

CHAPTER He-A 500 IMPAIRED DRIVER PROGRAMS

Readopt He-A 501 through He-A 504, effective 1-1-13 (Document #10240), to read as follows:

PART He-A 501 PURPOSE AND SCOPE

He-A 501.01 Purpose. The purpose of these rules is to implement the requirements of RSA 265-A relative to the provision of treatment and educational services to persons convicted of driving or operating under the influence of alcohol or other substances. These rules establish the requirements to be approved as an impaired driver care management program, an impaired driver education program, and an impaired driver services provider, and the requirements that must be met for those persons convicted of an offence related to operating under the influence of alcohol or other substances.

He-A 501.02 Scope. These rules apply to entities who wish to be approved by the commissioner of the department of health and human services to be impaired driver care management programs, impaired driver education programs, or impaired driver service providers. The rules also apply to those persons convicted of a driving or operating while impaired offense.

PART He-A 502 DEFINITIONS

He-A 502.01 Definitions.

(a) “Alcohol and drug misuse screening (screening)” means an interview with the client, conducted by a qualified individual, using one or more diagnostic instruments approved by the department, pursuant to He-A 507.02(b) to determine the need for an evaluation.

(b) “Approval period” means the period of time that providers are approved to provide IDCMP, IDEP, or IDSP services.

(c) “Bureau” means the New Hampshire department of health and human services’ bureau of drug and alcohol services (BDAS).

(d) “Case management” means a coordinated, individualized approach that links clients with appropriate services to address their specific needs and help them achieve their stated goals.

(e) “Certification” means a process whereby the department determines whether an applicant meets the minimum qualifications for an IDEP instructor.

(f) “Client” means a person convicted of a driving while under the influence (DUI) offense and thus mandated to receive services through an IDCMP, or IDEP, or IDSP, or a combination of the 3.

(g) “Co-facilitator” means a person who assists a certified instructor in conducting an IDEP class and who is currently working towards becoming a certified instructor.

(h) “Commissioner” means the commissioner of the department, or his or her designee.

(i) “Completion report” means a report that contains information about the client’s completion status after participating in an IDCMP.

(j) “Course” means the 20 hours of educational classes pertaining to an IDEP.

(k) “Department” means the New Hampshire department of health and human services (DHHS).

(l) “Department representative” means the individual designated by the department to conduct on-site visits at IDCMPs.

(m) “Diagnostic instruments” means written or electronic screening or evaluation tools designed to elicit responses from clients relative to their involvement with alcohol and other drugs.

(n) “Directed plan of correction” means a plan developed by the department that specifies the actions the IDCMP must take to correct identified deficiencies.

(o) “Driving under the influence (DUI)” means operating a vehicle under the influence of alcohol or other drugs, pursuant to RSA 265-A:2 and RSA 265-A:3. This term includes “driving while impaired (DWI)” and “operating under the influence (OUI)”.

(p) “Face to face” means in person or via an online platform, in real time, when all participants can see each other clearly.

(q) “Financial viability” means the ability to generate sufficient income to meet operating expenses, debt commitments, and where applicable, to allow growth while maintaining service levels.

(r) “Impaired driver education program (IDEP)” means a program that persons convicted under RSA 265-A:2 or RSA 265-A:3 are required to attend, pursuant to RSA 265-A:40, in order to regain their driver’s licenses or driving privileges and that is operated by an IDCMP.

(s) “Impaired driver care management program (IDCMP)” means “impaired driver care management program” as defined in RSA 265-A:18, VI.(c) namely, “impaired drive care management program approved by the department of health and human services under RSA 265-A:40.”

(t) “Impaired driver services provider (IDSP)” means a substance misuse treatment provider who has been approved by the department, pursuant to He-A 510, to provide services to persons convicted of a DWI.

(u) “Instructor” means an individual who has been approved by the department, pursuant to He-A 509, to facilitate at least a 20 hour curriculum of IDEP sessions.

(w) “International Certification & Reciprocity Consortium (IC&RC)” means the organization that sets the international standards of practice in addiction counseling, prevention, and clinical supervision through testing and credentialing of substance misuse professionals.

(x) “Licensed alcohol and drug counselor (LADC)” means a person licensed by the state of New Hampshire in accordance with RSA 330-C to serve as an alcohol and other drug counselor.

(y) “Licensed alcohol and drug counselor in training (LADC in training)” means a person who has passed the IC&RC exam, completed required trainings per Alc 310.03, is actively working towards completing the necessary hours for licensure, and is receiving appropriate supervision pursuant to Alc 300.

(z) “Master licensed alcohol and drug counselor (MLADC)” means a person licensed by the state of New Hampshire in accordance with RSA 330-C to serve as an alcohol and other drug counselor.

(aa) “Plan of correction (POC)” means a formal approach that the IDCMP develops to meet the expectations required by regulations, laws, administrative rules, settlements, or directives.

(ab) “Quality improvement plan (QIP)” means a formal approach that the IDCMP develops to enhance performance, such as service delivery, safety, access to care, or other articulated performance measures.

(ac) “Recovery support services” means services that are provided to clients to support their recovery from alcohol and other drug problems, and prevent relapse.

(ad) “Resident” means an individual who resides or inhabits the state of New Hampshire, who is domiciled or has a place of abode, and who has, through all of their actions, demonstrated a current intent to designate that place of abode as their principal place of physical presence.

(ae) “Section” means the group of clients taking an IDEP course at the same time.

(af) “Service plan” means the written individualized care management plan created by a qualified individual at an IDCMP after a substance use disorder evaluation, and which includes the course of treatment and recovery support services required to be completed by the client.

(ag) “SMART goals” means goals that are specific, measurable, achievable, realistic, and timely.

(ah) “Substance use disorder evaluation (evaluation)” means a multi-disciplinary assessment of level of function pursuant to He-A 507.03 below.

(ai) “Treatment” means the use of any planned, intentional intervention in the health, behavior, personal, or family life of an individual designed to enable the individual to achieve and maintain sobriety, physical and mental health, and a maximum functional ability.

PART He-A 503 IDCMP APPLICATION REQUIREMENTS

He-A 503.01 Approval Required for Delivery of IDCMP Services.

(a) No provider, institution, organization, corporation, person, partnership, firm, or agency, whether public or private, shall offer, advertise, deliver, or provide services that are within the scope of He-A 500 without first submitting an application and obtaining approval from the commissioner.

(b) The department shall maintain, update, and publish a list of approved providers of IDCMP services.

(c) The department shall notify the NH attorney general’s office when a program is providing IDCMP services to clients without proper approval of the commissioner.

He-A 503.02 Application Requirements.

(a) Applicants for provision of IDCMP services shall submit a completed application, “Impaired Driver Care Management Program (IDCMP) Application” (December 2023), along with required supporting documentation outlined in (b) below and non-refundable \$150.00 application fee to the department via email, or mailed to:

Department of Health and Human Services
Bureau of Drug and Alcohol Services
c/o Impaired Driver Services Coordinator
105 Pleasant Street
Concord, NH 03301

- (b) The following documentation shall be submitted with the application in (a) above:
- (1) Program staff list, including resumes and copies of any staff professional licenses;
 - (2) Certification of insurance for general liability and workers' compensation;
 - (3) A Certificate of good standing from the New Hampshire Secretary of State;
 - (4) Certificate of occupancy for each service site;
 - (5) Policy and procedure manual;
 - (6) Curriculum syllabus for impaired driver education program (IDEP);
 - (7) A year-to-date profit and loss statement (P&L) for the prior full 4 years for the agency associated with the IDCMP;
 - (8) Consolidated cash flow for the prior 4 full years for the agency associated with the IDCMP;
and
 - (9) Balance sheet years for the agency associated with the IDCMP.

(c) If the IDCMP is part of a setup organization, the information in (b)(7)-(9) above shall not be required.

He-A 503.03 Processing of Applications and Issuance of Approvals.

(a) An application for an initial approval shall be complete when the department determines that all items required by He-A 503.02(a) and (b) have been received.

(b) Within 30 days of receipt, if an application does not contain all of the items required by He-A 503.02(a) and (b), the department shall notify the applicant in writing of the information required before the application can be processed.

(c) After written notice in (b) above, if an applicant fails to provide missing information within 60 calendar days, the incomplete application shall be denied.

(d) Applicants shall be notified within 60 days of receipt of a complete application as to whether their application is approved or denied.

(e) The commissioner shall approve an IDCMP if the commissioner determines that the applicant has:

- (1) Submitted to the department a complete application and an application fee of \$150.00.
- (2) Demonstrated professional capability for meeting the requirements outlined in He-A 500 and by meeting the staffing requirements in He-A 504.04(g) and (h);
- (3) Demonstrated that the IDCMP administrator has at least 3 years' experience working in the field of substance misuse treatment or services;

- (4) Unless part of start-up organization, demonstrated financial viability based on the information required in He-A 503.02(b)(7)-(9); and
- (5) Agreed, in writing, to comply with all requirements of He-A 500 and state and federal laws and rules.
- (f) Applications may be submitted anytime throughout the year.
- (g) All approvals issued shall be non-transferable.
- (h) The bureau shall notify all active IDCMPs when a new IDCMP has been approved.

He-A 503.04 Approval Expirations and Procedures for Renewals.

(a) An initial approval shall be valid on the date of issuance and expire 4 years later on the last day of the month it was issued unless a completed application for renewal has been submitted in the timeframe outlined in (b) below.

(b) For application renewal, each IDCMP shall complete and submit to the department an application form and all required documentation pursuant to He-A 503.02(a) and (b) at least 90 days prior to the expiration of the current approval, along with a \$75.00 renewal fee.

(c) If an IDCMP fails to submit a complete application for renewal as required under (a) and (b) above, the IDCMP shall cease operation the day after the current approval expires, and shall not operate until a new written approval is obtained.

(d) An approval shall be renewed if the department determines that the IDCMP:

- (1) Submitted an application containing all the items required by He-A 503.02(a) and (b), prior to the expiration of the current approval;
- (2) If applicable, has submitted a plan of correction that has been accepted by the department and appropriately implemented by the IDCMP if deficiencies were cited at the last audit or site-visit; and
- (3) Is in compliance with He-A 500 and has agreed, in writing, to comply with all of the requirements of He-A 500, and all applicable state and federal laws and rules.

(e) A renewed approval shall be valid on the date of issuance and expire 4 years later on the last day of the month it was issued unless a completed application for renewal has been submitted in the timeframe outlined in (b) above and approved by the department.

He-A 503.05 Denial of an Initial or Renewal Application. The department shall deny an application for approval if, based on the information in the application or from an audit or on-site visit, the applicant has shown to be unable or unwilling to meet the requirements of He-A 500, or other applicable state or federal laws or rules, or if any of the factors in He-A 504.09(b) exists.

He-A 503.06 Termination of Service.

(a) If an IDCMP terminates its services or ceases operation, for any reason, the IDCMP shall:

- (1) Provide written notification of the termination of services to the department and to all current clients no later than 90 days prior to the date the IDCMP intends to cease operations or terminate a provision of service;
- (2) Provide the department a written plan for the transfer of client services and records to another IDCMP;
- (3) Assist current clients with the transition of services to another IDCMP, including the transfer of client records; and
- (4) Arrange for:
 - a. The secure storage of and access to all client records, by the client and the department, for any records not transferred to another IDCMP for the remaining required timeframe pursuant to He-A 504.02(j); and
 - b. A way for client to be able to request records for the remaining required timeframe.
- (b) The department shall not store records for the IDCMP.
- (c) The department shall notify all active IDCMP's about the closure.

