



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

DATE: UPDATED July 23, 2020

Behavioral Health Information Notice No.: 20-016

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

SUBJECT: Flexibility for Driving Under the Influence (DUI) programs during the COVID-19 public emergency.

PURPOSE: Provide guidance on the availability of flexibility for DUI programs related to blanket leaves of absence (LOA), suspension of on-site inspections, supplemental funding, and counselor certification.

REFERENCE: DHCS COVID-19 Frequently Asked Questions:
[Driving-Under-the-Influence \(DUI\) programs](#)
[DHCS COVID-19 Response website](#)

BACKGROUND:

The Department of Health Care Services (DHCS) is issuing guidance to counties and providers to communicate temporary waiver flexibilities of requirements for substance use disorder treatment programs related to the COVID-19 emergency. DHCS released [Behavioral Health Information Notice 20-009](#) to provide guidance on concrete steps counties and providers should take to minimize the spread of COVID-19 and ensure ongoing access to care.

This Information Notice communicates waiver flexibilities applicable to DUI programs authorized through the Governor's Executive Order N-55-20.

POLICY:

Pursuant to Executive Order N-55-20 and DHCS guidance to counties and providers, the following list identifies waivers granted to DUI programs licensed by DHCS in connection with the COVID-19 emergency. Facilities with additional requests should contact their DHCS liaison for further guidance and more information. The flexibility described herein is effective April 23, 2020, and will terminate 30 days or any extension thereof after DHCS' notification to stakeholders regarding the termination of the public health emergency.

Approved waivers for facilities under this process will be posted on the [DHCS COVID-19 website](#).

1. Providing affected participants with blanket Leaves of Absence (LOA)

California Code of Regulations (CCR) Title 9, Division 4, Chapter 3, § 9876.5 (b) stipulates LOA directives in the event a participant is unable to attend any scheduled program activities for 21 days or longer.

Under Executive Order N-55-20, DHCS is allowing DUI programs to issue a blanket LOA for each participant affected by the COVID-19 emergency. Should a DUI program need to cease program operations to provide DUI program services as a result of the COVID-19 emergency, the DUI program may grant LOAs to all DUI participants enrolled in the DUI program.

A DUI program that decides to close as a result of the COVID-19 emergency and impose a blanket LOA shall:

- a.) Immediately notify DHCS of the closure and issuance of the blanket LOAs;
- b.) Contact all DUI program participants by phone and in writing of the facility closure and approved LOA;
- c.) Document confirmation of the LOA notification in each participant's file, identifying COVID-19 as the reason for the LOA and the dates the LOA is in effect;
- d.) Document notification to the participant that the LOA could delay their program completion date;
- e.) Not require participant signatures on the LOA documentation; and
- f.) Post a notice of the temporary closure due to COVID-19 with a DUI program contact to the front door of the DUI program.

The duration of the blanket LOA will be dependent on the duration of the COVID-19 emergency. Once the DUI program is able to resume DUI program services upon termination of the public health emergency, the DUI program must immediately notify

DHCS and all DUI program participants. Each participant file must be documented to reflect the date of termination of the blanket LOA.

2. Suspension of DHCS on-site inspections

Per Health & Safety Code (HSC) §11836.12, DHCS is required to complete an on-site inspection to ensure full statutory and regulatory compliance for each new license or license renewal.

During the COVID-19 state of emergency, the Executive Order grants DHCS authority to suspend on-site inspections to DUI programs, on a case-by-case basis, to reduce the potential for COVID-19 spread. Until then, all inspections will be virtual in nature.

Demonstration by the DUI program that the facility is clean, safe and free of alcohol or illicit drug use will be verified via video and/or photographs. Program adherence to applicable statutes and regulations will be verified by DHCS staff who will request files via a secure email for inspection. DHCS staff will communicate with the program via email or video throughout the inspection process and during the exit interview. Any resulting issuance of a Notice of Deficiency and resulting processes will follow CCR Title 9, Division 4, Chapter 3 regulations.

