centers are responsible for keeping a record of rescheduling notices so that the notices can be sent to court to prove noncompliance. In all cases, copies of the certification of mailing should be sent to the courts along with reports of noncompliance when appropriate. All Intoxicated Driver Resource Centers/Intoxicated Driving Program letters, notices or other correspondence shall be sent to client's address on the record of conviction or to the most recent address provided to the Intoxicated Driver Resource Centers/Intoxicated Driving Program. It shall be the client's responsibility to keep the Intoxicated Driver Resource Centers/Intoxicated Driving Program informed as to his or her current address. Upon a change of address, the client shall notify both the Intoxicated Driver Resource Center and the Intoxicated Drivers Program in writing within 10 days.

### **SUBCHAPTER 9. MISCELLANEOUS OFFENDERS**

#### **10:162-9.1. Multiple offenders**

(a) Prior to restoration of a multiple offender's driver's license, the offender shall be evaluated by the Intoxicated Driver Resource Center/Intoxicated Driving Program, and if treatment is complete, a recommendation for license restoration will be made to the Division of Motor Vehicles providing that:

1. His or her suspension period is satisfied; and
2. The client has successfully completed at least three months of approved treatment requirements and agrees to complete the remainder of any ordered treatment plan.

(b) If treatment completion took place more than a year before the request to restore the driver's license, documentation and an update by a counselor are required, or reevaluation may be required by the Intoxicated Driver Resource Center at an approved facility, or the reevaluation may be done by the Intoxicated Driver Resource Center itself.

#### **10:162-9.2. Out-of-State offenders**

(a) Out-of-State residents who live within reasonable driving distance (one hour's travel time) of an Intoxicated Driver Resource Center shall be scheduled in New Jersey. Other out-of-State residents may satisfy program requirements in their home states or in New Jersey. If an out-of-State resident elects to satisfy the requirements in his or home state, the Intoxicated Driving Program shall provide the client with instructions on how to comply.

(b) New Jersey residents convicted out-of-State (referred to as "Z" clients) will be referred to the Intoxicated Driving Program by the Division of Motor Vehicles, other state Intoxicated Driving Programs, probation authorities, foreign countries, or attorneys. Once appropriate documentation is received, the "Z" client shall be referred to a county Intoxicated Driver Resource Center. Any client who has not as yet been scheduled at the local Intoxicated Driver Resource Center, must call the out-of-State desk or Z desk at the Intoxicated Driving Program. No out-of-State or Z clients can be admitted to the Intoxicated Driver Resource Center without Intoxicated Driving Program approval.

(c) If an out-of-State or Z client is rescheduled at the local Intoxicated Driver Resource Center, then Intoxicated Driver Resource Center personnel should place an OS (out-of-State resident) or Z (State resident convicted in another state) clearly next to their name on reschedule rosters, noncompliance forms, compliance or treatment completion forms.

#### **10:162-9.3. New Jersey residents convicted in a foreign state**

New Jersey resident/licensees convicted abroad (in non-compact nations, provinces or territories) of alcohol or drug-related driving violations shall be required to participate in the Intoxicated Driving Program/Intoxicated Driver Resource Center Program as a requirement of continued New Jersey licensure.

#### **10:162-9.4. New Jersey clients who move out-of-State**

If a New Jersey resident attends an Intoxicated Driver Resource Center, and pays the fee and is referred to treatment, but then moves out-of-State, the Intoxicated Driver Resource Center shall be responsible for continued monitoring. All treatment entry, program and completion reports shall be handled by the Intoxicated Driver Resource Center and the case closed and data entered per normal procedure on satisfactory program completion.

#### **10:162-9.5. Intoxicated boaters**

Intoxicated boaters are not required to complete the mandatory two day jail sentence for noncompliance with Intoxicated Driver Resource Center/Intoxicated Driving Program requirements; however, they are required to comply with all other Intoxicated Driver Resource Center/Intoxicated Driving Program requirements.

### **SUBCHAPTER 10. ALCOHOL TREATMENT PROGRAM FUND GRANTS**

#### **10:162-10.1. Form and manner in which application for provider service contracts the fund shall be made**

(a) The Division of Addiction Services shall annually publish specific application procedures, qualifications and requirements for award of funding to a coordinating service agency and approved sub-contracted providers in the Department of Human Services Directory of Contracted Services or through a public notice in such form as may be used by the Department of Human Services for announcing other funding initiatives, based upon the availability of funding, consistent with this subchapter.

