

7503.1700 REHABILITATION.

Subpart 1. **When applicable.** A person whose driving privilege has been canceled and denied prior to July 1, 2011, is subject to the provisions of this part, unless the person chooses to participate in the ignition interlock device program. A person must complete rehabilitation or participate in the ignition interlock device program whenever:

A. the person's driver's license or driving privileges have been canceled and denied following involvement in three or more alcohol- or controlled-substance-related incidents within the past ten years;

B. a third alcohol- or controlled-substance-related incident occurs within ten years from the date the completed, signed, and returned special review notice is entered on the person's driving record; or

C. there are four or more incidents on record.

Subp. 2. **Rehabilitation requirements.** To complete rehabilitation, a person must:

A. successfully complete chemical dependency treatment following the last documented date of the use of alcohol or a controlled substance and submit evidence to the commissioner of chemical dependency treatment that satisfies the following requirements:

(1) the chemical dependency treatment must be in a program that requires abstinence;

(2) for an individual's initial treatment, primary chemical dependency treatment for a minimum of 48 hours of individual, group, or family counseling must be successfully completed;

(3) for an individual's second or subsequent treatment, relapse chemical dependency treatment for a minimum of 24 hours of individual, group, or family counseling must be successfully completed and is acceptable only when primary treatment has previously been successfully completed; and

(4) the chemical dependency treatment may include aftercare, which is additional treatment not to exceed 180 calendar days, prescribed by a treatment program for the successful rehabilitation of the individual, other than the primary treatment or relapse treatment, and which may include the abstinence-based support specified in item B;

B. participate in a generally recognized support group based on ongoing abstinence, at least once a week for 12 consecutive weeks immediately before submitting to the commissioner evidence showing compliance with the rehabilitation requirements;

C. abstain from the use of alcohol and the use of controlled substances, attest to the abstinence for a period prescribed in subpart 5, and furnish evidence of abstinence for the required period to the commissioner; and

D. appear for a rehabilitation interview at one of the department's driver evaluation offices.

Subp. 2a. **Variance to amount of treatment.** The commissioner may grant a variance from the durational amounts of chemical dependency treatment set forth in subpart 2, item A, subitems (2) and (3), and item B.

A. Variances must be requested by the person to whom the treatment applies and be approved on an individual basis.

B. If the subject obtains an assessment from a chemical dependency treatment program that treatment is not needed and the subject has abstained for one year past the minimum abstinence time required in subpart 5, then the treatment required in subpart 2, item A, subitems (3) and (4), may be waived.

(1) The assessment must contain the date of the assessment.

(2) The assessment must have occurred since the date of the last use of a controlled substance or alcohol.

(3) The assessment must specify the date of the last use of a controlled substance or alcohol.

(4) The assessment must demonstrate consideration of all controlled substance or alcohol-related violations on the subject's driving record.

(5) The assessment must specify that treatment will not be beneficial to continued abstinence.

C. No variance to the requirement for treatment will be granted if the commissioner has sufficient cause to believe that the subject has ever provided false documentation or information to the commissioner relative to rehabilitation.

Subp. 2b. **Variance procedure.** The individual requesting the variance shall submit the variance request in writing to the commissioner. The request must contain:

A. the specific language in the rule or rules from which the variance is requested;

B. the reasons why the rule cannot be met; and

C. a description of the alternative treatment that will be taken to ensure a comparable degree of protection to the public safety if the variance is granted.

Subp. 2c. **Variance criteria; conditions.** The commissioner shall grant a variance request if:

A. the request was made as prescribed in subpart 2b;

B. the variance will have no potential adverse effect on public safety;

C. the alternative treatment to be taken is equivalent to or superior to that prescribed in the applicable rule;

D. strict compliance with the applicable rule will impose an undue burden on the applicant;

E. the variance has only future effect; and

F. the variance does not vary a statutory standard.

Subp. 2d. **Notice of decision.** The commissioner shall notify the individual in writing of the commissioner's decision to grant or deny the variance.

A. If the variance is granted, the notice must specify the period of time for which the variance will be effective and the alternative treatment and conditions the applicant must meet.

B. The commissioner shall deny the variance request if the commissioner determines that the criteria in subpart 2b or 2c are not met.

C. If the variance is denied, the denial notice must specify the reasons for the denial and indicate that the individual may request a review of the commissioner's decision by the chemical abuse review panel established under part 7503.2200.

D. Alternative measures or conditions attached to the variance have the force and effect of the applicable rule.

E. If the party violates the alternative measures or conditions attached to the variance, the party is subject to the enforcement actions and penalties attached to the applicable law or rule.

F. The individual to whom a variance has been issued shall notify the commissioner in writing within 30 days of a material change in the conditions on which the variance was granted.

Subp. 3. **Evidence of chemical dependency treatment.** Evidence of chemical dependency treatment submitted to the commissioner consists of written material supplied by the treating program. It must include:

A. the last reported date of use of alcohol or a controlled substance;

B. the starting and ending dates of primary treatment or relapse treatment;

C. the number of program hours for primary treatment or relapse treatment;

D. verification of successful completion of all treatment, including primary treatment or relapse treatment and aftercare if required by the treatment program; and

E. a discharge summary with a prognosis and any recommended aftercare program. If the prognosis is not favorable or if the person fails to complete an aftercare

program recommended by the treating program, the commissioner shall reinstate the person's driver's license and driving privilege only following completion of an abstinence period of one year in addition to the abstinence periods prescribed in subpart 5.