3. Alternate DUI program funding mechanisms

As required by HSC §11837.3(a)(1), DUI programs must be self-supported through fees collected from program participants.

Under the authority of the Executive Order N-55-20, DHCS is waiving this statutory requirement due to potential DUI program revenue loss as a result of participant absenteeism and DUI program closures resulting from the COVID-19 emergency. By waiving this statute, DHCS is allowing DUI programs to receive funding from sources other than participant fees, which includes, but is not limited to, any state or federal government emergency funds that become available to small businesses affected by COVID-19, as well as, any funds provided to the DUI programs through counties. Under this waiver, DUI programs will be able to apply for grant funding or other available COVID-19 monies to subsidize in part or in full program operations during this emergency. In the event that funding becomes available, DUI programs are encouraged to apply by submitting an application following specific grant contracting and submission guidelines.

4. Additional time to complete counselor certification requirements

California Code of Regulations, Title 9, §13035(f)(1) currently requires Alcohol or Other Drug (AOD) registered counselors to obtain certification as an AOD counselor by one of the DHCS recognized certifying organizations within five (5) years of the date of registration.

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In order to ensure a sufficient workforce of AOD registered counselors during the emergency period, under the authority of Executive Order N-55-20, DHCS is suspending this requirement to allow AOD registrants impacted by the COVID-19 emergency to have an additional 12 months after the end of the COVID-19 emergency to complete their certification requirements.

DHCS continues to closely monitor this situation and will issue further reminders and guidance as appropriate.

If you have questions about this Information Notice, please contact the DUI Licensing Officer of the Day at (916) 322-2964 or DUIProviders@dhcs.ca.gov.

Sincerely,

Original signed by

Janelle Ito-Orille, Chief
Chief, Licensing and Certification

DHCS COVID-19 Frequently Asked Questions: Driving-Under-the-Influence (DUI) programs

Updated July 23, 2020

1. Updated 7/23/20

Do online DUI programs satisfy California requirements for DUI program completion and license reinstatement criteria?

No. Online DUI program services are not equivalent to the approved COVID-19 emergency telehealth and DUI program services currently being offered through licensed California DUI program providers. Program enrollment must occur through a California licensed DUI program. Enrollment, participation, or completion of any services in an online DUI program will not satisfy California requirements for DUI program completion.

2. Updated 7/23/20

Can an individual currently residing in another state participate in Telehealth or DUI program services offered through a licensed California DUI program provider as a measure to satisfy California license reinstatement criteria?

Yes, providing the individual can meet telehealth/DUI program enrollment requirements, in addition to all other program requirements pertaining to delivery of telehealth DUI program services.

3. Updated 4/7/20

If the spread of the virus compels programs to suspend services for a period of time, can providers offer a leave of absence (LOA) to all participants?

Yes. Governor Newsom issued Executive Order N-55-20 allowing DUI programs to issue a blanket LOA for each participant affected by the COVID-19 emergency. Should a DUI program need to cease program operations to provide DUI program services as a result of the COVID-19 emergency, the DUI program may grant LOAs to all DUI participants enrolled in the DUI program. See BHIN 20-016 for more information.

4. Updated 4/7/20

If a DUI program can continue to provide services using all protocols for social distancing, and a DUI participant has been diagnosed with or exhibiting signs of COVID-19, what action should be taken?

Staff should inform possible contacts of their possible exposure, but must protect and maintain the participant's confidentiality as required by law. Clients exposed to a person with confirmed COVID-19 should refer to the [Centers for Disease Control and Prevention \(CDC\) website](https://www.cdc.gov) on how to address their potential exposure, as recommendations are evolving over time.

Additionally, it is appropriate for DUI programs to offer and approve a no-cost LOA to those who may not be ill, but are expressing concerns of potentially being exposed to COVID-19 by attending program services. For more information and guidance on LOAs, please refer to BHIN 20-016.

