



REINSTATING YOUR DRIVING PRIVILEGES, PROCESS AND PROCEDURE

Ira Maimon, Manager
Administrative Hearings

In cases in which a person's driver's license and driving privileges are suspended or revoked, the Secretary has been given the following statutory mandate: *In no event shall the Secretary issue such license unless and until such person has had a hearing pursuant to the Code and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.* [625 ILCS 5/6-208] In the discharge of this mandate, this Subpart D provides guidance to both the Department and the public for issuing and obtaining driving relief.

In the implementation of this Subpart D, the Office of the Secretary of State subscribes to the disease concept of alcoholism/chemical dependency. Furthermore, it is the policy of the Secretary of State that this Subpart D is to be read, interpreted, and applied as an integrated whole, rather than separately and individually. **Therefore, the purpose of this Subpart D is to assist the hearing process to determine, first, the nature and extent of a petitioner's alcohol/drug problem; second, whether the petitioner's alcohol/drug problem has been resolved; and, third, whether the petitioner will be a safe and responsible driver.**

The petitioner must carry the burden of proof on each of these 3 issues by clear and convincing evidence in order to obtain driving relief. A petitioner cannot prove that he/she will be a safe and responsible driver unless and until the petitioner has proven that his/her alcohol/drug problem has been resolved. The fact the petitioner has abstained from the use of alcohol/drugs is not sufficient, in and of itself, to prove that the petitioner's alcohol/drug problem has been resolved.

Rather, a petitioner must also prove that he/she has successfully completed all recommended countermeasures and significant improvement has occurred in his/her attitude and lifestyle from that which existed at the time he/she committed the offenses resulting in the suspension or revocation of his or her driving privileges, so that the Secretary will be reasonably assured that the petitioner will be a safe and responsible driver in the future.

Once the Secretary of State receives a notice of conviction for a DUI, the persons drivers license is then revoked.

In order to obtain driving privileges, the person is then required to prove their case through an Administrative Hearing.

The hearing is not based solely on the DUI's, but rather on the persons understanding of themselves. First, the nature and extent of a petitioners alcohol/drug problem. Second, whether the petitioners alcohol/drug problem has been resolved, and third, whether the petitioner will be a safe and responsible driver. The petitioner must carry the burden of proof on each of these 3 issues by clear and convincing evidence in order to obtain driving relief.

Evidence Considered. Evidence which shall be considered in determining whether the petitioner has met his/her burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not limited to, the following, where applicable:

- 1) The factors enumerated in Section 1001.430(c); (proof of hardship when applicable)
- 2) The similarity of circumstances between alcohol or drug-related arrests;
- 3) Any property damage or personal injury caused by the petitioner while driving under the influence;

- 4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change;
- 5) The chronological relationship of alcohol/drug-related arrests;
- 6) Length of alcohol/drug abuse pattern;
- 7) Degree of self-acceptance of alcohol/drug problem;
- 8) Degree of involvement in or successful completion of prior treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;

- 9) Prior relapses from attempted abstinence;
- 10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;

- 9) Prior relapses from attempted abstinence;
- 10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;

- 12) The petitioner's explanation for his/her multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;
- 13) The petitioner's criminal history, particularly drug offenses or offenses that in any way involved alcohol/drugs;
- 14) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;

15) The extent to which, in terms of completeness and thoroughness, a petitioner and his/her service providers have addressed every issue raised by the hearing officers in previous hearings;

16) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations that deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon the degree to which the evaluation deviates from this standard and the standards imposed by DASA;

17) The petitioner's record of performance while driving with an interlock device and his/her record of compliance with the terms and conditions of the breath alcohol ignition interlock device program;

18) Written or verbal statements from members of the public, including crime victims as defined in the Code of Criminal Procedure [725 ILCS 120/3] or family members of victims of offenses committed by a petitioner, so long as the statement is relevant to the issues at the hearing;

19) The service provider's clinical rationale or justification for changing the classification of a petitioner's alcohol/drug use, or for giving a classification that is different than that given in other evaluation or treatment documents or by other service providers;

20) The treatment provider's explanation for failing to obtain, when requested, documentation of the petitioner's most recent treatment;

21) Whether the petitioner has been incarcerated and was recently released after an extended period of incarceration and whether the petitioner participated in any rehabilitative activity during his or her incarceration.

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges or in the alternative, for a Restricted Driving Permit ("RDP") is hereby **DENIED**.

This Order is final and subject to appeal within thirty-five (35) days pursuant to the Administrative Review Law. The Department of Administrative Hearings does not consider motions to reconsider a decision made or Order entered in a formal hearing, pursuant to 92 IL ADC 1001.80.

FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on July 31, 2019, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privileges or in the alternative, the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Re-

sponse, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective **May 28, 2008** pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order summarily suspending Petitioner's driver's license and driving privileges was entered effective **April 27, 2008** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

Petitioner was arrested on **March 21, 2014** and **June 04, 2008** for driving on a revoked/suspended license.

5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **March 11, 2008 (refusal) and January 16, 2006 (BAC 0.13)**. (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1). **The Hearing Officer notes that Petitioner also testified to a trespass to private property charge for which he was under the influence of alcohol; theft in 2016 for which he was under the influence of alcohol; and criminal damage to property for which he was under the influence of alcohol (he indicated he was binge drinking for 3 days). Said arrests were not reported on his Uniform Report dated June 19, 2019 (see Finding of Fact #9).**

Petitioner's last arrest for DUI occurred on **March 11, 2008**. Petitioner testified that prior to said arrest he consumed 12 or more beers and 5 or more shots between 12:00 PM and 9:00 PM drove for about 6 miles then rolled his vehicle and injured his knee. Petitioner weighed 200 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed in a single vehicle rollover accident, admitted to having 4 beers, having red bloodshot eyes and a slight odor of alcohol. (Secretary of State's Exhibit #3). Petitioner refused to take a chemical test.

Petitioner's first arrest for DUI occurred on **January 16, 2006**. Petitioner testified that prior to said arrest he consumed 6-8 beers between 5:00 PM and 9:00 PM, drove for about 4 blocks then was stopped for squealing his tires. Petitioner weighed 180 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed illegally squealing his tires, failing to stop at stopped intersection, having a strong odor of alcohol, displayed poor balance and coordination and Petitioner stated that he probably should not be driving. (Secretary of State's Exhibit #3). Petitioner took and failed a chemical test, registering a 0.13 BAC at 4:27 AM.

6. Material inconsistencies exist between the BAC recorded at Petitioner's DUI arrest and his testimony regarding the amounts consumed. The BAC reading(s) of .13 suggest(s) that substantially more alcohol was consumed. See J. Kinney and G. Leaton, Loosening the Grip: A Handbook of Alcohol Information, pp. 41-46, (6th ed. 2000). **The Petitioner's evaluator must explain the reasons for the discrepancies in the BAC level with Petitioner's reported consumption at his next formal hearing.**

7. Petitioner is required to participate in the **BAIID** (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAIID program. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAIID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAIID Questionnaire" (see Petitioner's Exhibit #5), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.
8. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on **November 30, 2015**, conducted by [REDACTED] (Petitioner Ex #2).
9. Petitioner submitted the following evaluation: an Alcohol and Drug Evaluation Uniform Report dated **June 19, 2019** conducted by [REDACTED] EC (Petitioner Ex #1).
10. The Hearing Officer fully considered the alcohol/drug evaluation presented by Petitioner and finds that the evidence might not be consistent with the **Significant Risk** classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985); Christiansen v. Edgar, 209 Ill. App. 3d 36, 567 N.E.2d 696 (4th Dist. 1999).
 - a) Petitioner testified that he consumed 6 beers 5 times a week and on the weekends he worked at a bar and drank through the night (an unknown amount) until he was intoxicated in the year prior to both DUI arrest on **January 16, 2006** and **March 11, 2008**. Petitioner further testified that he consumed marijuana at age 16 used on 2 occasions using about 2 puffs. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated **June 19, 2019** which indicates that his actual pattern was 2-3 beers 2-3 times a week in the year prior to both DUI arrests. It also indicates that he used marijuana once at age 18. The Hearing Officer notes that Petitioner's ability to consume as much alcohol as he did on the nights of his DUI arrests do not appear to

be consistent with his minimal pattern of alcohol consumption as reported on his evaluation. The fact that he was able to consume substantially more alcohol than he would normally consume in one sitting raise concern as to the minimization of his alcohol use/abuse history and a greater problem with alcohol than has been identified. **Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.**

- b) Petitioner testified that since his last DUI arrest on **March 11, 2008**, he stopped drinking for a year then resumed drinking 6 beers through a week for a 3 month period then resumed the same drinking pattern of 6 beers 5 times a week. Petitioner became abstinent on July 5, 2016. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated **June 19, 2019** which indicates that his actual pattern after the last DUI was 2-3 beers 2-3 times a week until Thanksgiving 2014 when he quit drinking. Petitioner appears to be minimizing his alcohol use history and his credibility is diminished. **Given these inconsistencies Petitioner's actual patterns of consumption cannot be determined.**
- c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: blackouts, passing out, loss of control, binge drinking, hangovers, drinking more than intended, increased tolerance; impairment of or reduction in work, school, social duties due to use, received complaints from family or friends, admitted to driving while intoxicated on occasions independent of his DUI arrests, lost relationships, family history (grandparents and parents) and unsuccessful attempts at abstinence. Therefore, the Petitioner's testimony, evaluations and treatment documents submitted to date suggest that the Petitioner has experienced the following **DSM** symptoms/criteria:

Alcohol and drugs are taken in larger amounts or over a longer period than intended. (per testimony of drinking more than intended).