(b) Eligible applicants may apply to the Division of Addiction Services for funding pursuant to the procedures and requirements indicated in (a) above and, upon execution of a provider service contract or sub-contract, will be considered approved grantees. Applicant programs shall apply to:

Division of Addiction Services  
New Jersey Department of Human Services  
PO Box 362  
Trenton, NJ 08625-0362

### **10:162-10.2. Length of provider service contracts**

Subject to the availability of funds, the Division of Addiction Services may contract with the coordinating grantee or grantees for a time period that is appropriate and consistent with Department of Human Services policies and procedures for the administration of provider service contracts.

### **10:162-10.3. Criteria for approved sub-grantee eligibility**

Eligible applicants for subcontracts shall be licensed by the Department of Human Services pursuant to *N.J.S.A. 26:2H-1* and *N.J.A.C. 8:42A, 8:43A-26*, or any successor rules governing the operation of substance abuse treatment facilities; and shall be affiliated with the Intoxicated Driver Resource Centers pursuant to *N.J.S.A. 39:4-50(f)* and *N.J.A.C. 10:162-5.1* through 5.7.

### **10:162-10.4. Funding priorities**

(a) The Division of Addiction Services may make funding available to a coordinating grantee or grantees and approved sub-grantees for certain populations pursuant to (b) through (e) below.

(b) First priority is for residential or combined residential and detoxification services, and clinically indicated continuing care treatment services, provided to eligible recipients who, at the time of admission, meet the Level III.7 or III.7-D criteria of the ASAM PPC 2R on or after October 17, 2005.

(c) Second priority is for intensive outpatient clinically-indicated subsequent continuing care treatment services provided to eligible recipients who, at the time of admission, meet the Level II criteria of the ASAM PPC-2R, and who were referred to treatment on or after October 17, 2005.

(d) Third priority is for outpatient and other treatment services provided to eligible recipients who meet the Level I criteria of the ASAM PPC-2R, and who were referred to treatment on or after October 17, 2005.

(e) The Division of Addiction Services may disburse funds or authorize the disbursement of any funds for others who have been convicted of an offense under *N.J.S.A. 39:4-50* et seq., *39:4-50.4(a)*, *39:4-50.14*, *12:7-46*, *12:7-57*, *39:3-10.24* or *39:4-14.3g* no more than five years prior to October 17, 2005 and who meet the ASAM criteria referenced in (b) through (d) above, as long as its estimates of need permit it to do so and funding is available.

## **SUBCHAPTER 11. INTOXICATED DRIVER RESOURCE CENTER PER DIEM FEE INCREASES**

### **10:162-11.1. Criteria for Intoxicated Driver Resource Center per diem fee increases**

(a) The Commissioner of Human Services, in consultation with the Governor's Council on Alcoholism and Drug Abuse, may entertain and grant a request from the Division of Addiction Services, in coordination with the Directors of the Intoxicated Driver Resource Centers, for a per diem fee increase for all Intoxicated Driver Resource Centers, when it has been determined by the Director of the Division of Addiction Services that more than 50 percent of the Intoxicated Driver Resource Centers are operating in deficit, based upon the annual income and expenditure reports submitted pursuant to *N.J.A.C. 10:162-2.7*.

(b) In calculating an appropriate fee increase, the Commissioner may take into account such factors as the rate of inflation since the previous fee increase, changes in client volume of the Intoxicated Driver Resource Centers, increased work load as a result of legislation and rulemaking, the estimated projected rate of inflation, and the intent that

Intoxicated Driver Resource Centers be self-supporting. The Commissioner may also require an independent review of the income and expenditure reports and/or documentation of an independent audit consistent with Department of Human Services standards.

(c) Any Intoxicated Driver Resource Center not incurring a deficit at the time of a fee increase may use any excess revenues generated by the fee increase for assessment or treatment enhancement or shall place any such revenues into a special reserve to cover the costs of future deficits or variations in client volume.

**10:162-11.2. Minimum interval between requests**

A request for a fee increase shall not be entertained by the Commissioner until one full year after the date a previous fee increase has become effective.

**10:162-11.3. Individual or group requests prohibited**

The Commissioner shall not entertain or grant a request for a fee increase by an individual Intoxicated Driver Resource Center or by a group that includes only a portion of the Intoxicated Driver Resource Centers in the State. In order to be considered by the Commissioner, such a request must be submitted on behalf of all Intoxicated Driver Resource Centers in the State.





