

CHAPTER 75-09.1-09 DUI SEMINAR ASAM LEVEL 0.5

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75-09.1-09-01. Definitions.

As used in this chapter:

1. "Department" means the North Dakota department of human services.
2. "DUI seminar" means an alcohol and drug risk reduction education program for individuals convicted of driving under the influence or actual physical control.
3. "Recommendation" means that a violation of the rule has occurred, however, on a very limited basis. Recommendation can also be given when there is general compliance with a rule but the procedures can be strengthened.
4. "Type I condition" means that a violation of the requirements of any applicable law or regulation has occurred in at least twenty-five percent of the cases reviewed.
5. "Type II condition" means habitual noncompliance with the requirements of any applicable law or regulation, including a type I condition that is still found to be occurring during subsequent visits, any illegal act, or any act that threatens the health and safety of a client.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-02. Application for licensure.

1. A DUI seminar must submit to the department an application for a license in the form and manner prescribed by the department.
2. The department shall consider an application for a DUI seminar license complete when it has received all required information and documents. The department shall notify an applicant if an application is incomplete.

3. The department may declare an application for a DUI seminar license withdrawn if an applicant fails to submit all required documentation within sixty days of notification of incompleteness.
4. A new application for a DUI seminar license must be filed by a program upon change of ownership or level of care.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-03. License required.

1. The department may issue a provisional license for the operation of a new DUI seminar upon approval of a new application.
2. A provisional license must expire at a set date not to exceed one year from the date of issuance.
3. Prior to issuing an unrestricted license, the department must conduct an onsite review to determine if a DUI seminar is in compliance with the standards contained in this chapter.
4. An unrestricted license is in effect for the period specified in the license not to exceed two years.
5. A DUI seminar license may not be transferred and is valid only for those programs indicated on the license.
6. The department shall conduct at least biennially a continued license review for any DUI seminar with an unrestricted license. The continued license review will be performed to determine continued compliance with the standards contained in this chapter.
7. The department may conduct scheduled or unscheduled visits of a DUI seminar at times other than a routine licensure review.
8. A DUI seminar must display its license in a place that is conspicuous to the public.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-04. Licensure report procedures.

1. Within thirty days of an onsite review, the department must send a license report to the DUI seminar reviewed.
2. A license report must contain a description of the programs and services reviewed, strengths, concerns, recommendations, and a description of any type I or type II conditions.
3. The department shall retain all reports of the licensure review while the DUI seminar that is the subject of the report is licensed and for at least seven years from the time the DUI seminar is no longer licensed.

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General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-05. Seminar authority and administration.

1. A DUI seminar shall identify to the department an individual or entity that is responsible for the conduct of the DUI seminar.
2. A DUI seminar shall be responsible for providing qualified personnel, facilities, and equipment needed to carry out the goals and objectives and to meet the needs of clients.
3. A DUI seminar shall conform to applicable laws and regulations, including accessibility, affirmative action, equal employment opportunity, confidentiality, health and safety, and licensure.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-06. Information management.

1. A DUI seminar shall collect data as prescribed by the department, including information necessary for federal and state grant statistical requirements and fiscal information such as fee structure.
2. A DUI seminar must apply appropriate safeguards to protect client records regardless of whether the records are electronically or manually maintained. These safeguards must include:
 - a. Limiting record access to authorized individuals;
 - b. Suitably maintaining a record indexing and filing system;
 - c. Knowing the essential record location at all times;
 - d. Securing and reasonably protecting records in a locked area where they will be reasonably protected against loss, damage, and inappropriate access; and
 - e. Protecting electronic records by routine backup.
3. A DUI seminar must implement a policy so that files are not needlessly retained or prematurely discarded. The retention of records of clients and administrative records must be guided by professional and state research, administrative, and legal requirements.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-07. Fiscal management.

1. A DUI seminar shall have an established schedule of fees that is available in printed form and applied equitably to all clients.
2. A DUI seminar shall implement a policy that prohibits fee splitting with other programs, agencies, entities, or individuals as consideration for referral of the client to be served.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-08. Physical facilities.

