

## CHAPTER He-A 900 PHASE II PROGRAMS

### PART He-A 901 PURPOSE

Statutory Authority: RSA 265-A:39, IV and V

He-A 901.01 Purpose. The purpose of these rules is to establish the requirements of the phase II impaired driver intervention programs statewide.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

### PART He-A 902 DEFINITIONS

He-A 902.01 Definitions. For purposes of this chapter, the following words shall have the meanings indicated:

(a) “Administrative activities” means all management, fiscal, and clerical activities performed by a staff member of a phase II program provider;

(b) “Administrative fee” means a fee paid by the client for failure to start a program on time, for a program transfer, or to re-start a program;

(c) “Aftercare” means any treatment required to be completed by the client who has been issued a positive finding as a result of the client’s exit evaluation and assessment interview;

(d) “Alcohol program completion hearing” means a hearing conducted by the department of safety and which is requested by the client for the purpose of rebutting the finding and/or the further counseling requirements as determined by the client’s exit evaluation and assessment interview;

(e) “Approval” means the process whereby specific programs are designated to provide phase II services;

(f) “Approval period” means the period of time specific providers are designated to provide phase II services;

(g) “Certification” means a process whereby the department determines whether an applicant meets the minimum qualifications for a phase II or IDIP instructor as specified in He-A 705 and these rules;

(h) “Client” means a person convicted of a subsequent first offense or aggravated driving while impaired (DWI) and who attends a phase II program;

(i) “Client profile” means a form created by the department that is completed by the provider, contains information about each client, and is submitted to the department for the purposes of data collection;

(j) “Co-facilitator” means a person who assists a certified instructor in conducting a phase II class, and who is either a certified instructor or currently working towards becoming a certified instructor;

(k) “Commissioner” means the commissioner of the department, or his or her designee;

(l) “Completion report” means a form created by the department which contains information about the client’s completion status of a phase II program, or a similar form approved by another state for the purpose of reporting a client’s completion status after participating in a state-approved alcohol and drug education and intervention program;

(m) “Course” means an intake interview, all educational classes, and the exit evaluation and assessment interview pertaining to a phase II program;

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

(o) “Department representative” means the individual designated by the department to conduct on-site visits to phase II programs and to complete monitoring reports based on those visits;

- (p) “Direct client activities” means activities performed by a phase II program staff member which directly involve the educational and group process in relation to the client, including instructional, intake, evaluative, and assessment components;
- (q) “Diagnostic instruments” means formal, validated written evaluation tools designed to elicit responses from clients relative to their involvement with alcohol and other drugs;
- (r) “Driving while impaired (DWI)” means driving under the influence of alcohol or drugs, pursuant to RSA 265-A:2 and RSA 265-A:3;
- (s) “Exit evaluation and assessment interview” means a one-hour interview between a client and a New Hampshire licensed alcohol and drug abuse counselor (LADC), following the client’s completion of all phase II class sessions;
- (t) “Further counseling requirements” means participation in alcohol and/or drug intervention activities such as self-help, outpatient counseling, residential treatment, or other similar activities deemed necessary by a LADC as the result of a positive finding for substance abuse or dependency;
- (u) “Impaired driver intervention program (IDIP)” means a program for persons convicted under RSA 265-A:2 and sentenced pursuant to RSA 265-A:18, and that is conducted pursuant to RSA 265-A:39, RSA 265-A:42, and He-A 700;
- (v) “Instructor” means an individual who has been certified by the department, pursuant to He-A 705, to facilitate phase II sessions;
- (w) “Intake interview” means a one-hour interview between a client and a LADC, or a phase II program staff member under LADC supervision, conducted in order to collect personal information and complete diagnostic instruments prior to educational classes;
- (x) “International Certification & Reciprocity Consortium (IC&RC)” means an organization that sets the international standards of practice in addiction counseling, prevention, and clinical supervision through testing and credentialing of addiction professionals;
- (y) “Licensed alcohol and drug counselor (LADC)” means a person licensed by the State of New Hampshire to serve as an alcohol and drug counselor;
- (z) “Monitoring report” means a report generated by a department representative to record results of on-site visits made to providers for the purpose of quality assurance;
- (aa) “Multiple DWI offender intervention detention center program (MOP)” means the 7-day residential intervention program operated by the state of New Hampshire for persons convicted under RSA 265-A:2 or RSA 265-A:3 and sentenced pursuant to RSA 265-A:18, and that is conducted pursuant to RSA 265-A:40 and RSA 265-A:42;
- (ab) “Negative finding” means the result of an exit evaluation and assessment interview, which determines that a client does not have an alcohol or drug problem;
- (ac) “Phase II program” means a 7-day residential impaired driver intervention program, equivalent to the multiple DWI offender intervention detention center program (MOP), for persons convicted under RSA 265-A:2 or RSA 265-A:3 and sentenced pursuant to RSA 265-A:18, and that is conducted pursuant to RSA 265-A:39, RSA 265-A:42, and He-A 900;
- (ad) “Positive finding” means the result of an exit evaluation and assessment interview, which determines that a client does have an alcohol or drug problem;
- (ae) “Program” means the course, as defined in (m), and any required aftercare;
- (af) “Program director” means the director of a phase II program;
- (ag) “Program fee” means the fee paid by a client to the phase II program provider in order to participate in the 7-day residential program;
- (ah) “Provider” means an entity that offers impaired driver intervention and educational programming;
- (ai) “Quarter” means a 3-month portion of a year, beginning on January 1, April 1, July 1, or October 1;
- (aj) “Request for applications (RFA)” means a formalized application process, pursuant to He-A 906, whereby the commissioner seeks applications for the provision of phase II services from provider applicants;

(ak) "Section" means a grouping of clients forming an instructional unit;

(al) "Session" means a single component of a phase II program's curriculum;

(am) "Significant other" means an individual who is not related by marriage or blood to the client, but who plays a role in the client's life that is similar to the role of a spouse;

(an) "Successful completion" means "successful completion" as defined in RSA 265-A:42, II and III and RSA 265-A:18, VII(c); and

(ao) "Treatment" means the application of planned procedures to identify and change patterns of behavior that are maladaptive, destructive and/or injurious to health, or to restore appropriate levels of physical, psychological, and/or social functioning.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

## PART He-A 903 SCHEDULE OF FEES AND CHARGES

### He-A 903.01 Phase II Program Fee.

(a) The fee to be paid by each client for the phase II program, including all course materials, shall be \$1,550.