He-A 503.07 Requirements for Organizational Changes.

- (a) The IDCMP shall provide the department with written notice at least 30 days prior to changes in any of the following:
- (1) Ownership;
 - (2) Physical location;
 - (3) Agency name; or
 - (5) Service delivery.
- (b) The IDCMP shall inform the department in writing, as soon as possible, prior to a change in key personnel, such as executive director.
- (c) The administer shall complete and submit a new application and obtain a new approval prior to operating the IDCMP after a change in ownership.
- (d) The IDCMP shall inform the department in writing as soon as possible of any changes relative to the approved program that will or have the potential to disrupt service delivery.

PART He-A 504 IDCMP REQUIREMENTS

He-A 504.01 Electronic Client Record System.

- (a) IDCMPs shall use the electronic client record system provided by the department, called Web Information Technology System (WITS) to record the following data required by the department:

- (1) Client profile;
- (2) Intake transaction;
- (3) IDCMP care management plan;
- (4) Billing information for the state fee; and
- (5) Miscellaneous notes regarding completion, non-compliance, or non-completion for IDEPs, and IDCMPs.

(b) The department shall make available to all approved IDCMPs training on the proper use of WITS modules specifically developed for the purposes outlined in (a) above.

(c) The department shall also maintain technical assistance for all approved providers on an ongoing basis during normal business hours, Monday through Friday.

(d) All new providers shall participate in this training to maintain their approved status.

He-A 504.02 Privacy and Confidentiality.

(a) All IDCMPs and IDSPs shall comply with the applicable privacy and confidentiality provisions in RSA 172:8-a, RSA 318-B:12, 42 CFR Part 2, and the “Standards for Privacy for Individually Identifiable Health Information” (Privacy Rule), pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 and 164, Subparts A and E.

(b) All applicable program data that is associated with a particular client, or could be associated with a particular client, shall be treated as public health information, consistent with the Privacy Rule described in (a) above.

He-A 504.03 Acceptance of Clients. All IDCMPs, IDEPs, and IDSPs shall accept as a client any person without regard to race, ethnicity, religion, gender identity, sexual orientation, disability, language proficiency, or need for interpreter services.

He-A 504.04 IDCMP Operational Requirements.

(a) IDCMPs shall be open to the public for a minimum of 6 hours per day, 5 days per week, which may include weekends.

(b) IDCMPs may be closed for a maximum of 2 days per week, either during weekdays or on weekends, excluding holidays.

(c) IDCMPs shall have a voicemail system which is maintained after business hours and which indicates IDCMP business hours.

(d) While the IDCMP is open to the public, there shall be an IDCMP staff member(s) available to answer telephones, respond to emails, accept walk-ins, and conduct other relevant business.

(e) IDCMPs shall respond to requests for service within one business day. Service requests shall be accepted by telephone, including voicemail, in person, or electronically by email or facsimile.

(f) Voicemail messages received shall be returned within one business day.

(g) An IDCMP shall hire and maintain sufficient qualified staff to provide the services required of an IDCMP and to meet the needs of clients, including at a minimum:

- (1) A program administrator, who shall be responsible for the day-to-day operation of the IDCMP;
- (2) At least one LADC or MLADC, who may also act as the program administrator;
- (3) A care manager, who may also act as the program administrator, and who shall be responsible for ensuring clients' compliance with their service plans and conduct case management services; and
- (4) At least one IDEP instructor, who may be the same individual as (1), (2), or (3), certified in accordance with He-A 509; and
- (5) Other staff as needed to provide services, such as overnight staff for a weekend IDEP (WIDEP).

(h) The IDCMP shall develop and implement policies and procedures which include, at a minimum, the following:

- (1) Client rights, including at a minimum:
 - a. Privacy and confidentiality in accordance with He-A 504.02;
 - b. Acceptance of clients in accordance with He-A 504.03; and
 - c. Client grievance procedures;
- (2) Regulation of weapons of any kind on the premises, as consistent with state and federal laws;
- (3) Prohibition of alcohol and other drugs on the premises;
- (4) Tobacco products and smoking;
- (5) Use of electronic devices such as cell phones, personal computers, and music devices;
- (6) If providing WIDEP services, a medication policy, including the safe and secure storage of client prescription and over the counter medication;
- (7) Emergency procedures;
- (8) In-service staff training;
- (9) Tardiness to an IDEP session;
- (10) Agency contingency plans for unforeseen events such as loss of key personnel such as the executive director and provide a plan for the continuation of services without disruption to clients; and
- (11) Any other relevant policies and procedures.

(i) In addition to the electronic client record maintained in WITS described in He-A 504.01, the IDCMP shall maintain a secure electronic health record (EHR), either through the state provided WITS or other EHR where they document all client contact. The IDCMP may also maintain a secure paper record for each client to include documents related to the client's services at the agency.

(j) Client records shall be maintained for a period of 7 years from the date of the client's last attendance of the program, or the date of program completion, whichever is later.

(k) The IDCMP shall report, in writing, to the department, within one business day, any critical incident or sentinel event, or both occurring at the IDCMP.

(l) The IDCMP shall respond to all department requests for follow-up information regarding a critical incident or sentinel event within 48 hours of the request.

He-A 504.05 Physical Environment.

(a) IDCMPs shall provide handicapped accessibility into and within the provider's buildings, in compliance with the Americans with Disabilities Act.

(b) IDCMPs shall have the following physical areas for operations:

- (1) A counseling room that is private so that conversations with clients cannot be overheard;
- (2) Office and administrative space where staff can work privately with clients;
- (3) Secure areas for the protection and confidentiality of records; and
- (4) Waiting room area.

(c) If smoking is allowed, the IDCMP shall:

- (1) Develop and implement smoking policies; and
- (2) Designate smoking areas in accordance with RSA 155:66-69.

(d) IDCMPs shall be in possession of a current Certificate of Occupancy pursuant to Saf-C 8102.043 for each service site.

He-A 504.06 Complaints.

(a) The department shall investigate complaints that allege a violation of He-A 500.

(b) The following items shall be the subject of an appeal request to the department of safety, division of motor vehicles, pursuant to RSA 265-A:40, VI, and Saf-C 204.20:

- (1) The required elements of a service plan;
- (2) Changes to a service plan;
- (3) Compliance with the required elements of a service plan;
- (4) Diagnosis; and

(5) IDCMP completion status.

(c) These items in (b)(1)-(5) shall not be investigated by the department as a violation of He-A 500 until an appeal request has been filed pursuant He-A 504.06(b), and the hearing concluded.

(d) When practicable, the complaint shall be in writing and contain the following information:

- (1) The name and address of the IDCMP;
- (2) The name, address, and telephone number of the complainant; and
- (3) A description of the situation that supports the complaint and the alleged violation(s) of He-A 500.

(e) Upon notice of a complaint, the IDCMP shall cooperate with the department's investigation by:

- (1) Allowing department access to the IDCMP premises;
- (2) Allowing IDCMP staff to be questioned by department representatives;
- (3) Allowing department access to all client records and IDCMP business records at the IDCMP premises; and
- (4) Providing the department with copies of requested documents.

(e) If the investigation results in deficiencies being cited, the IDCMP shall be required to comply with any administrative remedies as directed in He-A 504.05 and He-A 504.06.

He-A 504.07 Program Compliance Monitoring.

(a) For the purpose of determining compliance with He-A 500, IDCMPs and applicants for approval shall admit and allow any department representative at any time during its hours of operation to:

- (1) Conduct an audit of records and policies to ensure compliance with He-A 500;
- (2) Monitor any program or service provided by the IDCMP; and
- (3) Verify the implementation of any POC accepted or issued by the department.

(b) Visits by a department representative may be scheduled or unscheduled, but shall take place during the IDCMP's normal business hours.

(c) If the department is unable to conduct program compliance monitoring on-site, the IDCMP shall allow full access to the IDCMP client records in their EHR, or upload client records to the secure site provided by the department.

(d) Visits by a department representative shall include the review of any element in He-A 500 related to the provision of impaired driver services.

(e) IDCMP staff shall cooperate fully with and answer all questions of department representatives regarding the provision of impaired driver services.

(f) The department shall provide the IDCMP with a written notice of non-compliance for violations of He-A 500 identified during an audit or program monitoring.

He-A 504.08 Administrative Remedies.

(a) After issuing a notice of non-compliance the department shall impose administrative remedies for violations of He-A 500, including:

- (1) Requiring an IDCMP to submit a POC or quality improvement plan (QIP);
- (2) Imposing a directed POC upon an IDCMP; or
- (3) Withdrawal of an approval to operate an IDCMP or an IDEP, or both.

(b) A POC shall be developed and enforced in the following manner:

(1) Upon receipt of a final report outlining the notice of non-compliance, the IDCMP shall submit a POC detailing:

- a. How the IDCMP intends to correct each deficiency;
- b. Using SMART goals, what measures will be put in place, or what system changes will be made, to ensure that the deficiency does not recur; and
- c. The date by which each deficiency shall be corrected;

(2) The IDCMP shall submit a POC to the department within 30 calendar days of the date on the notice in (1) above, unless an extension request, made in writing, has been approved by the department;

(3) The department shall review and accept each POC that:

- a. Achieves compliance with He-A 500;
- b. Addresses all deficiencies and deficient practices as cited in the written notice described in (1) above, using SMART goals;
- c. Prevents a new violation of He-A 500 as a result of the implementation of the POC; and
- d. Specifies the date by which the deficiencies shall be corrected;

(4) If the POC is acceptable, the department shall provide written notification of acceptance of the POC;

(5) If the POC is not acceptable:

- a. The department shall notify the IDCMP in writing of the reason for rejecting the POC;
- b. The IDCMP shall develop and submit a revised POC within 14 days of the date of the written notification from the department that states the original POC was rejected;
- c. The revised POC shall comply with (1) above; and
- d. If the revised POC is not acceptable to the department the IDCMP shall be subject to a directed POC in accordance with (c) below.

(c) The department shall develop and impose a directed POC that specifies corrective actions for the IDCMP to implement, without first requiring a POC that is not directed, when:

- (1) As a result of an audit or on-site visit, deficiencies were identified that require immediate corrective action to protect the health and safety of the clients and employees or to ensure the privacy and confidentiality of clients;
- (2) A revised POC is not submitted within 14 days of the written notification from the department; or
- (3) A revised POC submitted by the IDCMP has not been accepted.

(d) The department shall verify the implementation of any POC through on going monitoring.

(e) If at the time of the next audit the directed POC has not been implemented by the completion date stated in the POC, the department shall, as appropriate:

- (1) Deny an application for a renewal of an approval; or
- (2) Withdraw the approval in accordance with He-A 504.09(b).

He-A 504.09 Non-compliance Actions, Revocations, and Hearings.

(a) At the time of denying an application for approval or revoking an approval, the department shall send to the applicant or IDCMP written notice of non-compliance that sets forth:

- (1) The action to be taken by the department;
- (2) The reason(s) for the proposed action; and
- (3) The right of an applicant or IDCMP to a hearing in accordance with He-C 200 before the non-compliance action becomes final.

(b) The department shall deny an application or withdraw the approval of an IDCMP if:

- (1) An applicant or an IDCMP has violated provisions of He-A 500, or other applicable state or federal laws or rules, or allowed conditions to exist, which violates or has the potential to harm a client's health, safety, or well-being;
- (2) An applicant, IDCMP, or any representative or employee of the applicant or IDCMP:
 - a. Has abused, exploited, neglected, or extorted a client;
 - b. Has committed fraud;
 - c. Provides false or misleading information to the department;
 - d. Prevents or interferes, or fails to cooperate with any inspection or investigation conducted by the department; or
 - e. Fails to provide requested files or documents to the department;
- (3) The IDCMP failed to implement or continue to implement the required components of a POC that has been accepted or imposed by the department in accordance with He-A 504.08; or

(4) The IDCMP has failed to deliver the agreed-upon services or maintain applicable provider standards.