1. All locations owned, rented, or leased by a DUI seminar must meet standards of the state fire marshal or an equivalent code or provide a letter from the inspecting authority stating that inspections were not done and why.
2. A DUI seminar shall provide adequate toilet and lavatory facilities.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-09. Health and safety program.

1. A DUI seminar shall develop a written emergency procedure that includes provisions for dealing with bomb threats, fires, medical emergencies, natural disasters, and power failures.
2. At the beginning of the DUI seminar, the DUI seminar instructor shall point out emergency evacuation exits and routes to seminar participants.
3. A DUI seminar shall have first-aid facilities, equipment, and supplies readily available.
4. A DUI seminar shall implement a written policy that addresses the use of smoking products. The policy must address the needs of the seminar participants and visitors and comply with local, state, and federal laws.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-10. Infection control.

A DUI seminar shall take universal precautions in the handling of all bodily fluids and implement a written policy for the handling of bodily fluids.

History: Effective October, 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-11. Referral criteria.

1. A DUI seminar must secure the written consent of the client or the client's legal representative before releasing any confidential information about that client and the consent to release of information must conform to the following:
 - a. Any information released must be limited to that necessary for the individual or agency requesting the information or for the provider to whom the client is referred to be able to address the purpose of the referral;
 - b. A DUI seminar must stamp or write on the records that are being released that any further disclosure or redisclosure of information is prohibited unless it is authorized by the client or the client's legal representative; and
 - c. Be in accordance with applicable federal and state laws and must include at a minimum:
 - (1) The content to be released;

- (2) The form in which the information is to be released such as written, verbal, audio, video, electronic;
 - (3) To whom the information is to be released;
 - (4) For what purpose the information is to be released;
 - (5) The name of the client and date of birth about whom information is to be released;
 - (6) The date on which the release is signed;
 - (7) The length of time, event, or condition for which the release is authorized or the event or condition upon which consent for release will be withdrawn; and
 - (8) The signature of the client or legal representative.
2. A DUI seminar shall give a copy of the signed consent to release of information to the client or client's legal representative.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-12. Client records.

1. A DUI seminar shall prepare and maintain a single record for each client so as to communicate the appropriate case information. This information must be in a form that is clear, concise, complete, legible, and current.
2. The record of each seminar participant must include:
 - a. Seminar attendance record;
 - b. Department approved post-test;
 - c. A copy of any department of transportation report of addiction treatment form;
 - d. A copy of any consent to release of information form signed by the client; and
 - e. Any other correspondence related to the seminar participant.
3. A DUI seminar shall implement a written policy addressing the process by which a client may gain access to the client's own record.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-13. Client rights.

1. A DUI seminar must assure the right of each client to:
 - a. Be treated with respect and dignity;
 - b. Be treated without discrimination based on physical or mental disability;
 - c. Be treated without regard to race, creed, national origin, sex, or sexual preference;

- d. Have all information handled confidentially in accord with state and federal standards of confidentiality; and
 - e. Not be subject to physical, emotional, or sexual abuse or harassment by the staff or another client.
2. A DUI seminar shall implement a written procedure stating the form and manner in which a client may file a grievance that explains the grievance and appeal procedures in a manner that can be understood by the client.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-14. Provider criteria.

1. A DUI seminar instructor shall have at least a two-year degree or its equivalent or at least one year of professional work experience in the education, health, human services, or criminal justice field.
2. A DUI seminar instructor shall not engage in the illegal use of drugs nor conduct the DUI seminar while under the influence of alcohol or other mood-altering drugs.
3. A DUI seminar instructor shall be certified by the department to teach the department-approved curriculum. To achieve certification by the department, the instructor candidate shall meet all DUI seminar instructor requirements, shall successfully complete the department-approved DUI seminar instructor training, and shall submit the certification application to the department.
4. A DUI seminar instructor shall be recertified by the department every two years. To maintain certification by the department, a DUI seminar instructor shall teach the DUI seminar at least twice per certification cycle and attend DUI seminar instructor recertification training coordinated by the department.
5. To achieve certification when a DUI seminar instructor has allowed certification to lapse, a DUI seminar instructor shall submit a letter to the department that must:
 - a. Show evidence that the DUI seminar program's curriculum has incorporated current DUI information and educational changes;
 - b. Provide an explanation for the DUI seminar instructor's lapse in certification; and
 - c. Contain a statement that the DUI seminar program has not provided DUI seminar services during the time period that the certification had lapsed.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-15. Seminar program criteria.