(b) The client shall make complete payment of the program fee to the phase II program provider prior to the start of the program, unless a payment plan agreed to by the client and program director has been arranged.

(c) The provider may offer the following payment plans:

(1) The client shall pay the full program fee prior to the start of the program in order to receive a 20% discount on the full program fee;

(2) The client shall pay a minimum of one-half of the full program fee prior to starting the program, have a signed agreement with the provider to pay the balance of the program fee within 6 months of exiting the 7-day program in order to receive a 15% discount on the full program fee, and pay in full the balance by the date specified in the agreement; and

(3) The client shall pay a minimum of one-third of the full program fee prior to starting the program, have a signed agreement with the provider to pay the full balance of the program fee within 12 months of exiting the 7-day program, and pay in full the balance by the date specified in the agreement.

(d) The program fee in (a) shall be reduced based on proof of financial hardship if the client's gross household income for the 12-month period immediately prior to the client's enrollment in the program was at or below 100% of the most recent federal poverty level as published annually in the Federal Register by the Secretary of the U.S. Department of Health and Human Services.

(e) Prior to the intake interview a client shall furnish any of the following documents, as applicable, to demonstrate proof of financial hardship in accordance with (d) above:

(1) The client's most recent IRS tax return;

(2) The client's pay stubs for the 4 months prior to program enrollment, if applicable; or

(3) Proof of the client's receipt of one or more of the following sources of assistance:

a. Food stamps;

b. Temporary assistance to needy families;

c. Social Security disability;

- d. Supplemental security income;
- e. Aid to the permanently and totally disabled; or
- f. Old age assistance.

(f) The client's reduced fee shall be determined as follows:

- (1) The client's income shall be divided by the poverty guideline that applies to the client's family unit size;
- (2) The resulting percentage shall be the portion of the fee for which the client is responsible, if such fee does not exceed 75% of the current program fee;
- (3) If the new fee exceeds 75% of the current program fee, the fee paid by the client shall be 75% of the current program fee; and
- (4) The client's reduced fee due to financial hardship shall not be combined with either of the discounts described in (c)(1) and (2) above, but the payment plan timeframes described in (c) above shall still apply.

(g) Failure to provide documentation pursuant to (e) above shall result in denial of any reduction.

(h) For each reduced-fee client, the per-client monitoring fee charged pursuant to He-A 903.03 shall be waived.

(i) Pursuant to RSA 265-A:42, III, a client shall not be considered to have successfully completed a phase II program until that client has paid all assessed program and administrative fees.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; amd by #7209, eff 2-26-00; amd by #7320, eff 7-22-00; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 903.02 Administrative Fee for Phase II Programs. Unless otherwise specified herein, if any He-A 900 rule mandates an administrative fee, as defined in He-A 902.01(b) and allowed by RSA 265-A:39, IV(d), the administrative fee to be paid by the client for a phase II program shall be \$150.00.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 903.03 Per-Client Monitoring Fee.

(a) The per-client monitoring fee to be paid quarterly by each phase II program provider, as allowed by RSA 265-A:39, V(c), shall be \$25.00 per client.

(b) The department shall determine the number of billable clients for each phase II program provider by tabulating the number of client profiles that are completed and submitted to the department and processed quarterly.

(c) The department shall send to each program director a quarterly bill for the per-client monitoring fee, payable upon receipt.

(d) The per-client monitoring fee shall be waived for reduced-fee clients as described in He-A 903.01(h).

(e) The per-client monitoring fee shall be waived for each client for whom a phase II representative attends an alcohol program completion hearing, provided that the phase II provider submits a written list of such clients to the department by the 10th day of the following month.

(f) If a phase II program provider fails to submit payment of the per-client monitoring fee within 30 days of the billing date, the department shall consider that provider delinquent and shall issue a written notice to inform the provider that it shall be removed from the list of approved providers if payment is not received by the department within 90 days.

(g) If payment of the per-client monitoring fee is not paid in full within 60 days of the billing date, the delinquent account shall be referred to the department's financial officer.

(h) If payment of the per-client monitoring fee is still not made in full after 90 days, the commissioner shall suspend the agreement with the provider, thus disallowing the provider from providing phase II program services.

(i) If a phase II provider is delinquent a second time during the same approval period, the commissioner shall cancel the agreement with the provider.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 903.05)

He-A 903.04 Program Audit. If providers want the department to review the appropriateness of the existing fee structure, those providers shall submit to the department audits of their records which are prepared by a public accounting firm within the current year.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 903.06)

He-A 903.05 Annual Report of Reduced Fees. By the last working day in January, each phase II program provider shall submit a report to the department that lists the number of clients in the preceding calendar year for whom the program fee was reduced due to financial hardship.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

## PART He-A 904 PROGRAM PARTICIPATION REQUIREMENTS

### He-A 904.01 New Hampshire Residents: Program Options.

(a) Upon conviction under RSA 265-A:2 or RSA 265-A:3, and pursuant to RSA 265-A:42 and RSA 265-A:39, I, a person who is a resident of the state of New Hampshire shall attend one of the following programs:

- (1) Any phase II program in the state; or
- (2) The multiple DWI offender intervention detention center program (MOP).!

(b) If a New Hampshire resident lives in another state for at least 9 months out of a year for the purpose of formal study in a state certified educational institution or is in active military duty, such person shall be considered a non-resident for the purpose of these rules.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 904.01 & He-A 904.02)

### He-A 904.02 Non-Residents: Program Options and Notification Requirements.

(a) Upon conviction under RSA 265-A:2 or RSA 265-A:3 and pursuant to RSA 265-A:42 and RSA 265-A:39, I, a person who is a non-resident of the state of New Hampshire shall attend one of the following programs:

- (1) Any phase II program in New Hampshire;
- (2) The multiple DWI offender intervention detention center program (MOP);
- (3) Pursuant to RSA 265-A:42, I(b), a program comparable to a phase II program which is approved by the NH court or the NH department of safety; or
- (4) A comparable impaired driver intervention program offered by the U.S. armed services.