(c) The department shall order the immediate suspension of a certification and the cessation of operations when it finds that the health, safety, or welfare of a client is in jeopardy and requires emergency action in accordance with RSA 541:A-30.

(d) If an immediate suspension is upheld, the IDCMP shall not resume operating until the department determines the applicant or IDCMP has implemented appropriate measures to ensure the health, safety, or welfare of clients is no longer in danger, after a department approved plan of correction has been completed.

(e) An applicant or an IDCMP shall have 30 calendar days after receipt of the notice of emergency revocation action to request a hearing to contest the action.

(f) If a written request for a hearing is not made pursuant to (e) above, the IDCMP shall waive its right to a hearing and the action of the department shall become final.

(g) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

(h) No ongoing non-compliance action shall preclude the imposition of any remedy available to the department under RSA 541-A:30, III, or He-A 500.

(i) When an IDCMP's approval has been denied or revoked, the IDCMP administrator, or agency associated with the IDCMP shall not be eligible to reapply for an approval or be employed as an administrator of an IDCMP for at least one year.

(j) The one year period referenced in (i) above shall begin on:

(1) The date of the department's decision to withdraw or deny the approval, if no request for an administrative hearing is requested; or

(2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

(k) Notwithstanding (i) above, the department shall consider an application submitted after the decision to withdraw or deny becomes final, if the applicant demonstrates that circumstances have changed to the extent that the department now has good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 265-A:40, He-A 500, and any other applicable state or federal laws or rules.

He-A 504.10 Waivers.

(a) The commissioner shall waive any element or portion of these rules if the commissioner determines that such a waiver would rectify problems unforeseen by the rules or assist a client in completing an IDCMP when strict adherence to the rules would be unduly onerous due to unique circumstances beyond the client's control.

(b) A written request for a waiver of specific procedures in these rules shall be made by an IDCMP program administrator or designee and shall be submitted to the commissioner.

- (c) A request for a waiver shall include:
 - (1) A specific reference to the rule for which a waiver is being sought;
 - (2) A full explanation of why a waiver is necessary; and
 - (3) A full explanation of alternative procedures proposed, which detail how the intent of the rule will be satisfied if the waiver is granted.
- (d) A request for waiver shall be granted if the commissioner determines that:
 - (1) A criterion described in (a) has been met; and
 - (2) The IDCMP has provided a valid explanation for why a waiver is necessary.
- (e) Notwithstanding (d) above:
 - (1) No waiver shall be granted if the effect of the waiver would be to waive or modify any state statute, unless a waiver is expressly allowed by the statute that would be waived; and
 - (2) No waiver shall be granted if the effect of the waiver would be to waive or modify any federal requirement unless the federal statute or regulation that establishes the requirements allows for waivers.
- (f) Subsequent compliance with the alternative procedures approved in the waiver shall be considered to be in compliance with the rule for which waiver was sought.
- (g) Waivers shall be resubmitted for renewal every 2 years, or as determined by the commissioner.

PART He-A 505 SCHEDULE OF FEES AND CHARGES

Readopt with amendment He-A 505.01, effective 4-8-14 (Document #10564), as amended in He-A 505.01, effective 10-24-22 (Document #13472, Emergency Rule), to read as follows:

He-A 505.01 Schedule of Fees and Charges.

- (a) Pursuant to RSA 265-A:40, IV, persons receiving services from an impaired driver care management program and from education or treatment programs included in the service plan shall be responsible for the fees assessed by such programs.
- (b) IDCMPs shall charge a client no more than the following amounts:
 - (1) A \$100 fee for an intake or screening, which shall be valid for 6 months from the date of the completed intake or screening. If the client is not in compliance with a service plan or has not completed a requested evaluation from the date of the initial screening, a new intake shall be conducted at the client's expense;
 - (2) A \$275 fee for a substance use disorder evaluation, which shall be valid for 6 months from the date of the evaluation. If the client does not start treatment within that 6 month period, the client will be subject to a new evaluation at the client's expense, if the client is not in compliance with their service plan;

- (3) A \$80 monthly or \$20 weekly administrative fee for case management services, which shall be in place from the date the service plan was developed with the client. The administrative fee and services shall continue until the client is deemed completed by the IDCMP, or until a notice of non-compliance is sent to the client;
 - (4) A \$400 fee for an IDEP, including all course materials;
 - (5) A \$650 fee for an in-person, overnight, weekend education program, including all course materials and room and board;
 - (6) A \$70 per client fee, which shall be the fee required by RSA 265-A:39, III(g), and RSA 265-A:40, VII(g), to be paid to the department by the client via money order and collected by the IDCMP at intake;
 - (7) A \$130 fee for each day that an IDCMP staff is required to attend a sentencing court proceeding as a result of a notice of non-compliance being sent in accordance with He-A 507.05(i) and (k);
 - (8) An amount equal to the cost for the IDCMP to provide any drug or alcohol testing services to individual clients;
 - (9) For individuals who choose to receive all services outside of New Hampshire, in accordance with He-A 506.01:
 - a. An out-of-state client fee of \$350 which shall be paid by clients who receive all evaluation, treatment, and educational services out-of-state, to cover the cost of intake or registration, service plan development and monitoring, as applicable, electronic data systems requirements, verification or out-of-state education and clinical requirements, and completion reporting, as applicable; and
 - b. The per client fee in (6) above shall not be paid by clients who receive all services out-of-state;
 - (10) The amount of the fees charged by a financial institution for every payment made by a client by credit card, for services described in (b)(1) through (b)(9); and
 - (11) No-show fees for missed IDCMP appointments which shall:
 - a. Be set by the IDCMP;
 - b. Be no more than the cost of the appointment; and
 - c. Not apply to clients who are less than 15 minutes late to an appointment, or clients attending IDEP, who are subject to He-A 507.07(a)-(e).
- (c) Programs shall notify clients of the following, in writing, prior to services being rendered:
- (1) What acceptable forms of payments are allowed to pay for services rendered; and
 - (2) What applicable transaction fees are associated with each form of payment for any fee described in He-A 500.

(d) IDCMPs shall not charge or collect from a client a fee:

- (1) For any drug or alcohol testing required by the service plan. Such fees shall be paid by the client directly to the testing site;
- (2) For any fee that is being paid for by a publicly funded program or by insurance; and
- (3) If an IDCMP, during the course of case management services, assists client in acquiring third party services, such as psychiatric or peer support. Clients shall be responsible for any fees associated with these services and billing shall not occur via the IDCMP.

Readopt with amendment He-A 505.02 and He-A 505.03, effective 1-1-13 (Document #10240), to read as follows:

He-A 505.02 Reduced Fees for Hardship.

(a) Per RSA 265-A:40, IV, clients who cannot pay for IDCMP or impaired driver treatment services may avail themselves of publicly funded programs.

(b) IDCMPs shall offer a reduced fee for hardship for New Hampshire residents for IDEPs and per client fees as follows:

(1) A client shall be eligible for a reduced fee if they provide documentation that indicates that they are currently receiving one of the following state or federal assistance benefits, in the client's name, and can verify New Hampshire residence:

- a. Temporary assistance to needy families;
- b. Social Security disability;
- c. Supplemental security income;
- d. State supplemental program financial assistance; or
- e. Veteran disability; and

(2) IDCMPs shall reduce the IDEP fees charged to the client by 50% and waive the state per client fee.

(c) At intake an IDCMP shall inform clients of the reduced fee options available to them and shall document such notice.

He-A 505.03 Per Client Fee.

(a) Pursuant to RSA 265-A:39, III(g), and RSA 265-A:40, VII(g), clients shall pay to the department a per client fee to cover the departmental costs for monitoring course content and program services, establishing and maintaining standards of instruction, data collection, and administrative support.

(b) The per client fee shall be \$70 per client.

(c) The per client fee shall be waived for those clients who receive a reduced fee for hardship, per He-A 505.02.

(d) The per client fee shall be paid as follows:

(1) Unless the fee is waived in accordance with (c) above, at intake, each client shall provide the IDCMP with payment for the per client fee in (b) above via a certified check or money order, made payable to “Treasurer-State of New Hampshire”.

(e) Within 14 calendar days of receiving from the client the per client fee, the IDCMP shall send to the department the per client fee, accompanied by a “Per Client Fee Transmittal Form” (January 2021) which includes the client name, and date the payment was received.

(f) Within 14 calendar days of receiving the per client fee, the IDCMP shall enter the payment information into WITS.

(g) An IDCMP shall not deem a client completed if the client does not pay the per client fee, unless the fee is waived in accordance with He-A 505.02.

Readopt with amendment He-A 506.01 and He-A 506.02, effective 4-8-14 (Document #10564), to read as follows:

PART He-A 506 PROGRAM PARTICIPATION REQUIREMENTS

He-A 506.01 Requirements for Program Choice.

(a) Individuals who are convicted of a DUI in New Hampshire shall be required to complete all impaired driver program components within the state of New Hampshire, except as follows:

(1) Individuals who are not a resident of New Hampshire;

(2) Residents of New Hampshire who live outside New Hampshire for at least 9 months out of a year for educational purposes may choose to complete impaired driver program components in the state in which they are attending school; and

(3) Residents of New Hampshire who are active members of the U.S. military service and who are stationed or deployed outside New Hampshire may choose to complete impaired driver program components where they are stationed or deployed.

(b) The requirements in He-A 506.02 for out-of-state residents shall also apply to those individuals in (a)(2)-(3) above who choose to complete impaired driver program components outside New Hampshire.

(c) Individuals convicted in New Hampshire who have legal residence outside New Hampshire shall have the option of completing impaired driver program components either in New Hampshire or in their state, territory, or country of residence, in accordance with He-A 506.02.

He-A 506.02 Out-of-State Residents and NH Residents Charged with Impaired Driving Out-of-State.

(a) Out-of-state residents shall complete programming in New Hampshire or within their state of residence.

(b) A face-to-face intake and registration shall be conducted by the IDCMP for those individuals who are completing programming out-of-state.

(c) If the out-of-state resident chooses to complete programming in their state of residence, they shall register with a New Hampshire IDCMP to ensure that the programming completed in their home state is approved by that state.

(d) By obtaining all necessary documentation, including but not limited to a letter from the out-of-state entity detailing what the client completed or the client's records, from the out-of-state entities from who the client received services, the New Hampshire IDCMP shall confirm that all required components have been completed.

(e) If an education program is a required component and is occurring out-of-state, the IDCMP shall obtain an education program completion report from the home state's state approved education provider pursuant to (h)(2) below.

(f) If an evaluation or treatment is a required component, and is occurring out-of-state, the IDCMP shall verify the treatment provider meets the criteria described in (h)(1) below, and receive a completion report from the provider.

(g) In order to ensure that provider credentials meet applicable requirements in (h) below, a client may work with the IDCMP to verify a provider's credentials prior to the service being provided for pre-approval by the IDCMP.

(h) Out-of-state provider credentials shall be as follows:

(1) Evaluation and treatment services shall be provided by:

a. Individuals possessing an applicable international certification and reciprocity consortium (IC&RC) sanctioned license, and are receiving appropriate supervision for that license; or

b. If the client resides in a non-IC&RC state, services shall be provided by individuals who are approved by that state for the purpose of license reinstatement subsequent to an alcohol or drug DWI conviction; and

(2) Impaired driver education programs shall be provided by programs which are approved by that state for the purpose of license reinstatement subsequent to an alcohol or drug DWI conviction and shall be no less than 20 hours.