1. A DUI seminar program shall follow the department-approved curriculum's sequence, schedule, format, process, and content.
2. A DUI seminar program shall use only those videos approved by the department for use in the DUI seminar and shall use those videos only at the times when the curriculum schedule permits their use.

3. A DUI seminar program shall provide each seminar participant with a new student booklet. Books become the property of the client and are not to be reissued.
4. A DUI seminar program shall not continue a class for more than two hours without providing the clients with a break.
5. A DUI seminar program shall not count time for breaks beyond three ten-minute breaks per four-hour period toward the required hours of education to be provided to clients.
6. A DUI seminar program shall maintain a current list of licensed substance abuse programs and information on local recovery support groups.
7. A DUI seminar program shall ask all DUI seminar clients to complete a participant evaluation form at the conclusion of each seminar and will retain copies of the evaluations in accordance with its record retention policy.
8. A DUI seminar program shall not accept into the seminar a client who has completed the department-approved evaluation process more than six months prior to participation in the seminar.
9. A DUI seminar program shall conduct the seminar in classes that must last no more than four hours per session and only one session must be scheduled per calendar day unless an exception is granted by the department.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-16. Seminar care criteria.

1. In order to fulfill a DUI seminar care criteria, a client shall:
 - a. Complete all required activities and assignments;
 - b. Attend all seminar sessions in sequence;
 - c. Attain a passing mark on the seminar post-test; and
 - d. Notify the department of transportation regarding the incident.
2. A DUI seminar program shall not admit to a class in progress a client who is more than fifteen minutes late unless extenuating circumstances exist. A client who arrives late to a class will be required to meet with the DUI seminar instructor to make up what the client missed.
3. A client must attend all DUI seminar sessions sequentially and may not be allowed to attend the next session after missing a class. The client must wait until the next session of the class has started and then may start the class again from the point where missed.
4. A DUI seminar program shall prohibit the illegal use of drugs and alcohol at the seminar site and shall implement a written policy for referral of a client for further assessment of alcohol or drug problems if they occur.
5. If a client arrives at a DUI seminar under the influence or during the seminar is under the influence, a DUI program shall:
 - a. Not admit the client into the class;
 - b. Discharge the client from the class;

- c. Inform the client that the program will notify law enforcement if the client drives upon leaving the program; and
- d. Notify the department of transportation regarding the incident.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-17. Discharge criteria.

A DUI seminar program will discharge a client when:

- 1. The client has completed the seminar and all seminar requirements;
- 2. The client does not comply with the program; or
- 3. The client arrives at the seminar under the influence or is under the influence during the seminar.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-18. Sanctions.

- 1. The department may immediately revoke a DUI seminar's license upon a finding of a type II condition.
- 2. A DUI seminar must submit to the department a plan of corrective action within thirty days of the licensure visit when a type I condition has been found. A type I condition will result in a condition with ninety days allowed to implement the plan and satisfy the cited condition.
- 3. The department may conduct another onsite review prior to issuing a continued license after a DUI seminar has developed a plan of corrective action for any type I or type II condition.
- 4. The department shall issue a ninety-day suspension of a DUI seminar's license if the DUI seminar fails to timely satisfy a type I condition or develop a plan to satisfy the cited condition.
- 5. At the end of a ninety-day suspension of a DUI seminar license, the department may issue a provisional license that expires in no more than one year if the cited type I condition has been corrected.
- 6. The department shall revoke a DUI seminar license immediately if a DUI seminar fails to timely correct a type I condition.
- 7. During the three hundred sixty-five days following a license revocation for any type I or type II condition, a DUI seminar that has been the subject of a license revocation is prohibited from submitting a new application to the department for consideration for a new license for any facility or program.

History: Effective October 26, 2004.

General Authority: NDCC 50-06-16, 50-31

Law Implemented: NDCC 50-31

75-09.1-09-19. Appeals.

An applicant for or a holder of a DUI seminar license may appeal a decision to deny, suspend, or revoke a license by filing a written appeal with the department within thirty days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

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