(b) If a non-resident chooses to attend a program in the state in which he or she lives to satisfy the requirement for driving privilege restoration pursuant to RSA 265-A:42, the client shall forward, or request the provider to forward, all necessary completion reports for such a program to the New Hampshire court of conviction and to the New Hampshire department of safety.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 904.04 and He-A 904.05)

#### He-A 904.03 Enrollment.

- (a) Each client shall provide the phase II program in which he or she enrolls with the following information:
- (1) An original certified copy of the client's driver's license record, to be obtained within 60 days immediately prior to the intake interview, from all of the following:
    - a. The State of New Hampshire department of safety, division of motor vehicles;
    - b. The state in which the client holds a driver's license, if a non-resident; and
    - c. Any state in which the person has been arrested or convicted for an offense involving driving a motor vehicle under the influence of alcohol or drugs;
  - (2) The department of safety notice of action indicating the appropriate program;
  - (3) Superior or district court orders; and
  - (4) Chemical test results, if any were performed, or documentation of the client's refusal to submit to chemical tests.
- (b) The documents listed in (a) shall be submitted by the client to the phase II provider at the intake interview.
- (c) If the documents listed in (a) are not submitted at the intake interview because they are not available at the time that the intake interview is scheduled, the documents shall be submitted before the program provider conducts the client's exit interview and assessment evaluation.
- (d) If a client reports for the intake interview with a court order or a department of safety notice action that indicates that he or she requires a different program, the provider shall:
- (1) Direct the client to the appropriate program; and
  - (2) Charge an administrative fee as described in He-A 903.02.
- (e) If the client reports for the intake interview with a client driver's license record in (a)(1) above that indicates that a different program may be required, the provider shall:
- (1) Inform the client of the potential incorrect program choice; and
  - (2) Not prohibit the client from entering the chosen program.
- (f) If a client reports for the intake interview with information that is inaccurate or incomplete, neither the client nor the department shall hold the provider responsible for enrolling the client in the wrong program.

Source. #5252, eff 10-22-91; rpld by #6222, eff 4-13-96; ss by #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 904.06)

He-A 904.04 Attendance and Completion Requirements.

(a) Pursuant to RSA 265-A:42, V(a), a client shall be presumed to have successfully completed a phase II program if he or she has met the following requirements:

- (1) Attendance at all sessions, including an intake interview, with active participation in discussions and assessments, and completion of exercises, tests, and all required forms;
- (2) Completion of the scheduled exit evaluation and assessment interview; and
- (3) Payment in full of all assessed program and administrative fees.

(b) The presumption in (a) shall be overcome by the provider if the LADC conducting the exit evaluation and assessment interview issues a positive finding for alcohol or other drug abuse and/or dependence and requires the client to comply with further counseling requirements before the program is considered to have been successfully completed.

(c) If a client fails to keep a scheduled appointment for the intake interview, or if the client leaves during the intake interview or the exit evaluation and assessment interview and subsequently returns, the provider shall charge the client an administrative fee, unless the failure to start the program is excusable as established in (e) below.

(d) If a client fails to start the program for which he or she has enrolled, the client shall be charged an administrative fee and rescheduled for the next available course cycle unless the failure to start the program is excusable as established in (e) below, but the client shall not be held responsible for agency errors in scheduling.

(e) An excused absence from the program shall be granted by the program director only for an emergency situation beyond the control of the client, consisting of one of the following:

- (1) A death in the client's immediate family;
- (2) A medical emergency pertaining to the client that prohibits attendance; or
- (3) A medical emergency in the client's immediate family.

(f) If a client is granted an excused absence, the phase II provider shall allow the client to participate in the next scheduled section of the program, beginning with the session where he or she left off, and the client shall not be required to pay an administrative fee.

(g) If a client is absent from a session without being excused, the client shall leave the program, be refunded a prorated program fee, begin the program anew at the next scheduled first session, and shall again pay the entire program fee.

(h) The client shall not be under the influence of alcohol, any illicit substance, or any non-prescribed or over-the-counter medication during program attendance. If the client is found 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 during program attendance, the client shall leave the program, be refunded a prorated program fee, begin the program anew at the next scheduled first session, and shall again pay the entire program fee.

(i) If, during the intake interview, the client reveals that he or she is currently taking an mood-altering medication under a physician's direction, or if, during the course of the phase II program, a client appears impaired as a result of taking prescribed medication, the provider shall request a written assessment from the prescribing physician regarding whether the client will be able to benefit from the program content while under the influence of such medication.

(j) If the physician's assessment in (i) indicates that the client is unable to participate in the program, the client shall not be allowed to enter or continue the program until such time as he or she obtains medical clearance, at which point the client shall enter the program or begin the program anew at a scheduled first session. The client shall be refunded a prorated program fee, if applicable, and shall again pay the entire program fee.

(k) If a client terminates the program for any reason other than course completion, the phase II program director shall notify the department and the court via a completion report, Form IDIP-021.

(l) On-line impaired driver intervention programs shall not be acceptable for phase II program attendance and completion.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 904.07)

## PART He-A 905 INSTRUCTOR CERTIFICATION

### He-A 905.01 Instructor Certification.

(a) No person shall facilitate a phase II session unless he or she is certified as an IDIP instructor in accordance with He-A 705. Instructor certification applications may be obtained from the department.

(b) A certificate for instructor certification shall be valid for 3 calendar years from the date of issuance, unless certification is revoked prior to the end of the 3-year period pursuant to He-A 705.06.

(c) For an instructor to be recertified, he or she shall follow the recertification procedures described in He-A 705.05.

(d) The department shall revoke the certification of an instructor for the reasons and by the procedures described in He-A 705.06.

Source. #5252, eff 10-22-91, EXPIRED: 10-22-97

New. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

## PART He-A 906 PROGRAM APPROVAL PROCESS: PHASE II PROGRAMS

### He-A 906.01 Approval for Delivery of 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 these rules without first submitting an application through the Request for Applications (RFA) process and obtaining approval from the commissioner.

(b) All applicants for the delivery of phase II program services for specific areas of the state shall obtain approval from the commissioner through the RFA process.

(c) The commissioner's approval of an individual provider shall be based upon the applicant's ability to offer programs in accordance with these rules, as evidenced by responses to the specific requirements of the RFA.

(d) An applicant's responses to the RFA requirements shall be evaluated in accordance with a standardized, uniform scoring system which is detailed in the RFA.

(e) A minimum acceptable score shall be established for all requirements.