Subp. 4. **Abstinence documentation.** Every person applying for reinstatement after rehabilitation must sign a statement acknowledging the person's awareness that abstinence from the use of alcohol and controlled substances is a condition of licensure.

A. The commissioner shall provide the format for the statement to the person applying for license reinstatement.

B. The statement must contain an acknowledgment as well as an advisory that the commissioner shall cancel and deny the driver's license and driving privilege of the person if the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance, whether or not the circumstances involve the operation of a motor vehicle.

C. The restriction to abstain from the consumption of alcohol and abuse of controlled substances must be placed on the person's driver's license and driving record.

D. To substantiate abstinence, the person must sign a statement, on a format provided by the commissioner, attesting to the date on which the person applying for license reinstatement last consumed alcohol or a controlled substance. This statement must be notarized or completed in the presence of an authorized representative of the commissioner.

E. The person applying for license reinstatement also must furnish to the commissioner at least five supporting statements, signed and dated within 30 days of submission, from persons:

(1) who are not related to the person applying for license reinstatement by blood, marriage, or adoption;

(2) who are not an employee or employer of the person applying for license reinstatement;

(3) who do not have a significant relationship as defined in Minnesota Statutes, section 169A.60, subdivision 1, with the person applying for license reinstatement; and

(4) who have known the driver for the minimum required abstinence period.

F. Each statement must:

(1) be signed and dated by the person attesting to the abstinence of the person applying for license reinstatement;

(2) include the full name, address, and telephone number of the person filing the supporting statement;

(3) indicate that the person providing the supporting statement has been in weekly contact during the abstinence period with the person applying for license reinstatement;

(4) certify that the person providing the supporting statement is not related to, is not an employee or employer of, or does not have a significant relationship to the person applying for license reinstatement as specified in item E;

(5) indicate the period of time that the person providing the supporting statement can attest to abstinence of the person applying for license reinstatement; and

(6) contain a pledge by the person providing the supporting statement to report promptly to the commissioner, in writing, any use of alcohol or a controlled substance by the person applying for license reinstatement.

Subp. 4a. [Repealed, 27 SR 707]

Subp. 5. **Abstinence periods.** Evidence of abstinence furnished by the person must substantiate a period of abstinence as provided in this chapter. Rehabilitation is not complete if the commissioner has sufficient cause to believe that the person has not abstained from the use of alcohol or a controlled substance for the period claimed.

The required period of documented abstinence is:

- A. for a person who has not previously undergone rehabilitation, one year;
- B. for a person who has once completed rehabilitation, three years; or
- C. for a person who has completed rehabilitation two or more times, six years.

If the person is incarcerated or lives in a controlled environment, such as a halfway house, the length of time the person is under these conditions counts as half-time towards completion of the abstinence periods required in items A to C. A minimum of six months must be spent in an uncontrolled environment immediately before submitting evidence to the commissioner showing compliance with all rehabilitation requirements.

Subp. 6. **Failure to abstain following rehabilitation.** The commissioner shall cancel and deny the driver's license and driving privilege of a person on sufficient cause to believe that the person has consumed alcohol or a controlled substance after the documented date of abstinence. The commissioner shall not reinstate the driver's license or driving privilege of a person until the rehabilitation requirements of this chapter have been completed. This subpart does not apply to the consumption of a controlled substance in accordance with a medical prescription.

Subp. 7. **Rehabilitation interview.** A person seeking reinstatement following rehabilitation shall appear in person for an interview at one of the department's driver evaluation offices to discuss the effectiveness of rehabilitation on the person's driving

ability and problem of chemical abuse. The person shall schedule the interview in advance and must provide the commissioner with the written material required for rehabilitation under this chapter before the date on which the interview is scheduled.

Subp. 8. **Fraudulent documentation.** If a person submits fraudulent documentation of rehabilitation, the commissioner shall reinstate the person's driver's license and driving privilege only following completion of all rehabilitation requirements and a cancellation period of one year in addition to the abstinence periods prescribed in subpart 5. Fraudulent documentation of rehabilitation is the deliberate submission of information that is false or misleading and includes falsified attendance or treatment records, falsified records showing incorrect abstinence periods, or other altered and incorrect records or documents.

Subp. 9. **Additional offense.** If a person required to complete rehabilitation under subpart 1 has any additional alcohol or controlled-substance incidents before beginning or completing rehabilitation, the commissioner shall reinstate the person's driver's license and driving privilege only after completion of all rehabilitation requirements and an abstinence period of one year in addition to the abstinence periods prescribed in subpart 5.

Statutory Authority: *MS s 14.06; 14.388; 169.128; 169.798; 169A.75; 171.165; 299A.01*

History: *10 SR 1427; 15 SR 2406; 22 SR 1103; L 2000 c 478 art 2 s 7; 27 SR 707; 35 SR 2019*

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