(i) The IDCMP shall report completions to the sentencing court(s), and the NH division of motor vehicles, as well as other states' involved motor vehicle divisions, if applicable, once the out-of-state client has completed all required elements.

Readopt with amendment He-A 506.03 and He-A 506.04, effective 1-1-13 (Document #10240), to read as follows:

He-A 506.03 Extenuating Circumstances for Enrollment Timeframe Compliance.

(a) The timeframes established in RSA 265-A:18 for scheduling and completing screenings and evaluations shall begin the day following the client's conviction or the client's release from the county correctional facility, whichever is later.

(b) Clients shall comply with the timeframes for scheduling and completing screenings and evaluations described in RSA 265-A:18, unless one of the following extenuating circumstances apply:

- (1) The client is physically, medically, or psychiatrically unable to comply due to confinement to an institution or incapacitation, as documented by a medical doctor or institution administrator;
- (2) The chosen IDCMP is unable to schedule the client within the timeframe established, as documented by the IDCMP, except that, for this extenuating circumstance to apply, which the client shall take the next available opening; and
- (3) If, after a screening or a substance use disorder evaluation has been scheduled, the client is unable to attend due to documented reasons beyond the client's control, such as a death in the client's immediate family, a medical emergency pertaining to the client or the client's immediate family, or other factors which cause the client to not be able to keep the IDCMP appointment, and is granted an excused absence described in He-A 507.08.

(c) The IDCMP shall be responsible for requesting approval from the department of any extenuating circumstances.

(d) Any approval of extenuating circumstances shall include a new required timeframe for compliance.

He-A 506.04 Program Transfer.

(a) A client may voluntarily transfer to another IDCMP at any time.

(b) A client who voluntarily transfers to another IDCMP for services other than solely for education shall:

- (1) Begin the program anew; and
- (2) Undergo a new intake and screening and evaluation and incur all associated fees.

(c) A client who voluntarily transfers to another IDCMP for the education program shall register with the new IDCMP, without incurring any fees, aside from the education program fee.

(d) If a client is required to transfer from one IDCMP to another due to the temporary or permanent closure of the initial IDCMP, the client shall continue their services at the new IDCMP at the point in time where they left off with the initial IDCMP.

(e) The client shall not be required to pay any fees to the new IDCMP for programing that they already completed with the initial IDCMP, unless after consultation with the client's IDSP, the new IDCMP has a valid clinical justification for requiring any services to be redone.

(f) If the client does not have an established IDSP, the IDCMP may consult with the agency's clinical director, and if a determination is made that any services need to be redone, the IDCMP shall request approval from the department for this to occur.

Adopted He-A 506.05 and He-A 506.06 to read as follows:

He-A 506.05 Convictions Which Occurred between January 1, 2013 and the January 2024 effective date of this rule. Clients who were convicted of an impaired driving offense between January 1, 2013 and the January 2024 effective date of this rule, who have not yet achieved license restoration, shall complete an IDCMP as described in He-A 500, effective by the January 2024 effective date of this rule, unless:

(a) The client has completed an intake with an IDCMP prior to the January 2024 effective date of this rule; and

(b) The client is not out of compliance, pursuant to He-A 507.06(j) between January 1, 2013 and the January 2024 effective date of this rule, in which case the client shall be eligible for restoration upon completion of the requirements as set forth in He-A 506.06.

(c) If the client has not completed an IDEP within 5 years prior to the client's request to the DMV to have their license reinstated pursuant to RSA 265-A:42, the client shall be required to complete an IDEP.

He-A 506.06 Convictions Prior to January 1, 2013.

(a) Pursuant to Chapter 228:11, Laws of 2012, a client convicted of an impaired driving offense and sentenced prior to January 1, 2013, who did not successfully complete sentencing requirements as of January 30, 2013 shall be required to participate in an IDCMP.

(b) If a client successfully completed their sentencing requirements before January 30, 2013, but has not yet achieved license restoration, the client shall have an intake appointment with an impaired driver program minus the screenings, and pay the fee in He-A 505.01(b)(1).

(c) After the intake appointment in (b) above, the IDCMP shall verify the client's completion by obtaining from the department, another agency, or program in New Hampshire, which provided impaired driver services to the client, such as the multiple offender program (MOP), a phase II program, or an IDEP, the following documentation to confirm completion of the program:

(1) Completion report, or a report stating the client is eligible for license restoration;

(2) A current original certified copy of the client's driver's license record from all of the following, as applicable:

a. The state of New Hampshire division of motor vehicles; or

b. The state in which the client holds a driver's license, if a non-resident; and

(3) Any other relevant information related to the client's completion.

(c) All requirements set forth in He-A 507.03(g) and He-A 507.06(k)(1) for prosecutor notification shall not apply.

(d) If the client is not eligible for license restoration due to not completing any component of their sentencing requirement, except the payment of fees, or if there is no available evidence of completion, the client shall be required to contact an IDCMP and follow all requirements set forth in He-A 500, and of the sentencing court.

Readopt with amendment He-A 507 through He-A 510, effective 1-1-13 (Document #10240), to read as follows:

PART He-A 507 IMPAIRED DRIVER CARE MANAGEMENT PROGRAMS OPERATION

He-A 507.01 IDCMP Intake.

(a) All individuals convicted of an impaired driving offence shall contact an IDCMP after they are convicted.

(b) Individuals shall obtain the required documents and complete an intake and screening within the required timeframe outlined in the court conviction paperwork, either 14 or 30 days from conviction.

(c) There shall be an initial face-to-face intake between the client and IDCMP staff.

(d) The initial intake shall include the following steps:

(1) Each client shall provide the IDCMP with the following documentation at the time of intake, which shall then be reviewed:

a. A current original certified copy of the client's driver's license record, printed within the past 60 days, from all of the following, as applicable:

1. The state of New Hampshire department of safety, division of motor vehicles;

2. The state in which the client holds a driver's license, if a non-resident; and

3. Any state in which the client has been arrested or convicted for an offense involving driving a motor vehicle under the influence of alcohol or drugs;

b. Superior or district court orders or case summary;

c. Chemical test results, if any were performed, or documentation of the client's refusal to submit to chemical tests, either via the results themselves or as stated on the arrest report narrative;

d. A copy of the client's arrest report or arrest narrative, or both relating to conviction;

e. Documentation of proof of completion of a department-approved impaired driver education program if such a program has been completed within 5 years prior to the client's request to the DMV to have their license reinstated, pursuant to RSA 265-A:42; and

f. The client's criminal record, in a format to be determined by the individual IDCMP's policy;

(2) Screening of first-time offenders, as described in He-A 507.02, and, if needed, the scheduling of an impaired driver evaluation shall take place. The evaluation may be conducted on the same day as the intake and screening;

(3) Impaired driving evaluation of individuals convicted of an aggravated, second, or subsequent DWI offense, which shall include the screening tools in He-A 507.02(b).

(4) Referral to or scheduling attendance at an IDEP if the client has not provided proof of completion of a department-approved IDEP within 5 years prior to the client's request to the DMV to have their license reinstated pursuant to RSA 265-A:42.

(5) Notice to the client of the reduced fee options available to them, pursuant to He-A 505.02, including obtaining the client's written acknowledgment that such notice has been given;

(6) Securing release(s) of information; and

(7) Payment of the per client fee described in He-A 505.03 by the client.

(e) Failure to provide the documentation in (d)(1) above shall prevent a completion report from being finalized and sent to the DMV until such documentation is provided.

(f) IDCMPs shall have their own policies and procedures related to the provision of documentation in (d)(1).

(g) If new information is obtained from the documentation in (d)(1) above that was not previously disclosed to the IDCMP, this may result in an evaluation being needed, if not already conducted, additional treatment being required, and a service plan being implemented.

(h) Failure to provide the documentation related to (d)(4) above shall prevent a completion report from being finalized and sent to the DMV until such documentation is provided or the client completes an IDEP.

(i) Failure to provide the per client fee in He-A 505.01 (b)(6) shall not prevent the intake from being conducted, but shall prevent a completion report from being finalized and sent to the DMV.

(j) At the time of intake, the IDCMP shall inform the client, in writing, of the following information, and obtain the client's written acknowledgment that such information was provided and agreed to:

(1) The rules of the program, including attendance requirements and the consequences of tardiness and unexcused absences;

(2) Expectations of both the IDCMP and the client;

(3) The requirements and procedures for completion of the program and license reinstatement;

(4) The rules contained in He-A 500 that require the client's adherence; and

(5) The consequences of failure to complete the program.

(k) Notice of any scheduled appointments shall be provided to the client in writing;

(l) Each client shall sign a 42 CFR Part 2 compliant release of information for each of the following:

(1) The department, for purposes of technical assistance, quality management, and audit program and oversight pursuant to (m) below;

(2) All other IDCMPs to communicate regarding all aspects of the client's involvement in an IDCMP, should the client choose to participate in a different IDCMP; and

(3) Any IDSPs involved with treatment related to the current offense to communicate regarding all aspects of the client's engagement and progress in treatment.

(m) Each client shall sign and date a "Web Information Technology System (WITS) Information Use Acknowledgement for Clients Not Receiving Bureau of Drug and Alcohol Services (BDAS) Funded Services" form (December 2023), acknowledging the following:

"You are receiving services from a provider that utilizes the WITS system for client record keeping purposes. Any client information entered into the WITS system is protected by federal law (42 CFR, Part 2) and the department of health and human services (DHHS), which prohibits disclosure of the information without client consent except in very limited circumstances.

Because the WITS system is maintained by BDAS, certain DHHS employees are authorized to access the information that is entered into the WITS system. These DHHS employees are bound by State and Federal law (42 CFR, Part 2) to keep the information in WITS confidential and to only access it for legitimate business purposes. In general, once information is entered into WITS, it cannot be removed. As stated above, the sharing of client identifiable information outside of the Department without written consent from the client is prohibited by 42 CFR, Part 2. Some examples of when client information is accessed and how it is used are:

- Technical assistance with utilizing the WITS system;
- Technical assistance with clinical decision making upon provider request; and
- Reporting of deidentified client data to meet legislative and other administrative requests.

You have the right to choose whether or not your personal information is entered into the WITS system.

By signing below, I indicate that I understand that having my personal information entered into the WITS system will result in DHHS employees having access to that information for legitimate business purposes. I also attest that I have completed a 42 CFR, Part 2 compliant consent to allow my provider to release my personal information to BDAS through use of the WITS system."

(n) Failure to sign the releases in (j) and (k) above shall prevent the intake from being completed.

(o) An IDCMP shall not accept for services a client who presents with court documentation that specifies a different IDCMP. The client shall attend the court-ordered IDCMP, or have the order changed by the court.

He-A 507.02 Alcohol and Drug Use Screening.

(a) Pursuant to RSA 265-A:18, I(a)(3), non-aggravated, first-time offenders shall submit to a face-to-face alcohol and drug misuse screening at the intake.

(b) The IDCMP shall utilize the Behavior Data System's, "Driver Risk Inventory-II (DRI-II)" (2007 edition), available as noted in Appendix A, as screening tools.

(c) Any IDCMP staff that has been trained in the proper administration and interpretation of the tools in (b) above shall be allowed to administer this tool, and interpret and inform the client of the results, as described in (d) and (e) below.