(f) An applicant shall demonstrate, at a minimum:

- (1) Appropriate staffing;
- (2) Programmatic knowledge;
- (3) Experience in providing programs at least comparable to a phase II program;
- (4) Knowledge of the demographics and geography of the state;
- (5) Financial viability;
- (6) Proximity of service location(s) relative to the clientele;
- (7) Evidence of good standing with the secretary of state; and

(8) Compliance with all applicable local fire and life safety codes required by the respective town, municipality, and the State of New Hampshire.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08, EXPIRED

New. #9082, eff 1-30-08 (from He-A 906.02)

He-A 906.02 Approval Period. The commissioner shall approve a phase II program provider for a 2-year period following the application process.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 906.08)

He-A 906.03 Access for Inspection and Monitoring. As a condition of approval, each phase II program provider shall:

(a) Provide access at any time during its hours of operation to department representatives for purposes of inspection and monitoring; and

(b) Cooperate fully with and answer all questions of the department representative regarding the provision of phase II services to the public.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 906.04)

He-A 906.04 Non-Transferable Approval. The approval for a phase II program provider shall be non-transferable.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 906.09)

He-A 906.05 Termination of Service. If an approved phase II program provider terminates its services for any reason, the provider shall submit written notification of the termination to the department 60 days prior to the termination date.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 906.10)

## PART He-A 907 MINIMUM PROGRAM REQUIREMENTS

He-A 907.01 Confidentiality. Phase II programs shall comply with RSA 172:8-a, RSA 318-B:12, 42 CFR 401.105, and 42 CFR 2, relative to confidentiality of client records and interactions, and shall comply with any other applicable laws.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 907.02 Services Prohibited. Each phase II program shall offer only intervention and educational services for its clients convicted of DWI, but shall not provide treatment services for the alcohol and drug problems of said clients within the context of phase II programming.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 907.03 Interpreters. Each phase II program shall provide, at the provider's expense:

- (a) Interpreters for clients who are hearing impaired; and
- (b) Interpreters for clients who are non-English speaking.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 907.04 Accessibility. Each phase II program provider shall provide handicapped accessibility into and within the provider's buildings, in compliance with the Americans with Disabilities Act.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 907.05 Forms, Pamphlets, and Other Literature.

(a) In order to ensure uniformity of phase II data and information statewide, the department shall design or approve forms, pamphlets, and other written literature.

(b) Providers shall submit to the department any non-department-designed material for department approval prior to use.

(c) The department shall approve new material if the material:

- (1) Does not conflict with any part of He-A 900;
- (2) Is directly relevant to course or program requirements found in He-A 900; and
- (3) Clarifies or enhances an aspect of the program consistent with He-A 900.

(d) Providers shall use and distribute to the department, the courts, the department of safety, and the general public, only those forms, pamphlets, and other written literature that have been designed or approved by the department as described in (a) through (c).

(e) Providers shall make no alterations or amendments to department-designed or approved forms, pamphlets and other written literature, other than the addition of the provider's logo in the space provided on each one, except as approved by the department.

(f) The department shall provide master copies of all forms, pamphlets, and other written literature to each approved program. Each program shall then be responsible for producing its own supply of the forms, pamphlets and other written literature.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.04)

He-A 907.06 Scheduling Requirements. Program providers shall conduct sessions to ensure course completion on a timely basis for all clients, as follows:

(a) Programs shall offer a course when there are at least 6 clients scheduled for a course; and

(b) If a course cannot be scheduled for 3 months because the minimum number of clients has not been met, the program provider shall refer clients to another phase II provider or the MOP program, at the clients' option.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.05)

He-A 907.07 Section Size.

- (a) The minimum section size shall be 6 clients.
- (b) The maximum section size shall be 12 clients.
- (c) For a section that has 8 or fewer clients, there shall be at least one certified instructor.
- (d) For a section that has 9 or more clients, there shall be at least 2 instructors. One instructor shall be a certified instructor. The second instructor shall be a co-facilitator.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.06)

He-A 907.08 Specific Phase II Requirements.

- (a) A phase II program shall consist of 7 consecutive 24-hour periods of residential intervention and education.
- (b) A phase II program shall provide an orientation of the facility and its rules for the client.
- (c) A phase II program provider shall have written policies and procedures in place relative to the following:
  - (1) The participation of minors in the program;
  - (2) Taking a medical history of each client;
  - (3) Screening and securing of all medication brought by the client;
  - (4) Conducting a physical search of all luggage and belongings brought by the client; and
  - (5) Client use of electronic devices such as, but not limited to, cell phones, laptop computers, and portable music players.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.07)

He-A 907.09 Phase II Intake Interview.

- (a) There shall be an initial one-on-one intake interview between the client and a LADC, or a phase II program staff member under LADC supervision.
- (b) The intake interview shall take place prior to, and separate from, course sessions.
- (c) The intake interview shall include the following steps:
  - (1) The client shall provide the phase II program with the documents required pursuant to He-A 904.04;
  - (2) The client shall complete the diagnostic instruments;
  - (3) The LADC shall complete Form IDIP-011, client profile, by including the following printed or typewritten information:
    - a. The facility code;
    - b. The section where the client is assigned;
    - c. The last four digits of the client's Social Security number;
    - d. The client's name;
    - e. The client's initials;
    - f. The program type;

- g. The client's address;
- h. The client's date of birth;
- i. The date of the client's intake interview;
- j. The client's gender;
- k. Whether the client is restarting a program;
- l. The court of the client's conviction;
- m. The date of the client's arrest;
- n. The client's blood alcohol test results, or an indication of the client's refusal of consent;
- o. All of the client's DWI convictions, including the current one, and drug impaired driving convictions, unless otherwise protected by law;
- p. All DWI courses previously attended by the client;
- q. The client's marital status;
- r. The client's education level;
- s. The client's occupation;
- t. The client's current income;
- u. Whether the program fee was reduced due to financial hardship;
- v. The client's history of treatment for any other alcohol or other substance abuse problem;
- w. The frequency of alcohol consumption in the past;
- x. The signature of the LADC completing the top of the form, which shall not be printed or typewritten;

(4) The client shall provide to the LADC completing Form IDIP-011, client profile, the information required in (3)c., o. through t., v., and w.;

(5) The client shall complete Form IDIP-019, consent for the release of confidential information, specifically for the department, the convicting court, and the department of safety, by including:

- a. The client's name;
- b. The name and address of the convicting court; and
- c. The client's dated signature;

(6) The provider staff member shall sign and date Form IDIP-019, consent for the release of confidential information;

(7) The client shall read and complete Form IDIP-016, phase II client agreement, by including:

- a. The client's name; and
- b. The client's dated signature, indicating that he or she has read the form and agrees to attend the identified sessions; and

(8) The provider staff member shall complete Form IDIP-016, phase II client agreement, by including:

- a. The class location of the phase II program, including the street address, city or town, and telephone number;
- b. All scheduled session days, dates, times, and instructors; and

c. The dated signature of the phase II staff member.