5. Updated 4/7/20

If DUI Programs are following the recommendation to suspend or limit program services due to the COVID-19 emergency, are DUI Programs able to conduct any program services by telehealth?

DHCS supports telehealth services for DUI Programs within state and federal requirements, given the importance of minimizing COVID-19 spread. If DUI programs are unable to provide face-to-face services without complying with the recommendations on social distancing issued by the [CDC](#) and the [California Department of Public Health \(CDPH\)](#), it is appropriate for a DUI program to utilize telehealth services, including video conferencing for counseling, groups, and education requirements, as long as the DUI program is able to verify the identity(ies) of the DUI participant(s). See the [COVID-19 Behavioral Health: FAQ](#), and the [COVID-19 Behavioral Health Information Notice 20-009](#).

6. Updated 4/7/20

What if a DUI program has suspended program services and a participant wants to enroll in the program? Can a program conduct an enrollment by telephone?

- Program enrollments by phone will not be allowed.
- Programs can complete the enrollment process by video conferencing, as long as the identity of the enrollee can be verified. DUI programs are required to send all enrollment documents including, but not limited to, the participant contract, proposed payment schedule and program services schedule, to the enrollee prior to the scheduled video conference for enrollee review.
- During the video conference, the assigned DUI program counselor is required to explain the contract, proposed payment schedule and proposed program services schedule, making sure all expectations are conveyed to the enrollee.
- Once the enrollee verbally acknowledges an understanding of an agreement with conveyed expectations, the enrollee is required to sign all required documents and send to the program for counselor signature.
- After all documents are received and signed by both the DUI program counselor and the enrollee, a DUI program representative needs to electronically enroll individuals into the DMV system and generate a DL 107 Enrollment Form to allow individuals to obtain an IID and/or a restricted license.

7. If a DUI program has suspended all services, and is unable to provide staffing for response to email or phone inquiries from program participants, what should the program do?

The program should make every effort to maintain communication with program participants and the general public and communication, including:

- Ensure outgoing phone and email messages identify a contact number where someone can be reached
- Place signs at program facility entrances indicating the program is temporarily closed and provide a contact number where someone can be reached
- Provide program status updates to the county and the state

8. What guidance is DHCS providing to all local courts regarding potential enrollment and service delays in DUI Programs?

- DHCS is unable to contact each court to convey information regarding delayed DUI program enrollment and services due to the COVID-19. DHCS will work on providing communication generally explaining the impact of COVID-19 on DUI programs and the anticipated enrollment and service delays. Counties, DUI programs, and DUI participants can share the correspondence with courts and probation officers.
- DHCS encourages each county to contact courts to convey the impact of COVID-19 on DUI programs and participants within their jurisdiction.
- DHCS continues to explore options on communication with courts conveying when DUI program services resume regular operations. Additionally, DHCS will seek county cooperation to assist in conveying this information.

9. Because DUI programs report participant enrollment and completion data to the Department of Motor Vehicles, is the DMV aware of the impact the COVID-19 has on DUI program enrollment and services?

DHCS has conveyed to the DMV potential enrollment and service interruptions to varying degrees across the DUI system due to the COVID-19 statewide emergency. DMV is aware that data collection for the duration of the incident will potentially reflect a delay in the time it takes an individual to enroll into a DUI program following their conviction and an increase in the time it takes for a participant to complete mandated program requirements. DHCS will continue communication with the DMV throughout the duration of the COVID-19 emergency.

10. Is there anything else DHCS is doing to mitigate the impact of the COVID-19 statewide emergency on DUI programs?

DHCS is committed to providing timely guidance in response to the evolving situation on our [COVID-19 response website](#). Individuals are encouraged to stay informed by visiting the federal [CDC](#) and the [California Department of Public Health \(CDPH\)](#) websites. Both websites are updated daily with the latest information and advice for the public and small businesses impacted by COVID-19.

For questions, please contact the DUI Licensing Officer of the Day at (916) 322-2964 or DUIProviders@dhcs.ca.gov.