(d) IDCMP staff shall review the results of the screening tool and the documents in He-A 507.01(c)(1) and refer the client for an evaluation if any of the following is true:

- (1) The DRI-II alcohol scale score is at the 50th percentile or greater;
- (2) The DRI-II drug scale score is at the 50th percentile or greater;
- (3) The stress coping ability scale is 90th percentile or greater;
- (4) The DRI-II truthfulness scale score is at the 90th percentile or greater;
- (5) The client has had more than one DWI conviction in this or any other state in their lifetime;
- (6) The client refused to have a urine or breath tested prior to, or during the arrest process, as described in RSA 265-A:4;
- (7) The client was age 21 or over and had a blood alcohol concentration (BAC) of 0.16 or higher at the time of arrest;
- (8) The client was under the age of 21 and had a BAC of 0.08 or higher at the time of arrest;
- (9) The client has a documented history of a substance use disorder; or
- (10) It is the IDCMP clinical staff's determination that the client may warrant a substance use disorder diagnosis.

(e) The IDCMP shall inform the client of the results of the screening at the time of the screening, unless a finding cannot be made due to absence of required documentation in He-A 507.01(c)(1).

(f) If referred for an evaluation, the client shall submit to a substance use disorder evaluation, described in He-A 507.03, to be scheduled and conducted no later than the 30th day after conviction.

(f) The evaluation may be conducted on the same day as the screening.

He-A 507.03 Substance Use Disorder Evaluation.

(a) A substance use disorder evaluation shall be conducted face-to-face and be conducted when:

- (1) Clients met the criteria outlined in He-A 507.02(d);
- (2) The client was convicted of an aggravated, second, or subsequent DUI offense; and
- (3) New information is revealed during the IDEP, IDSP, or other treatment provider sessions, or otherwise learned by the IDCMP pursuant to He-A 507.01(d), that indicated the appropriateness of an evaluation.

(b) A substance use disorder evaluation shall be conducted by one of the following credentialed professionals trained in the proper use of the diagnostic instruments listed in (c) below:

- (1) A NH LADC or MLADC;

- (2) A NH licensed clinical social worker, licensed in accordance with RSA 330-A, who is also certified by the National Association of Social Workers (NASW) as a certified clinical alcohol, tobacco, and other drugs social worker (CCATODSW);
 - (3) A NH licensed psychologist with a certificate from the American Psychological Association for the treatment of alcohol and other psychoactive substance use disorders; or
 - (4) A LADC or MLADC in training who is actively working towards the NH LADC credential under appropriate supervision, and who meets the following requirements:
 - a. Has passed the IC&RC written exam within the past 2 years;
 - b. Has completed the following training within the past 2 years:
 1. A 6-hour minimum training on ethics;
 2. A 6-hour minimum training on suicide prevention;
 3. A training on ASAM criteria; and
 4. A training on conducting substance use disorder evaluations;
 - c. Does not have the required number of hours yet to apply for licensure but is currently working towards those hours; or
 - d. Meets one of the following:
 1. Is in at least the second year of an accredited graduate clinical program and who is serving in a clinical internship in a licensed or certified treatment facility and has completed the trainings in He-A 507.03(b)(4)b. above; or
 2. Has a master's degree in a clinical field and has completed the academic requirements of the NH board of licensing for alcohol and other drug use professionals to be a NH MLADC pursuant to RSA 330-C:16, and has completed the trainings in He-A 507.03(b)(4)b. above.
- (c) An evaluation shall be in accordance with Substance Abuse and Mental Health Services Administration's (SAMHSA), "TAP 21: Addiction Counseling Competencies" (2017 revision), available as noted in Appendix A, and include the administration and review of:
- (1) The Behavior Data System's, "Driver Risk Inventory-II (DRI-II)" (2007 edition), available as noted in Appendix A, except that clients who have already taken the DRI-II as part of a screening described in He-A 507.02 shall not be required to take the screen again;
 - (2) An evaluation tool that includes:
 - a. Diagnostic information from the American Psychiatric Association's, "Diagnostic and Statistical Manual for Mental Disorders (DSM-5)" (5th edition, 2013), available as noted in Appendix A;
 - b. An assessment based on the American Society of Addiction Medicine's (ASAM) "The ASAM Criteria", (3rd Edition, 2013), available as noted in Appendix A; and

c. The principals from the SAMHSA's, "TAP 21: Addiction Counseling Competencies" (2017 revision), available as noted in Appendix A; and

(3) Any other diagnostic instruments, screenings, or assessment tools the IDCMP deems appropriate, with prior approval of the department, or as required by the department.

(d) An evaluation summary shall include the following elements:

(1) The results of the instruments in He-A 507.03(c);

(2) Relevant information related to the client's arrest history, DUI history, arrest narrative, and case summary;

(3) A written biopsychosocial history of the client;

(4) A substance use disorder DSM-5 diagnosis, if applicable;

(5) A description of the client's needs in each ASAM dimension as described in the ASAM's, "The ASAM Criteria" (3rd Edition, 2013), available as noted in Appendix A;

(6) ASAM level of care attendance requirements as outlined in the ASAM's, "The ASAM Criteria" (3rd Edition, 2013), available as noted in Appendix A; and

(7) Treatment and service plan requirements.

(e) A service plan and substance misuse treatment shall be required if any of the following is noted in the evaluation summary:

(1) The client has had more than one DWI conviction or was required to attend an impaired driver program in this or any other state within the past 10 years;

(2) The client was age 21 or over and had a BAC of 0.16 or higher at the time of arrest;

(3) The client was under the age of 21 and had a BAC of 0.08 or higher at the time of arrest;

(4) The client meets diagnostic criteria for an active substance use disorder in accordance with the American Psychiatric Association's, "Diagnostic and Statistical Manual for Mental Disorders (DSM-5)" (5th edition, 2013), available as noted in Appendix A;

(5) The client meets the ASAM requirements for needing treatment in any ASAM level of care; or

(6) The evaluator has any other clinically justifiable reason for determining that there is the need for treatment, which must be document by the evaluator.

(f) If there is determined to be a need for a service plan and treatment, the IDCMP shall, either at the time of the evaluation or at a scheduled follow-up meeting conducted within 14 calendar days following completion of the evaluation:

- (1) Develop an individualized service plan as described in He-A 507.04, based on recommendations in the evaluation pursuant to RSA 265-A:18, RSA 265-A:19, RSA 265-A:40, and RSA 265-A:42;
 - (2) Meet with the client to discuss, at minimum:
 - a. The results of the evaluation;
 - b. The service plan requirements;
 - c. The right to request a hearing with the DMV to rebut the service plan requirements, in accordance with RSA 265-A:40, VI and Saf-C 204.20; and
 - d. Referral to treatment and recovery support providers, including the client's option to receive services from the IDSP of their choice and the requirements thereof. The client shall choose an IDSP, either at this meeting or by notifying the IDCMP of the choice by the date specified in the service plan;
 - (3) Provide the client with written copies of the information in (2) above;
 - (4) Obtain the client's written acknowledgment that written copies of the information in (2) above have been provided; and
 - (5) Obtain the client's dated signature on the service plan, or an indication of the client's refusal to sign and agree to the service plan. The reason for refusal shall be documented.
- (g) The IDCMP shall notify the client's prosecutor if the client does not complete the evaluation within the timeframe required by the court, or pursuant to the statutory timeframes outlined in RSA 265-A.

He-A 507.04 Service Plan Development.

- (a) Within 14 days of the evaluation, the IDCMP shall develop and discuss an individual service plan for treatment and recovery with each client for whom it is required, based on the evaluation's recommendations.
- (b) Individual service plans shall be developed with the client, and in a way that acknowledges the client's:
 - (1) Cultural sensitivities;
 - (2) Education level;
 - (3) Reading ability;
 - (4) Language comprehension; and
 - (5) Cognitive ability.
- (c) Case management shall be a part of the service plan and shall begin once the service plan is developed with the client and include but not be limited to the following:

(1) Assisting clients with acquiring third party services, such as psychiatric or peer support services; and

(2) Assisting clients with obtaining required documentation.

(d) The frequency of case management meetings shall be based on the individual needs of the client, and no less than once per month.

(e) The type, duration, and frequency of case management meetings may be updated or changed based on drug screen results, compliance with the service plan or lack thereof, or after consultation between the IDCMP and the IDSP.

(f) In addition to (c) above, individual service plans shall contain, at a minimum, the following elements:

(1) The types and frequencies of required or recommended treatment and recovery services, or other supportive services, as outlined in (g) below;

(2) The required timeframe for starting treatment and recovery services, which shall be no later than 30 days after the service plan requirements are discussed with the client;

(3) Any required drug or alcohol testing as ordered by the court or as otherwise clinically indicated;

(4) An abstinence monitoring regimen as ordered by the court or if clinically indicated, as applicable;

(5) The requirement to complete an IDEP if the client has not provided documentation of proof of completion of a department-approved impaired driver intervention program within 5 years prior to the client's request to the DMV to have their license reinstated pursuant to RSA 265-A:42;

(6) Dated signature of the IDCMP clinical staff; and

(7) Dated signature of the client, or an indication of the client's refusal to sign.

(g) The following minimum duration of counseling and number of clinical sessions with an IDSP shall be required by each service plan:

(1) For clients with one DWI in their lifetime, a minimum of 6 outpatient counseling sessions shall be required within a time-frame documented in the service plan;

(2) For clients with 2 DWIs in their lifetime, a minimum of 20 outpatient counseling sessions shall be required within a time-frame documented in the service plan; or

(3) For clients with 3 or more DWIs in their lifetime, a minimum of 26 outpatient counseling sessions shall be required within a time-frame documented in the service plan.

(h) The minimum duration of counseling and number of clinical sessions with an IDSP in (g)(1)-(3) above may be individualized if, based on the results of the evaluation and in accordance with the ASAM criteria, the IDCMP makes and documents a clinical determination that the client:

- (1) Is in need of a higher ASAM level of care than outpatient, the IDCMP shall refer the client to the appropriate ASAM level of care for a duration of time to be determined by the IDCMP in consultation with the IDSP at that level of care;
 - (2) Is in need of fewer or more than the minimum number of outpatient sessions, the client shall be required to attend the revised number of sessions, and the service-plan shall reflect the revised number of sessions; or
 - (3) Would be better served by a treatment provider, other than an IDSP, or requires treatment services ancillary to IDSP services, the IDCMP shall require the client to attend this treatment.
- (i) If, while the client is receiving the required number of sessions, the IDSP, or other provider makes a clinical determination that the client is in need of fewer or more than the recommended number of sessions, then they shall consult with the IDCMP, and the client shall be required to attend the revised number of sessions, and the service-plan shall be updated to reflect the revised number of sessions.
- (j) For all third and subsequent offenders, after the required number of sessions in (g)(3) above, the IDCMP shall consult directly with the IDSP, or other treatment provider to document a clinically valid justification for why additional sessions , or are not, required.
- (k) In cases where the IDSP and IDCMP, or other treatment provider disagree on the evaluation findings, or service plan requirements, the IDSP and a clinical provider from the IDCMP shall work together to come to an agreement and document the associated effort.
- (l) If an agreement in (k) above is unable to be reached:
- (1) The stricter requirement shall be followed; and
 - (2) The client shall be notified of their right to a hearing with the Department of Safety, pursuant to RSA 265-A:40, VI, and Saf-C 204.20.
- (m) The IDCMP shall consider, and incorporate as necessary, any requirements not completed from previous impaired driver convictions when developing the service plan for the most recent impaired driver conviction.
- (n) A recommendation for engagement with community-based support groups may be required in the IDCMP's service plan, however, a specific modality of community-based support shall not be required.
- (o) A client may request a hearing with the Department of Safety, pursuant to RSA 265-A:40, VI, and Saf-C 204.20, in order to challenge the requirements of the service plan or any changes made to the service plan.