(d) The client shall complete, read and sign any other department-approved forms and materials which are provided by each agency to cover the agency's individual program policies, procedures, or other information.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.10)

He-A 907.10 Phase II Program Curriculum.

(a) A phase II program shall consist, at a minimum, of 65 hours of educational curriculum.

(b) A phase II program 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;
- (2) Expectations of both the provider and the client;
- (3) The current NH DWI laws, including potential penalties for subsequent convictions, and the requirements and procedures for successful completion of the phase II program and for license reinstatement;
- (4) The rules contained in He-A 900 that require the client's compliance; and
- (5) What failure to complete the program means.

(c) A phase II program shall offer group sessions featuring group discussions regarding, at a minimum:

- (1) Physiological and medical effects of toxic substances on the body, including the process of addiction and other health-related risks;
- (2) Psychosocial effects of alcohol and drug use and abuse, focusing on consumption;
- (3) The effects of alcohol and other drugs on driving;
- (4) Identification of drinking and impaired driving behaviors and patterns as related to alcohol and other drug use;
- (5) The impact of psychological defense mechanisms;
- (6) The impact of substance abuse on the family;
- (7) The impact of substance abuse on employment;
- (8) Social and personal attitudes toward substance use and abuse;
- (9) Each client's description of his or her DWI incident;
- (10) The topic of children of alcoholics;
- (11) Relapse, including risk factors and prevention strategies;
- (12) Self-awareness and goal-setting, including the implementation of a self-assessment tool; and
- (13) Introduction to self-help groups.

(d) During group sessions, instructors shall emphasize group process and self-awareness.

(e) A phase II program shall offer clients at least one scheduled individual session with program staff.

(f) A phase II program shall introduce clients to available aftercare/treatment options.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 907.11 Progress Notes.

- (a) The phase II program instructor shall complete a progress note on each client for each session.
- (b) Each progress note 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 current use of alcohol and/or other drugs.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.08)

He-A 907.12 Films and Resource Materials.

- (a) Providers shall use only those films and resource materials approved by the department, according to the procedure and criteria described in He-A 907.05(b) and (c).
- (b) New films or resource materials may be used subsequent to department approval.
- (c) There shall be no more than 15 films, videos, or movies, which have been approved by the department, shown during group sessions, with group discussions of each film.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.09)

He-A 907.13 Exit Evaluation and Assessment Interview.

- (a) Following each client's completion of all the required sessions, and prior to the client leaving the 7-day residential program, a LADC shall conduct an exit evaluation and assessment interview.
- (b) The exit evaluation and assessment interview shall:
  - (1) Be a personal, individual interview performed by a LADC employed by the phase II program provider;
  - (2) Be at least one hour in length;
  - (3) Follow and be separate from the class sessions;
  - (4) Include discussion of the diagnostic instruments and the interpretation of the client's scores;
  - (5) Include discussion of all substance abuse and dependence indicators presented by the client, including the results of the diagnostic instruments in (b)(4);
  - (6) Include the LADC's assessment of the client's involvement with alcohol and drugs; and
  - (7) Include either a positive or a negative finding for alcohol or other drug abuse and/or dependence and indicate if there is a need for further evaluation or counseling.
- (c) The LADC conducting the exit evaluation and assessment interview shall issue a positive finding, thus overcoming the presumption of successful completion described in He-A 904.05(a), if any of the following exists:

- (1) The client meets diagnostic criteria for alcohol or other substance abuse and/or dependence in accordance with the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition;
- (2) The client is age 21 or over and had a blood alcohol concentration (BAC) of 0.16 or higher at the time of arrest;
- (3) The client has 2 or more alcohol or drug-related motor vehicle arrests or convictions; or
- (4) The client is under the age of 21 and had a BAC of 0.08 or higher at the time of arrest.

(d) The LADC conducting the exit evaluation and assessment interview shall issue a negative finding if none of the factors described in (c) exists. The LADC, after conferring with the program director, shall also issue a negative finding when factors in (c) exist but in the judgment of both the LADC and the program director a positive finding is clinically contraindicated.

(e) If there is a negative finding, the LADC shall:

- (1) Complete Form IDIP-021, program completion report, by including:
  - a. The facility code;
  - b. The class section where the client was assigned;
  - c. The last four digits of the client's Social Security number;
  - d. The client's name;
  - e. The client's initials;
  - f. The client's mailing address;
  - g. The client's date of birth;
  - h. The court where the client was convicted;
  - i. The court docket number;
  - j. The date of conviction;
  - k. The date of the client's arrest;
  - l. The program enrollment date;
  - m. The completion and recommendation status;
  - n. The signature of the LADC conducting the exit evaluation and assessment interview;
  - o. The date of the exit evaluation and assessment;
  - p. The date aftercare was completed;
  - q. The agency name or LADC providing aftercare; and
  - r. The dated signature of the LADC completing the bottom of the form;
- (2) Complete and send a copy of Form IDIP-011, client profile, to the department, indicating that the client completed the phase II program, within 5 business days of the exit evaluation and assessment interview; and
- (3) Send a copy of the completed Form IDIP-021, program completion report, to the department of safety, the convicting court, and the department within 5 business days of the exit evaluation and assessment interview.

(f) If there is a positive finding, the LADC shall refer the client for further counseling, pursuant to He-A 907.14, and inform the client as to the reason for the referral.

(g) If there is a positive finding and the client does not accept the finding or the further counseling requirements, he or she may:

(1) Request a second opinion evaluation, pursuant to He-A 907.16; and

(2) Act on his or her right to an alcohol program completion hearing before the department of safety, pursuant to RSA 265-A:42 and Saf-C 204.20.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.11)

He-A 907.14 Referral for Further Counseling. In cases when there is a positive finding for alcohol or other drug abuse and/or dependence and the client is referred for further counseling, the following shall occur:

(a) The LADC conducting the exit interview shall:

(1) Develop a preliminary treatment plan that outlines the method and duration of aftercare that the client shall undertake, and shall discuss it with the client;

(2) Complete Form IDIP-022, further counseling referral recommendations report, by including:

a. The client's name;

b. The client's address

c. The client's date of birth;

d. The date of the client's enrollment;

e. The date of the client's referral;

f. The client's BAC at the time of arrest, or an indication of the client's refusal of consent;

g. The client's number of DWI convictions;

h. An assessment of the client's problem and needs area(s);

i. A brief client history and background;

j. A description of the client's drinking and drug use patterns;

k. A preliminary treatment plan;

l. Any additional comments;

m. The client's response; and

n. The dated signature of the LADC completing the form;

