

**ARTICLE 75-09.2**  
**SUBSTANCE USE DISORDER EARLY INTERVENTION**

Chapter  
75-09.2-01 Alcohol and Drug Early Intervention Program

**CHAPTER 75-09.2-01**  
**ALCOHOL AND DRUG EARLY INTERVENTION PROGRAM**

Section  
75-09.2-01-01 Definitions  
75-09.2-01-02 Applications for Minor in Possession Program Certification  
75-09.2-01-03 Minor in Possession Program Certification Required  
75-09.2-01-04 Provider Criteria  
75-09.2-01-05 Background Check - Investigation  
75-09.2-01-06 Criminal Conviction - Effect on Provider Status  
75-09.2-01-07 Program Criteria  
75-09.2-01-08 Information Management  
75-09.2-01-09 Suspension  
75-09.2-01-10 Program Denials and Revocations

**75-09.2-01-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the North Dakota department of human services.
2. "Division" means the behavioral health division.
3. "Minor in possession program certification" means a certification provided to a provider by the division to provide an evidence-based alcohol and drug early intervention program for individuals who violate North Dakota Century Code section 5-01-08.
4. "Provider" means a minor in possession program certified instructor or implementer of an evidence-based alcohol and drug early intervention program.
5. "Program" means an evidence-based alcohol and drug early intervention program.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-02. Application for minor in possession program certification.**

1. Applicants shall submit to the division a signed application and all required information and documentation for minor in possession program certification in the form and manner prescribed by the department.
2. The department shall consider an application for minor in possession program certification complete when it has received all of the required information and documents in accordance with section 75-09.2-01-04. The division shall notify an applicant if an application is incomplete.
3. The department may declare an application for minor in possession program certification withdrawn if an applicant fails to submit all required information and documentation within thirty days of the department's notification to the applicant the application is incomplete.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-03. Minor in possession program certification required.**

1. A minor in possession program certification may not be transferred and is valid only for those providers and programs indicated on the minor in possession program certification.
2. A provider shall make available or display its minor in possession program certification in a place that is conspicuous to the public.
3. A provider shall be recertified by the division every three years, resubmitting all information under section 75-09.2-01-04.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-04. Provider criteria.**

1. To receive a minor in possession program certification or minor in possession program recertification, a provider shall submit proof of the following:
  - a. A bachelor's degree. The requirement of a bachelor's degree may be waived for driving under the influence seminar instructors licensed under chapter 75-09.1-09 prior to December 31, 2017;
  - b. Successfully pass a background check; and
  - c. Be certified in a department-approved program;
2. If recertifying, a provider shall submit required information in accordance with section 75-09.2-01-08; and
3. Provider's fees must be reasonable.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-05. Background check - Investigation.**

1. Each applicant and provider shall disclose to the department if they have been found guilty of, pled guilty to, or pled no contest to a criminal offense.
2. The applicant and provider shall disclose to the department the type of offense and dates and location of having been found guilty of, pled guilty to, or pled no contest to a criminal offense. Such disclosure does not disqualify the applicant or provider, unless having been found guilty of, pled guilty to, or pled no contest to a crime having direct bearing on the capacity of the applicant or provider to provide a service under this chapter or the applicant or provider is not sufficiently rehabilitated.
3. The department may conduct a criminal background check on an applicant or provider.
4. The department shall determine the effect of an applicant or provider having been found guilty of, pled guilty to, or pled no contest to a criminal offense.

5. The department may investigate and inspect the applicant's or provider's activities, programs, qualifications, and proposed standards of care.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-06. Criminal conviction - Effect on provider status.**

1. An applicant or provider may not be an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-01.1, assault; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-21-01, arson; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; 14-09-22, abuse of child; or 14-09-22.1, neglect of child; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or
  - b. An offense, other than an offense identified in subdivision a, if the department determines the individual has not been sufficiently rehabilitated.
2. For purposes of subdivision b of subsection 1, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.
3. The department has determined the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of services under this chapter.
4. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.
5. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
  - a. Common knowledge in the community;
  - b. Acknowledged by the individual;
  - c. Reported to the department as the result of a background check; or

- d. Discovered by the department.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-07. Program criteria.**

1. The program provided through the minor in possession program certification must be selected from a list of preapproved evidence-based programs identified by the division.
  - a. Provider is responsible to become and remain certified or credentialed in selected preapproved evidence-based programs.
  - b. Provider must meet all requirements for the selected program.
2. A provider may request an exception to the preapproved list. Exceptions will be reviewed by the division on a case-by-case basis. The provider shall submit to the division the program title, sample material, and evidence of effectiveness. The department may deny an exception granted under this subsection. The decision to deny an exception is not an appealable decision.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-08. Information management.**

Providers shall report annually to the division the following information:

1. Confirmation of program certification;
2. Number of individuals served through the program;
3. Number of repeat individuals served by the program; and
4. The number of classes provided.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-09. Suspension.**

The division may suspend a provider's minor in possession program certification at any time after the onset of an investigation. The department shall post all suspensions and revocations for at least one year.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

**Law Implemented:** NDCC 5-01-08, 50-06-44

**75-09.2-01-10. Program denials and revocations.**

1. An applicant's application may be denied if:
  - a. The applicant fails to comply with section 75-09.2-01-02; or
  - b. The applicant fails to meet the provider criteria pursuant to section 75-09.2-01-04.

2. A program's minor in possession program certification may be revoked for failure to comply with sections 75-09.2-01-03, 75-09.2-01-04, 75-09.2-01-07, and 75-09.2-01-08.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 50-06-44

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