He-A 507.05 Drug and Alcohol Testing.

- (a) Pursuant to RSA 265-A:40, II(g), the IDCMP shall be responsible for the administration of drug and alcohol testing required by the court or included in the service plan.
- (b) An IDCMP shall administer drug or alcohol testing by requiring that sample collection and testing be conducted at a Clinical Laboratory Improvement Amendments (CLIA)-approved testing

laboratory or may administer on-site rapid drug or breathalyzer tests, if there is reasonable suspicion that the client is impaired, or if there is another clinical justification to do so.

- (c) An IDCMP shall not require drug or alcohol testing to be conducted by an IDSP.
- (d) The following types of drug or alcohol testing may be included in a client's service plan:
 - (1) Any testing required by the sentencing court; and
 - (2) Testing of a client's urine or BAC, if clinically indicated.
- (e) A service plan shall not require testing of a client's blood unless required by the sentencing court.
- (f) The frequency of alcohol or drug testing required by the service plan, except for testing required by the sentencing court, shall be no more than once per month, except that a second test may be ordered in a month if the test comes back positive.
- (g) If a client refuses a drug or breathalyzer test or does not show up for a drug or breathalyzer test within the required time frame, it shall be treated as a positive test.
- (h) If a client has a positive drug or breathalyzer test, the IDCMP and the IDSP shall review the service plan and determine if further counseling, or case management, or both is clinically indicated.
- (i) Clients shall be responsible for the cost of sample collection and testing done at an outside testing site and for any rapid tests conducted on-site.
- (j) There shall be no conflict of interest between an IDCMP and an outside testing site.

He-A 507.06 Case Management, Service Plan Monitoring, and Compliance.

- (a) The IDCMP shall monitor the client's compliance with the service plan via case management meetings with the client.
- (b) Case management meetings shall be either face-to-face or via telephone, depending upon the needs of the client and be documented in the client's record, including the subject(s) of discussion.; and
- (c) For each client, the service plan shall be reviewed and updated as follows at least every 60 days:
 - (1) The review shall document the degree to which the client is meeting service plan requirements;
 - (2) The review shall document any case management needs the client has;
 - (3) The review shall document any drug or alcohol screening results; and
 - (4) Any changes to the service plan shall be signed by the client or the service plan shall indicate the client's refusal to sign.
- (d) A client may request a hearing with the department of safety, pursuant to RSA 265-A:40, VI and Saf-C 204.20, in order to challenge any changes made to the service plan.

(e) Along with case management meetings with the client, the IDCMP shall monitor the client's treatment and recovery progress by maintaining contact with the client's IDSP as follows:

- (1) The IDCMP shall review the monthly progress reports submitted by the client's IDSP in accordance with He-A 510.12(a)(1) or speak with the IDSP directly;
 - (2) If monthly progress reports are not received, the IDCMP shall directly contact the client's IDSP for updates on the client's progress; and
 - (3) The IDCMP shall provide to the IDSP any new information about the client deemed relevant to the client's compliance with the service plan.
- (f) The IDCMP shall not charge the client for any contact with the client's IDSP.
- (g) If the IDCMP believes that an IDSP's progress reports are of poor quality, the IDCMP shall notify the department.
- (h) If information is disclosed by the IDSP that has a negative effect on the client's progress, the IDCMP shall determine whether the client is in compliance with their service plan.
- (i) Each of the following shall constitute non-compliance with the service plan, thus requiring a notice of non-compliance to be sent in accordance with (j) below:
- (1) The client does not start receiving treatment or recovery services within the timeframe established in He-A 507.04(e)(2);
 - (2) The client has an unexcused absence from more than one scheduled treatment or recovery appointment within any 30-day period;
 - (3) The client has more than one unexcused absence from more than one scheduled case management meeting in any 30-day period;
 - (4) The client is impaired as a result of being under the influence of alcohol, any illicit substance, or any non-prescribed or over-the-counter medication at any treatment or recovery appointment or at any IDEP session or case management meeting, as confirmed and documented by a drug or alcohol screening;
 - (5) The client is presumed to be impaired as a result of being under the influence of alcohol, any illicit substance, or any non-prescribed or over-the-counter medication at any treatment or recovery appointment or at any IDEP session or case management meeting and refuses to submit to drug or alcohol screening;
 - (6) Abstinence is required by the court and the client is not abstinent;
 - (7) If abstinence is required by the IDCMP in the service plan, the client is not abstinent, and the IDCMP determines, after consultation with the client's IDSP, that the client's non-abstinence should be reported as non-compliance with the service plan; and
 - (8) The court or the service plan requires drug or alcohol testing and the client refuses to submit to drug or alcohol testing in a timely manner.
- (j) If the IDCMP determines that the client is not in compliance with the service plan, the IDCMP shall:
- (1) Notify the sentencing court, the client's prosecutor, and the DMV of such non-compliance; and
 - (2) Notify the client in writing that notice of non-compliance has been submitted.

(k) If, within 6 months of a notice of non-compliance being sent in accordance with (j) above, a client begins, continues, or returns to treatment or recovery, as applicable, the IDMCMP shall review the existing service plan, revise the service plan as necessary, require the client to comply with the revised service plan, and not charge the client an additional fee, but shall begin charging the case management fee outlined in He-A 505.01(b)(3).

(l) If a client does not begin, continue, or return to treatment or recovery within 6 months of a notice of non-compliance being sent in accordance with (j) above, the client shall submit to a new substance use disorder evaluation, at the client's expense, and a new service plan shall be developed before treatment can commence.

(m) If an IDMCMP staff is subpoenaed or otherwise required to attend a sentencing court proceeding as a result of a notice of non-compliance being sent in accordance with (j) above, the IDMCMP may charge the client a fee pursuant to He-A 505.01(b)(7) for each day that the IDMCMP staff is required to attend a court proceeding.

He-A 507.07 IDMCMP Completion.

(a) The IDMCMP shall send a written completion report to the sentencing court and the DMV, and shall enter the information into the state provided electronic records system, within 5 business days of any of the following:

- (1) It is determined by the screening that the client does not need an evaluation, the client has completed an IDEP, and the client has paid all fees required by He-A 500;
- (2) The client has not been referred to treatment after the evaluation, the client has completed an IDEP, and the client has paid all fees required by He-A 500; or
- (3) The client has been referred to treatment after the evaluation, the client has adhered to all requirements of the service plan including completing all treatment requirements, the client has completed an IDEP, and the client has paid all fees required by He-A 500.

(b) For it to be considered complete, the completion of an IDEP described in (a) above shall occur within the 5 years prior to the client's request to the DMV to have their license reinstated pursuant to RSA 265-A:42.

(c) The IDMCMP shall send the completion report within 5 business days of the conditions in He-A 507.07 (a)(1)-(3).

(d) An IDMCMP shall inform clients that they shall not be eligible for license restoration until, at a minimum, a completion report described in (a) above is sent and all outstanding fees owed to impaired driver programs and service providers, and the state of New Hampshire related to previous convictions have been paid in full.

He-A 507.08 Absence from a Scheduled IDMCMP Component.

(a) An excused absence from any scheduled IDMCMP component shall be granted only for:

- (1) A documented emergency situation beyond the client's control, consisting of one of the following:
 - a. A death in the client's immediate family; or
 - b. A medical emergency pertaining to the client or the client's immediate family, which prevents attendance; or
 - (2) Unforeseen factors that cause the IDCMP to not be able to keep the scheduled appointment.
- (b) An IDCMP shall not charge the client for an excused absence.
- (c) Except for an IDEP session described in He-A 508.07(d), an IDCMP may charge the client up to the full amount for an IDCMP component that is missed due to an unexcused absence, provided that the client has been notified in writing of the scheduled appointment or session.
- (d) The IDCMP shall not allow a client to attend programing if the client is impaired due to any substance.
- (e) If the client is found to be impaired during program attendance, the IDCMP shall:
- (1) Not allow the client to continue with the scheduled appointment or session;
 - (2) Consider such an absence to be unexcused; and
 - (3) Document the circumstances of the impairment and the absence in the client's record, including the results of any drug or alcohol screening conducted to determine or confirm impairment.

PART He-A 508 IMPAIRED DRIVER EDUCATION PROGRAMS

He-A 508.01 IDEP General Requirements.

- (a) All IDEPs shall be part of an IDCMP.
- (b) A non-weekend IDEP shall not provide overnight accommodations to clients.
- (c) The following shall apply to weekend IDEPs:
 - (1) A weekend IDEP shall provide room and board;
 - (2) A staff person shall be in the building and accessible to clients at all times during the weekend program; and
 - (3) Separate showering and sleeping quarters shall be maintained for male and female clients attending the weekend program.

He-A 508.02 IDEP Scheduling Requirements.

- (a) Each IDEP shall conduct regularly scheduled sessions to ensure course completion on a timely basis for all clients.

(b) A non-weekend IDEP shall provide, at a minimum, 20 hours of evidence-based educational curriculum, the general schedule for which shall be approved by the department if the requirements of He-P 508.02 are met. Each cycle shall last no longer than 4 weeks. Daily schedules shall be of uniform length.

(c) Educational sessions shall be face-to-face and shall include at least one educational cycle that is available in-person every 3 months.

(d) Each IDEP shall run a minimum of one educational cycle each month, unless the minimum number of clients is not met, in which case the IDEP shall inform clients about other IDEPs that may be able to schedule the client sooner.

(e) A weekend IDEP shall provide, at a minimum, 20 hours of evidence-based educational curriculum, conducted over a single weekend, starting on a Friday and ending on the following Sunday.

He-A 508.03 Section Size.

(a) The minimum section size shall be 6 clients.

(b) The maximum section size shall be 20 clients.

He-A 508.04 IDEP Curriculum.

(a) In order for a curriculum to be considered evidence-based and approved for use by the department, as required by RSA 265-A:39, II, it shall meet one of the following requirements:

(1) It shall have been published in a peer-reviewed journal and have been found to have positive effects; or

(2) The IDCMP or applicant shall provide documentation of the curriculum's effectiveness based on the following:

a. The curriculum is based on a theoretical perspective that has validated research; or

b. The curriculum is supported by a documented body of knowledge generated from similar or related curricula that indicate effectiveness.

(b) An IDEP shall conduct a group orientation in the first session of the program to inform the clients of the following:

(1) The rules of the program, including attendance requirements and the consequences of tardiness and unexcused absences;

(2) Expectations of both the provider and the client;

(3) The requirements and procedures for completion of the IDEP and license reinstatement;

(4) The rules contained in He-A 500 that require the client's compliance; and

(5) What failure to complete the program means.

(c) IDEPs shall provide clients with written copies of the information in (b) above, including obtaining clients' written acknowledgment that such information was provided and that they agree to comply with the program's rules.

(d) An IDEP and weekend IDEP shall offer sessions featuring group discussions regarding the following in addition to the information covered by the evidence-based education, if the education does not already contain it:

- (1) Physiological and medical effects of toxic substances on the body;
 - (2) Psychosocial effects of substance misuse, focusing on consumption;
 - (3) Identification of substance misuse and impaired driving behaviors and patterns as related to alcohol and other drug misuse;
 - (4) The impact of psychological defense mechanisms;
 - (5) The impact of substance misuse on the family;
 - (6) Social and personal attitudes toward substance misuse;
 - (7) The effects of substance misuse on employment; and
 - (8) Available treatment options.
- (e) During group sessions, instructors shall emphasize group process and self-awareness.
- (f) During group sessions, instructors shall facilitate group discussions and interactions regarding each client's description of his or her DWI incident.