(3) Have the client sign and date Form IDIP-022, further counseling referral recommendations report;

(4) Inform the client of the minimum certification/licensure requirements an aftercare provider must hold in order to provide approved aftercare services, as follows:

a. Outpatient counseling with a New Hampshire LADC, or an International Certification and Reciprocity Consortium (IC&RC) reciprocal level counselor;

b. Outpatient counseling with a person working towards licensure as a New Hampshire LADC and who has passed the written examination required by the New Hampshire board of licensed alcohol and other drug abuse professionals and is under the direct supervision of a New Hampshire LADC; or

c. A licensed psychologist with a certificate from the American Psychological Association for the treatment of alcohol and other psychoactive substance abuse disorders;

(5) Inform the client of the approved aftercare treatment/evaluation services available, including:

a. Alcohol and drug abuse self-help groups;

b. Intensive outpatient or residential treatment services; and

c. Outpatient counseling per the certification/licensure requirements listed in (a)(4) above;

(6) Provide the client with a list of referrals, which shall be aftercare providers that have met the requirements in (a)(4)-(5) above;

(7) Inform the client of the various counseling options available to the client, as described in (b) through (d) below;

(8) Complete Form IDIP-011, client profile, by including:

a. The LADC's treatment recommendations;

b. The LADC's dated signature; and

c. The date upon which the exit evaluation and assessment interview was completed; and

(9) Complete Form IDIP-033, further counseling report notification, by including:

a. The client's name, address, and date of birth;

b. The date of the client's exit evaluation and assessment interview; and

c. The LADC's dated signature.

(b) If the client chooses to receive aftercare from the same provider that provided the client with phase II program services, if the provider has this service available, then:

(1) The client shall read and complete Form IDIP-032, waiver of alternative provider for further counseling requirements, by including:

a. The client's name; and

b. The client's dated signature;

(2) The aftercare LADC shall sign and date Form IDIP-032, waiver of alternative provider for further counseling requirements;

(3) The client shall read and complete Form IDIP-020, consent for the release of treatment information, by including:

a. The client's name;

b. The aftercare agency name and address; and

d. The client's dated signature;

(4) The aftercare LADC shall sign and date Form IDIP-020, consent for the release of treatment information; and

(5) The client shall not receive aftercare directly from the LADC that conducted his or her exit evaluation and assessment interview.

(c) If the client chooses to receive aftercare from an aftercare provider that did not provide the client with phase II program services, then the client shall complete, and the aftercare LADC shall sign and date, Form IDIP-020, consent for the release of treatment information, described in (b)(3)-(4) above.

(d) If the client chooses to receive aftercare from an aftercare provider outside of the State of New Hampshire, that client shall receive aftercare from an IC&RC reciprocal aftercare provider in that state. If there is no IC&RC reciprocal aftercare provider in that state, then the client may receive aftercare from an aftercare provider that is approved by that state for the purposes of license reinstatement subsequent to an alcohol or drug DWI conviction.

(e) Within 5 business days of the exit evaluation and assessment interview, the phase II program provider shall forward:

- (1) Form IDIP-033, further counseling report notification, to the department of safety;
- (2) Form IDIP-022, further counseling referral recommendations report, to the convicting court; and
- (3) Form IDIP-011, client profile, to the department.

(f) For those clients convicted under RSA 265-A:3, or convicted under RSA 265-A:2, I and sentenced pursuant to RSA 265-A:18, IV, the following shall occur:

(1) The phase II program staff shall inform the client that, pursuant to RSA 265-A:18, I(b)(3), I(c)(3), or IV(a)(3), he or she must begin the further counseling requirements within 60 days of being released from the 7-day residential program or some other time that the court has ordered;

(2) The phase II program staff shall complete the top part of Form IDIP-034, further counseling court notification, by including:

- a. The convicting court name and address;
- b. The client's court docket number;
- c. The client's name, address, and date of birth;
- d. The date the client completed the 7-day residential program; and
- e. The program staff's dated signature; and

(3) The client shall:

- a. Read, sign, and date Form IDIP-034;
- b. Have their aftercare LADC complete the bottom of Form IDIP-034, by including:
  1. The aftercare agency name, address, and telephone number;
  2. The date the client began the further counseling requirements; and
  3. The aftercare LADC's printed name and dated signature; and
- c. Submit completed Form IDIP-034 to the convicting court.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.12)

#### He-A 907.15 Compliance with Further Counseling Requirements.

(a) Compliance with further counseling requirements shall include the following:

(1) The client shall begin fulfilling the further counseling requirement within 60 days after the client has completed the 7-day residential program; and

(2) The client shall pay all costs associated with the further counseling requirements.

(b) The phase II program provider shall obtain documentation of the client's compliance with the further counseling requirement, as follows:

(1) If the client is receiving counseling, the aftercare provider shall submit to the phase II program provider a final summary report indicating the client's compliance with the further counseling requirement and which includes an assessment of the client's level of risk to recidivate; or

(2) If the client is attending a self-help organization, the client shall provide documentation of attendance and written reports of each meeting, which shall include the subject covered, the client's reaction to the meeting, and how the meeting applied to the client.

(c) Upon receiving complete documentation of a client's compliance with the further counseling requirement, the phase II program provider shall forward within 5 business days a copy of Form IDIP-021, program completion report, to the department, the court of conviction, and the department of safety.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.13)

#### He-A 907.16 Second Opinion Evaluation and Assessment.

(a) If the client disagrees with the positive finding or the further counseling requirements, as determined by the client's exit evaluation and assessment interview, the client may request a second opinion evaluation and assessment.

(b) A second opinion evaluation and assessment shall be completed by a different LADC than the one who conducted the client's exit evaluation and assessment interview or by another provider that has met the requirements of He-A 907.14(a)(4)-(5).

(c) The client shall pay all costs associated with obtaining a second opinion evaluation.

(d) The client who requests a second opinion shall sign Form IDIP-020, consent for the release of treatment information, to allow the phase II provider to forward all clinical data to the LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), conducting the second opinion evaluation.

(e) The phase II provider shall forward clinical data to the LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), conducting the second opinion evaluation within 5 days of receiving Form IDIP-020.

(f) The LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), rendering the second opinion shall:

(1) Review all the clinical data including testing done by the phase II provider regarding the client prior to conducting the evaluation;

(2) Meet with the client for no fewer than 3 and no more than 5 clinical hours; and

(3) Complete a written report of the second opinion evaluation and assessment, including, but not limited to:

a. An acknowledgment of the receipt and review of the phase II program clinical data;

b. The dates and duration of all client contact occurring in the course of the evaluation;

c. A biopsychosocial history of the client;

d. A substance abuse history of the client;

e. A legal history of the client;

f. A medical history of the client;

g. A family substance abuse history;

h. The relevant psychiatric history of the client;

i. The relevant medication history of the client

j. The client's current substance use/abuse dependency status;

k. The client's history of self-help attendance or involvement, if applicable;

- l. The client's history of any prior treatment for alcohol or substance abuse;
- m. A summary of the client's level of participation and motivation;
- n. An identification and results summary of all diagnostic instruments utilized in the course of conducting the evaluation;
- o. An assessment of client's current risk level to recidivate; and
- p. Further counseling and treatment recommendations for the client, if applicable; and

(4) Forward the report in (3) to the phase II provider program director.

(g) Upon receipt of the second opinion evaluation report from the LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), the program director and the LADC exit evaluator shall review the findings of both the original exit evaluation and assessment interview and the second opinion evaluation.

(h) If there is information missing from the second opinion evaluation report, the program director shall obtain the missing information from the provider who rendered the second opinion evaluation.

(i) If the results of the second opinion evaluation agree with the positive finding and the further counseling requirement of the original exit evaluation and assessment interview, the program director shall inform the client of his or her need to comply with the original further counseling requirement or act upon his or her right to a hearing before the department of safety, pursuant to RSA 265-A:42 and Saf-C 204.20.

(j) If the results of the second opinion evaluation do not agree with the positive finding of the original exit evaluation and assessment interview, the program director and the LADC exit evaluator shall:

(1) Accept the second opinion evaluation as is and change the original further counseling requirements to coincide with the second opinion if new information is presented or previously existing information is clarified to indicate a different clinical finding;

(2) Communicate with the LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), that rendered the second opinion in order to address any new information or clarification of existing information and modify the original further counseling requirements accordingly; or

(3) Reject the second opinion evaluation if no new information or clarification of existing information has been received and maintain the client's need to comply with the original further counseling requirements.

(k) If, after reviewing the second opinion evaluation report, the program director finds that the client needs to comply with the original or modified further counseling requirements, the program director shall so inform the client.

(l) If, after reviewing the second opinion evaluation report, the program director finds that the client does not need further counseling, the program director shall so inform the client and shall send Form IDIP-021, program completion report, to the department of safety within 5 days of receiving the second opinion evaluation.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.15)

#### He-A 907.17 Alcohol Program Completion Hearing.

(a) A client may request a hearing with the department of safety, pursuant to RSA 265-A:42 and Saf-C 204.20, in order to rebut the finding and/or the further counseling requirements as determined at the client's exit evaluation and assessment interview.

(b) At the alcohol program completion hearing conducted in accordance with Saf-C 204.20 and RSA 265-A:42, V, the phase II program provider shall have the burden of proving that the client has not successfully completed the program.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08 (from He-A 907.16)

He-A 907.18 Closing of Files.

(a) A phase II program provider shall close a client's file if:

- (1) A client's exit evaluation and assessment interview results in a negative finding and Form IDIP-021, program completion report, is sent to the department of safety, the court of conviction, and the department, pursuant to He-A 907.13(e);
- (2) After receiving complete documentation of a client's successful compliance with the further counseling requirements, Form IDIP-021, program completion report, is sent to the department of safety, the court of conviction, and the department, pursuant to He-A 907.15(c); or
- (3) The client fails to begin fulfilling the further counseling requirements within 60 days of exiting the program.

(b) If a client's file is closed pursuant to (a)(3) above, the phase II program provider shall:

- (1) Complete Form IDIP-036, close file form, by including:
  - a. The facility code;
  - b. The section where the client is assigned;
  - c. The last four digits of the client's Social Security number;
  - d. The client's name;
  - e. The client's address;
  - f. The client's date of birth;
  - g. The date of the exit interview, if completed;
  - h. The further counseling requirements, if applicable; and
  - i. The provider staff member's signature; and

(2) Submit Form IDIP-036 to the department.

(c) The phase II program provider shall reopen a client's file after it has been closed pursuant to (a)(3) above if the following conditions are met:

- (1) The client shall request that his or her file be reopened;
- (2) The client shall pay the provider a \$150.00 administrative fee; and
- (3) If more than 6 months have elapsed since the date of the exit evaluation and assessment interview, the client shall have a LADC, or other provider that has met the requirements of He-A 907.14(a)(4)-(5), conduct an alcohol and drug abuse dependency evaluation that conforms to the requirements of the second opinion evaluation outlined in He-A 907.16(b)-(f).

(d) If there is information missing from the updated alcohol and drug abuse dependency evaluation report, the program director shall obtain the missing information from the provider who rendered the updated evaluation.

(e) Once a client's file has been reopened, the program director and the LADC exit evaluator shall:

- (1) Consider both the original exit evaluation finding and further counseling requirements and the updated alcohol and drug abuse dependency evaluation;
- (2) Develop an updated treatment plan that outlines the method and duration of treatment that the client shall undertake; and
- (3) Require the client to comply with the recommended aftercare pursuant to He-A 907.14.

## PART He-A 908 PROGRAM MONITORING

### He-A 908.01 On-Site Visit.

(a) A department representative shall conduct on-site visits of all phase II program providers at least once per approval period.

(b) Visits may be scheduled or unscheduled, but shall take place during the program's operating hours.

(c) Visits shall include:

- (1) Random checking of records for accuracy and completeness;
- (2) Reviewing the program's adherence to the curriculum format as described in He-A 907.10;
- (3) Confirming that approved films and resource materials are being used;
- (4) Reviewing staff in-service instruction;
- (5) Critiquing and evaluating instructors and the group process; and
- (6) Reviewing the program's general compliance with He-A 900 rules.

(d) During scheduled site visits, providers shall have staff available to answer questions and shall allow access to locked files.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08

### He-A 908.02 Monitoring Report.

(a) The department representative shall complete a monitoring report including:

- (1) Specific requirements for program improvement and changes, if any;
- (2) Specific requirements for corrective action to be taken by the provider, if any; and
- (3) The time frame for the provider's submission to the department of a corrective action plan, if required.