He-A 508.05 Documentation and Notice of New Information.

- (a) Upon completion of the course, the IDEP instructor shall complete a summary on each client in attendance.
- (b) Each client summary shall contain the instructor's observations of the client, addressing, at a minimum:
- (1) Attendance;
 - (2) Attitude;
 - (3) Punctuality;
 - (4) Level of group participation and involvement; and
 - (5) Any information relevant to the client's use of alcohol and other drugs or in (c) below.
- (c) If new information is revealed during an IDEP session or otherwise learned by the IDEP which indicates the appropriateness of a substance use disorder evaluation should one have not been previously conducted, the IDEP instructor shall notify the IDCMP.

He-A 508.06 Films and Resource Materials.

- (a) IDEPs shall use only those films and resource materials approved by the department in accordance with (c) below.
- (b) New films or resource materials may be used subsequent to department approval.

- (c) The department shall approve material if the material:
 - (1) Does not conflict with any part of He-A 500;
 - (2) Is directly relevant to course or program requirements found in He-A 500; and
 - (3) Clarifies or enhances an aspect of the program consistent with He-A 500.

He-A 508.07 IDEP Attendance and Completion Requirements.

- (a) Pursuant to RSA 265-A:42, I, a client shall have completed an IDEP if he or she has:
 - (1) Completed attendance at all class sessions, with active participation in discussions and assessments, and completion of exercises, tests, and all required forms; and
 - (2) Made payment in full of all assessed fees.
- (b) Clients who have an unexcused absence from a session shall be required to start the program anew and pay the entire fee again.
- (c) Clients who have an excused absence from a session, as described in He-A 507.08(a)(1) and (2) shall be required to make up only that missed session and shall not be required to pay an additional fee.
- (d) If a client is late to a session, the following shall apply:
 - (1) The IDCMP shall not allow the client to participate if they are more than 15 minutes late for any IDEP session; and
 - (2) If the client is more than 15 minutes late the IDEP shall require the client to restart the program beginning with the missed session and may charge the client an additional fee of no more than 50% of the original IDEP fee, regardless of which session the client restarts.

PART He-A 509 IMPAIRED DRIVER EDUCATION PROGRAM INSTRUCTOR CERTIFICATION

He-A 509.01 Certification Required.

- (a) No person shall facilitate an IDEP session unless he or she is certified as an IDEP instructor in accordance with He-A 509.
- (b) The IDCMP shall ensure that instructor certification is valid prior to allowing the instructor to conduct an IDEP session.

He-A 509.02 Minimum Qualifications for Certification. To qualify for certification as an IDEP instructor, the applicant shall meet the following requirements:

- (a) Have a minimum of an associate's degree in social sciences or related field, except individuals with a high school diploma or HiSET, who were certified as an IDEP instructor between 2013 and the January 2024 effective date of this rule, shall be exempt from this requirement;
- (b) Document a minimum of one year's full-time work experience in the field of social services, mental health, substance use disorders, or comparable field, as approved by the IDCMP;

(c) Have one year's full-time work experience in group counseling or otherwise formal group activities facilitation, as approved by the IDCMP;

(d) Document, within the past 2 years, 24 hours of education or training outlined in (e) below. Such education or training shall be approved by:

- (1) NH Training Institute on Addictive Disorders;
- (2) NAADAC, The Association for Addiction Professionals;
- (3) New England Institute of Addiction Studies;
- (4) New England Addiction Technology Transfer Center;
- (5) The NH board of licensing for alcohol and other drug use professionals in RSA 330-C; or
- (6) Organizations deemed equivalent to the above by the department;

(e) The education and training required by (d) above shall be evidence-based and consist of, at a minimum:

- (1) A 6-hour minimum training on ethics and boundaries;
- (2) A training on motivational interviewing;
- (3) A training on substance misuse; and
- (4) A 6-hour minimum of suicide prevention training;

(f) The department shall review all courses for applicability to the field of substance misuse; and

(g) Document a minimum of 20 hours of co-facilitation in an IDEP class with a certified instructor, verified by the signature of the IDCMP program administrator.

He-A 509.03 Certification Procedure.

(a) Each applicant for instructor certification shall submit the following to the department:

(1) A complete "IDEP Instructor Certification/Re-Certification Application" (December 2023) agreeing to:

"Comply with all applicable state and federal regulations, including He-A 500, and any and all program(s)/service(s) identified in this application";

(2) A copy of the applicant's:

a. Associate's degree or other advanced degree; or

b. If previously approved as a NH IDEP instructor pursuant to He-A 509.02(a)(1), high school diploma or HiSET;

(3) A current résumé;

(4) A letter from the supervisor(s) of programing as described in He-A 509.02(b) and (c);

(5) Verification of the co-facilitation hours in He-A 509.02(g); and

(6) Evidence of training and education required in He-A 509.02(d), including a certificate of training or a letter of attendance from the course leader which includes the following:

a. The course titles;

b. The sponsoring agencies;

c. The dates of attendance; and

d. The number of course hours.

(b) Upon receipt of a completed application, the department shall review the documentation submitted and if the applicant meets the minimum qualifications listed in He-A 509.02, the department shall issue a certificate.

(c) If the applicant does not meet the minimum qualifications listed in He-A 509.02, the department shall deny the application.

(d) The department shall complete the certification procedure within 30 calendar days of the receipt of the completed application.

(e) IDCMPs may adopt their own certification and recertification standards that exceed minimum certification and recertification requirements as described in He-A 509.02.

He-A 509.04 Certification Period. A certificate for instructor certification shall expire after 5 years on the last day of the month it was issued unless a completed application for renewal has been timely received by the department. This shall not be the case if certification is revoked prior to the end of the 5-year period pursuant to He-A 509.06.

He-A 509.05 Recertification.

(a) For an instructor to be recertified, they shall provide proof of working as an IDEP instructor for at least 24 months during the previous 5 years.

(b) They shall have obtained during the current certification period at least 24 hours of education, including, at a minimum, the topics of substance use disorders, ethics and boundaries, and suicide prevention. Such education or training shall be approved by:

(1) NH Training Institute on Addictive Disorders;

- (2) NAADAC, The Association for Addiction Professionals;
- (3) New England Institute of Addiction Studies;
- (4) New England Addiction Technology Transfer Center;
- (5) The NH board of licensing for alcohol and other drug use professionals in RSA 330-C; or
- (6) Organizations deemed equivalent to the above by the department.

(c) No later than one month prior to the expiration of their certification, the applicant for recertification shall submit to the department a completed “IDEP Instructor Certification/Re-Certification Application” (December 2023), agreeing to “comply with all applicable state and federal regulations, including He-A 500, and any and all program(s)/service(s) identified in this application”, and include:

- (1) A copy of the applicant’s most recent instructor certification; and
- (2) Evidence of training and education required in (b), including a certificate of completion or a letter of attendance from the course leader that includes the following:
 - a. The course titles;
 - b. The sponsoring agencies;
 - c. The dates of attendance; and
 - d. The number of course hours.

(d) The department shall review all courses for applicability to the field of substance use.

(e) If the instructor whose certification has expired does not apply for recertification, their certification shall be deemed to have lapsed, and they shall be prohibited from facilitating an IDEP session or acting as a co-facilitator.

(f) To become recertified after a lapse of certification, the applicant for instructor certification shall submit an application for initial certification pursuant to He-A 509.03.

(g) A certified instructor may voluntarily terminate their certification by notifying the department in writing.

He-A 509.06 Suspension and Revocation of Certification.

(a) The department shall suspend or revoke the certification of an instructor for any of the following reasons:

- (1) Failure to act in accordance with He-A 500 or other relevant state or federal rules or laws;

- (2) Engaging in the practice of IDEP instruction in a manner that is harmful or dangerous to the client;
 - (3) Engaging in sexual relations, soliciting sexual relations, or committing an act of sexual abuse or misconduct with or against a client;
 - (4) Failing to remain free from the use of any controlled substance or any alcoholic beverage to the extent the use impairs the ability of the person to perform his or her duties as an instructor;
 - (5) Behavior during IDEP instruction or instructor training that is offensive to class members due to its sexually explicit or sexually, racially, or ethnically derogatory nature, or violates the policies of the IDCMP for which the IDEP is working;
 - (6) Where the instructor has been convicted of any DWI or any drug or alcohol related offense within the current certification period, or within one year prior to the current certification period. The individual may reapply for certification one year after they have satisfied all court mandated requirements or IDCMP requirements.
 - (7) Failure to maintain client confidentiality in accordance with He-A 504.02;
 - (8) Revocation of any professional license or certification;
 - (9) The instructor committed fraud;
 - (10) The instructor abused, exploited, neglected, or extorted a client;
 - (11) The instructor allowed a condition to exist that jeopardizes the health, safety, or welfare of a client; or
 - (12) The instructor failed to deliver the agreed upon services or maintain applicable eligibility standards.
- (b) Revocation of certification shall occur pursuant to RSA 541-A:30, II and III.
- (c) Within 10 days after issuance of any notice of the department's intent to revoke a certification, the aggrieved person may request an adjudicatory hearing before the department, to be conducted in accordance with RSA 541-A:30, II and III, and He-C 200.
- (d) Within 10 days after issuance of any notice of the department's intent to suspend or revoke a certification, the aggrieved person may request an adjudicatory hearing before the department, to be conducted in accordance with RSA 541-A:30, II and III, and He-C 200.
- (e) When an instructor's certification has been revoked, that person shall not be eligible to reapply for certification for at least one year, and at minimum, the applicant shall demonstrate that circumstances have changed to the extent that the department has good cause to believe that the applicant has the requisite degree of knowledge, skills, and resources necessary to maintain compliance with the provisions of RSA 265-A:40 and He-A 500.
- (f) The one-year period referenced in (e) above shall begin on:

- (1) The date of the department's decision to revoke the certification, if no request for an administrative hearing is requested; or
- (2) The date a final decision upholding the action of the department is issued, if a request for a hearing is made and a hearing is held.

PART He-A 510 IMPAIRED DRIVER SERVICES PROVIDERS

He-A 510.01 Delivery of Impaired Driver Services.

(a) Individual providers who meet the qualifications in He-A 510.01(g) may act as an IDSP, after obtaining approval by the department by completing and submitting an "Impaired Driver Service Provider (IDSP) Application" (December 2023) attesting to the following:

"I will remain in compliance with all applicable state and federal regulations, including He-A 500, and any and all program/service descriptions, specific staffing requirements, and appropriate staff credentials, as they relate to the program(s)/service(s) identified in this application";

(b) No individual provider, institution, organization, corporation, person, partnership, firm, or agency, whether public or private, shall offer, advertise, deliver, or provide services that are within the scope of He-A 500 for the purpose of driver's license restoration without first obtaining approval from the department or by submitting a waiver to the department, for a one-time exemption, prior to receiving approval.

(c) The department shall maintain, update, and publish a list of approved providers of impaired driver services.

(d) The provider shall agree to work with and collaborate with the IDCMPs to satisfy all requirements in He-A 500 related to the service plan.

(e) The IDSP may be an individual provider serving in any ASAM level of care.

(f) The following individuals may act as an IDSP:

(1) A NH LADC or MLADC;

(2) A NH licensed clinical mental health counselor (LCMHC) or a NH clinical social worker, licensed in accordance with RSA 330-A;

(3) A NH licensed psychologist; or

(4) A person who is actively working towards the NH LADC credential under appropriate supervision, and who meets the following requirements:

a. Has passed the IC&RC written exam within the past 2 years;

b. Has completed the following training within the past 2 years:

1. A 6-hour minimum training on ethics and boundaries;

2. A training on motivational interviewing;
 3. A training on substance misuse;
 4. A 6-hour minimum of suicide prevention training; and
 5. A training on treatment planning;
- c. Does not have the required number of hours yet to apply for licensure but is currently working towards those hours; or
- d. Meets one of the following and has all clinical work supervised and signed off on by their supervisor:
1. Is in at least the second year of an accredited graduate clinical program and who is serving in a clinical internship in a licensed or certified treatment facility; or
 2. Has a master's degree in a clinical field and has completed the academic requirements of the NH board of licensing for alcohol and other drug use professionals to be a NH MLADC pursuant to RSA 330-C:1.

He-A 510.02 IDSP Application Requirements.

(a) Applicants for provision of IDSP services shall:

- (1) Submit a completed application, "Impaired Driver Service Provider (IDSP) Application" (December 2023), attesting to the following:

"I will remain in compliance with all applicable state and federal regulations, including He-A 500, and any and all program/service descriptions, specific staffing requirements, and appropriate staff credentials, as they relate to the program(s)/service(s) identified in this application"; and

- (2) Provide the following supporting documentation to the department:

- a. Proof of general and professional liability insurance;
- b. Copies of relevant certifications, licenses, or other documentation that supports the individual's qualifications to provide the services outlined in He-A 500;
- c. A narrative describing how the provider will ensure continuity of care for clients should the IDSP be unable to provide services, and a statement regarding how client records will be stored, should the IDSP become incapacitated;
- d. Documentation of having met the criteria outlined in He-A 510.01(g)(4), if applicable, which shall include a certificate of training or a letter of attendance from the course leader which includes the following:

1. The course titles;
2. The sponsoring agencies;
3. The dates of attendance; and
4. The number of course hours; and

e. The provider's signature agreeing to abide by the requirements of He-A 500 and all applicable state and federal rules and laws.

(b) Applicants shall meet the applicable licensing, certification, and clinical standards for the level of care and services for which they are applying.

(c) Applicants shall agree, in writing, to abide by He-A 500 and other applicable state and federal rules and laws.

(d) The applicant shall email the application to the IDCMP Coordinator, or mail or hand-deliver the documents to:

Department of Health and Human Services
Bureau of Drug and Alcohol Services
Impaired Driver Services Coordinator
105 Pleasant Street
Concord, NH 03301

He-A 510.03 Processing of Applications and Issuance of Approvals.

(a) An application for an initial approval shall be complete when the department determines that all items required by He-A 510.02(a) have been received.

(b) If an application does not contain all of the items required by He-A 510.02(a), the department shall notify the applicant in writing of the items required before the application can be processed.

(c) Applicants shall be notified within 30 days of receipt of a complete application as to the status of their application.

(d) The commissioner's approval of an individual IDSP shall be based upon the applicant's ability to provide services in accordance with these rules, as evidenced by responses to the specific requirements of the application.

(e) The commissioner shall approve an IDSP if the commissioner determines that the applicant has:

- (1) Submitted to the department a complete application;
- (2) Met the applicable professional qualifications in He-A 510.02; and
- (3) Demonstrated the ability to comply, and has agreed to comply with all applicable requirements of He-A 500.

(f) Applications may be submitted anytime throughout the year.

(g) All approvals issued shall be non-transferable.

He-A 510.04 Approval Expirations and Procedures for Renewals.

(a) An approval shall be valid on the date of issuance and expire 5 years later on the last day of the month it was issued unless a completed application for renewal has been received prior to expiration.

(b) Each IDSP shall complete and submit to the department an application form pursuant to He-A 510.01(a) at least 90 days prior to the expiration of the current approval.

(c) If an IDSP fails to timely submit a complete application for renewal as required under (a) and (b) above, the IDSP shall cease to provide services to impaired driver clients the day after the current approval expires, and shall not provide such services until a new written approval is obtained.

(d) An approval shall be renewed if the department determines that the IDSP:

(1) Submitted an application containing all the items required by He-A 510.02, prior to the expiration of the current approval; and

(2) Is in compliance with He-A 500, and other state and federal rules and laws, as applicable.

He-A 510.05 Denial of an Initial or Renewal Application. The department shall deny an application for approval if, based on the information in the application, the applicant fails to meet the applicable requirements of He-A 500 or if any of the factors in He-A 510.07(a) exists.

He-A 510.06 Termination of Service.

(a) If an IDSP terminates its services for any reason, including those related to He-A 510.07, the provider shall:

(1) Submit written notification of the termination to the department 90 days prior to the termination date; and

(2) Notify each client's IDCMP of the termination and provide those IDCMPs with the dates the clients were seen by the IDSP, the client's status, and if available, a completion/termination report with any other relevant information.

(b) Upon termination, the department shall notify all other IDCMPs that the IDSP is no longer providing services.

He-A 510.07 Withdrawal of Provider Approval.

(a) The department shall withdraw provider approval via written notice upon evidence of any of the following:

(1) The provider committed fraud;

(2) The provider abused, exploited, neglected, or extorted a client;

(3) The provider allowed a condition to exist that jeopardizes the health, safety, or welfare of a client;

- (4) The provider failed to adhere to He-A 500 or other applicable state and federal rules or laws regarding the treatment of clients;
 - (5) The provider failed to deliver the agreed upon services; or
 - (6) The provider failed to maintain applicable provider eligibility standards.
- (b) The written notice in (a) above shall include:
- (1) The action to be taken by the department;
 - (2) The reasons for the action; and
 - (3) The right of the provider to request a hearing in accordance with RSA 541-A:30, He-C 200, and He-A 510.08 prior to the withdrawal becoming final.

He-A 510.08 Request for an Administrative Hearing.

- (a) A provider shall have 30 calendar days after receipt of the notice of withdrawal to request in writing a hearing to contest the action.
- (b) If a written request for a hearing is not received pursuant to (a) above, the provider waives his right to a hearing and the action of the department shall become final.
- (c) Hearings under this section shall be conducted in accordance with RSA 541-A and He-C 200.

He-A 510.09 General IDSP Requirements.

- (a) All impaired driving service providers shall provide services in accordance with best practices as defined by Substance Abuse and Mental Health Service's Administration (SAMHSA) in the Treatment Improvement Protocol (TIP) and Technical Assistance Publication (TAP) series and the America Society of Addiction Medicine, available as noted in Appendix A.
- (b) IDSPs shall adhere to all state and federal rules and laws regarding the treatment of substance misuse, or substance use disorder clients.
- (c) IDSPs shall maintain a client record, to include a treatment plan, progress notes, consent forms, and details of service provisions.
- (d) Treatment plans shall be developed in consultation with the client and updated as appropriate.
- (f) IDSPs shall communicate with the IDCMP as follows:
- (1) Provide the IDCMP with written or verbal updates regarding the client's adherence to the service plan no less than once per month;
 - (2) Contact the client's IDCMP care managers immediately if there is an issue of non-adherence with the treatment plan that warrants a change in the service plan;
 - (3) In cases where the IDSP and IDCMP disagree on the evaluation findings or service plan requirements, the IDSP and a clinical provider from the IDCMP shall work together to come to an agreement and document the associated efforts;

- (4) If agreement cannot be reached the stricter requirement shall be followed and the client shall be notified of their right to a hearing with the department of safety, pursuant to RSA 265-A:40, VI and Saf-C 204.20.
- (g) All IDSPs shall obtain a release of information, signed by the client, to release information to their IDCMP.
- (h) Upon termination from or completion of IDSP services, the IDSPs shall provide the clients IDCMP with a signed report that includes:
 - (1) A brief clinical summary of their work with the client, including all dates of contact and length of contacts;
 - (2) A description of the client's progress;
 - (3) The provider's rationale as to why the client should, or should not, be considered to have completed their service plan requirements in regard to treatment services; and
 - (4) If the IDSP is an individual described in He-A 507.03(b)(4), the counselor and their licensed supervisor shall both sign the report.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-A 502.01(af), He-A 507.03(c), He- A 507.03(c)(2)c.,	U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s (SAMHSA), “Technical Assistance Publication (TAP) 21: Addiction Counseling Competencies” (2017 revision)	Publisher: Cost: Free of Charge The incorporated document is available at: https://store.samhsa.gov/product/TAP-21-Addiction-Counseling-Competencies/SMA15-4171
He-A 507.02(b), He- A 507.03(c)(1),	Behavior Data Systems, “Driver Risk Inventory-II (DRI-II) (2007 edition)	Publisher: Behavior Data Systems, Ltd. Cost: \$9.95 per test The incorporated document is available at http://www.driver-risk-inventoryii.com/
He-A 507.03(c)(2)a., He- A 507.03(e)(4)	American Psychiatric Association’s, “Diagnostic and Statistical Manual for Mental Disorders (DSM-5)”, (5 th Edition, 2013)	Publisher: American Psychiatric Association Cost: \$127.50- \$170.00 (Varies by Membership) The incorporated document is available at: https://dsm.psychiatryonline.org/
He-A 507.03(c)(2)b., He- A 507.03(d)(5), He- A 507.03(d)(6), He- A 510.09(a)	American Society of Addiction Medicine’s “The ASAM Criteria” (3 rd Edition, 2013)	Publisher: American Society of Addiction Medicine Cost: \$95.00 The incorporated document is available at: https://www.asam.org/publications-resources/textbooks
He-A 510.09(a)	U.S. Department of Health and Humans Services, Substance Abuse and Mental Health Services Administration’s, “Treatment Improvement Protocols and	Publisher: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Cost: Free of Charge The incorporated document is available at https://www.samhsa.gov/kap/resources

Rule	Title	Publisher; How to Obtain; and Cost
	Technical Assistance Publications”	

APPENDIX B

Rule Number	State or Federal Authority
He-A 501.01 – 501.02	RSA 265-A:39; RSA 265-A:40, I
He-A 502.01	RSA 265-A:2; RSA 265-A:3; RSA 265-A:40; RSA 330C
He-A 503.01 – 503.07	RSA 265-A:40, I
He-A 504.01 – 504.10	RSA 172:8-a; RSA 265-A:40, I; RSA 318-B:12
He-A 505.01-505.03	RSA 265-A:39, III(d), III(g); RSA 265-A:40, IV, VII(e), VII(g)
He-A 506.01 -506.04	RSA 265-A:39; RSA 265-A:40
He-A 507.01	RSA 265-A:40, II
He-A 507.01(b)(1)a	RSA 265-A:40, III
He-A 507.02	RSA 265-A:40, II(a)
He-A 507.03	RSA 265-A:40, II(b), VIII; RSA 330-C:16
He-A 507.04	RSA 265-A:40, II(c), VI
He-A 507.05	RSA 265-A:40, II(g)
He-A 507.06	RSA 265-A:40, II(d), II(e), II(f)
He-A 507.07	RSA 265-A:40, II(h), V
He-A 507.08	RSA 265-A:40, II(h); RSA 265-A:42, I
He-A 507.09	RSA 265-A:40, II
He-A 508.01 – 508.03	RSA 265-A:39, I
He-A 508.04 – 508.06	RSA 265-A:39, II
He-A 508.07	RSA 265-A:40, IX
He-A 509.01 – 509.06	RSA 265-A:39, III(f); RSA 265-A:40
He-A 510.01 – 510.13	RSA 265-A:40, I; RSA 330-C:1