(b) The department representative shall forward a copy of the monitoring report to the program director.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07,  
EXPIRED: 1-9-08

New. #9082, eff 1-30-08

### He-A 908.03 Corrective Action Plan.

(a) Within 3 weeks of receiving the monitoring report, the program director shall submit to the department a corrective action plan for each requirement included in the monitoring report, including the following:

- (1) What action the program has taken or will take to address the requirement(s);
- (2) What action the program will take to assure compliance with these rules and the applicable statutes in the future;
- (3) The date by which each of the requirements was addressed or will be addressed;
- (4) What interim measures the program has implemented when the requirement cannot be addressed immediately; and
- (5) The dated signature of the program director.

(b) When the corrective action plan in (a) above is not acceptable for addressing the requirements, the department shall issue a corrective action plan to the program director.

(c) Notwithstanding (a) and (b) above, when the department determines that there is an immediate need for corrective action, it shall issue a corrective action plan to the program without first offering the program an opportunity to complete and submit a corrective action plan.

(d) When the program director receives a corrective action plan issued by the department, in accordance with (b) or (c) above, it shall:

- (1) Make any additions the program believes are necessary; and
- (2) Complete and return the corrective action plan in accordance with (a) above.

(e) Notwithstanding (a) through (d) above, when a program has repeatedly violated rules or statute or has violated a rule or statute which resulted in physical or mental injury to a client, or caused a client to be in danger of physical or mental injury, the department shall initiate enforcement action without first requesting that the program submit a corrective action plan.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08

He-A 908.04 Follow-Up Visit. If deemed necessary by the department representative because of a need for a corrective action as a result of a previous site visit, client complaints, or errors in paperwork, the program provider shall be subject to a follow-up visit by the department representative to ensure that the provider has followed the recommendations for program improvements and changes or for required corrective actions.

Source. #9082, eff 1-30-08 (from He-A 907.03)

#### He-A 908.05 Failure to Implement Corrective Action Plan.

(a) If a phase II program provider fails to implement the required corrective action(s) within the time frame indicated in the corrective action plan, the department shall consider that provider delinquent and shall issue a written notice to inform the provider that it shall be removed from the list of approved providers if corrective action is not taken within a time period determined by the department.

(b) If the corrective action is still not taken within the time period identified in the written notice in (a) above, the commissioner shall suspend the agreement with the provider, thus disallowing the provider from providing phase II program services until such time as the corrective action is taken.

Source. #9082, eff 1-30-08

### PART He-A 909 PROCEEDINGS

He-A 909.01 Proceedings. Any adjudicative proceedings, including hearings which are necessary to resolve any contested issue relative to a phase II program provider or a certified instructor, shall be conducted pursuant to He-C 200.

Source. #7058, eff 7-21-99; ss by #8902, INTERIM, eff 7-13-07, EXPIRED: 1-9-08

New. #9082, eff 1-30-08(from He-A 909.02)

### PART He-A 910 WAIVERS

#### He-A 910.01 Waivers.

(a) The commissioner shall waive any element or portion of these rules, except a rule that directly reflects a statutory requirement, if the commissioner determines that such a waiver would:

- (1) Rectify problems unforeseen by the rules; or
- (2) Assist a client in completing a phase II program 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 the director of the division of public health services (DPHS) or by a phase II program director 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) The criteria described in (a) have been met;
- (2) Strict compliance with the procedure(s) sought to be waived does not contradict the intent of these rules; and
- (3) The alternative procedures proposed are at least equivalent to the specific procedures contained in the rule, or the alternative procedures proposed are not equivalent to the procedures contained in the rule but are sufficient to ensure that the intent of the relevant provisions of the rule will be accomplished.

(e) 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.

[Source.](#) #9082, eff 1-30-08

**APPENDIX**

<b>Rule</b>	<b>Statute</b>
He-A 901.01	RSA 265-A:39; RSA 265-A:42
He-A 902.01	RSA 172-B:1, I-XIV; RSA 541-A:7
He-A 903.01	RSA 265-A:39, IV(d)
He-A 903.02	RSA 265-A:39, IV(d)
He-A 903.03	RSA 265-A:39, V(c)
He-A 903.04	RSA 265-A:39, IV(c)-(d) and V(c)
He-A 903.05	RSA 265-A:39, IV(c)-(d) and V(c)
He-A 903.06	RSA 265-A:39, I, IV(b), and V(d); RSA 265-A:42, I(a) and (c)
He-A 904.01	RSA 265-A:39, I, IV(b), and V(d); RSA 265-A:42, I(a) and (c)
He-A 904.02	RSA 265-A:42, I and V
He-A 904.03	RSA 265-A:42, IV(a)
He-A 904.04	RSA 265-A:42, II and III; RSA 265-A:39, IV(a) and (c)
He-A 905	RSA 265-A:39, V(b)
He-A 906.01	RSA 265-A:39, I
He-A 906.02	RSA 265-A:39, I
He-A 906.03	RSA 265-A:39, V(d)
He-A 906.04	RSA 265-A:39, I
He-A 906.05	RSA 265-A:39, I
He-A 907.01	RSA 265-A:39, IV(c)
He-A 907.02	RSA 265-A:39, V(a)
He-A 907.03	RSA 265-A:39, I and V(d)
He-A 907.04	RSA 265-A:39, I and V(d)
He-A 907.05	RSA 265-A:39, III and V(d)
He-A 907.06	RSA 265-A:39, III and V(d)
He-A 907.07	RSA 265-A:39, I and V(d)
He-A 907.08	RSA 265-A:39, I and V(d)
He-A 907.09	RSA 265-A:39, III and V(a)
He-A 907.10	RSA 265-A:39, III and V(a)
He-A 907.11	RSA 265-A:39, IV(c)
He-A 907.12	RSA 265-A:39, V(a)
He-A 907.13	RSA 265-A:39, III
He-A 907.14	RSA 265-A:39, IV(e)
He-A 907.15	RSA 265-A:39, IV(e)
He-A 907.16	RSA 265-A:39, IV
He-A 907.17	RSA 265-A:39, IV
He-A 907.18	RSA 265-A:39, IV
He-A 908.01	RSA 265-A:39, V(d)
He-A 908.02	RSA 265-A:39, IV(c) and V(d)

He-A 908.03	RSA 265-A:39, V(d)
He-A 908.04	RSA 265-A:39, V(d)
He-A 908.05	RSA 265-A:39, I and V(d)
He-A 909.01	RSA 265-A:42, V; RSA 265-A:39, V(d)
He-A 910.01	RSA 265-A:39, IV(e)