There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use. (per testimony of loss of control and unsuccessful attempts at abstinence).

A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use. (per testimony of binge drinking and his daily drinking).

Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home. (per testimony of reduction in work, school and social duties due to use).

Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drug use. (per testimony of receiving complaints from family/friends due to use).

Recurrent alcohol or drug use in situations in which it is physically hazardous. (per testimony).

Tolerance-Either a need for markedly increased amounts of alcohol drugs to achieve intoxication or desired effect or a markedly diminished effect with continued use of the same amount of alcohol or drugs. (per testimony).

The current Uniform Report dated **June 19, 2019** fails to reflect all of the **DSM** symptoms/criteria listed above. This may result in a change in classification if the evaluator determines that Petitioner has a clinically significant number **DSM** symptoms/criteria to diagnose alcohol dependence pursuant to the rules of the **Division of Substance Use Prevention and Recovery ("DSUPR")**. **The Hearing Officer questions the validity of the Uniform Report as it reports no DSM symptom/criteria. Petitioner needs to provide a detailed explanation either ruling out or diagnosing alcohol dependency at his next formal hearing.**

- d) Petitioner admits being a chemically dependent person. Petitioner also believes he cannot drink responsibly. (Petitioner's Testimony). Petitioner's testimony is inconsistent with his classification of significant risk. Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. *Berner v. Edgar*, No. 4-89-278 (Rule 23, Dec. 21, 1989). **This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.**
- e) Petitioner was administered the Mortimer/Filkins Test (M-F) as part of an alcohol and drug evaluation, and scored 44 points. This places Petitioner in the Presumptive Problem drinker category. (Petitioner's Exhibit #1). The M-F is a detection and assessment instrument used to assist in the identification of an alcohol problem/alcoholism. See 1 Recent Developments in Alcoholism, pp. 377-408 (M. Galanter, ed. 1983). Responses that affect the final M-F score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol. **Petitioner's low M-F score is found to be more reflective of his continued denial and minimization of the severity of his alcohol/drug problem, and its accuracy is questionable.**

11. Petitioner has completed 20 hours of outpatient treatment between **June 16, 2015** and **December 16, 2015** by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and Continuing Care Status. (Petitioner Ex #3). Petitioner submitted a Treatment Needs Assessment and Waiver dated **June 19, 2019** conducted by [REDACTED]. (Petitioner's Exhibit #4). It waives further treatment based on his abstinence since Thanksgiving 2014, no history of use of other recreational substances since age 18, successful attendance and subsequent completion of treatment and ongoing non-problematic behavior.

- a) Petitioner's drinking was caused sue to his attempt to mask his feelings and emotions with alcohol. During treatment he learned about the about his triggers and the difference between an alcoholic (a person that drinks 2 beers daily) and an alcohol abuser (a person that never has money and is always looking for the next buzz).

He claims to have made significant changes to his life-style by changing people, places and things. He also spends more time with family. However, Petitioner's explanation as to the nature and causes of his drinking and weight to be given his treatment waiver and/or detailed explanation is undermined by the fact that he identifies himself as an alcoholic, minimized his alcohol use history, discrepancies in the DSM symptom/criteria and his lack of knowledge from his treatment experience. **For these reasons the treatment waiver and/or detailed explanation does not carry much weight.**

- d) Petitioner's admittance of being an alcoholic, minimization of his drinking and/or drug history discrepancies in the **DSM** symptoms/criteria supporting his current **DSUPR** classification and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. **The provider's response must be submitted in writing at the next formal hearing.**
12. Petitioner is employed by [REDACTED] (Petitioner's Testimony and see Petitioner's Exhibit #6).
- a) Petitioner's regular hours and days of employment are Monday - Friday hours vary.
- b) Petitioner lives 3 miles from his place of employment.
- c) Petitioner is required to drive as far as 20 miles from his place of employment in the course of employment related duties.
13. Petitioner is employed by [REDACTED] (Petitioner's Testimony and see Petitioner's Exhibit #6).
- a) Petitioner's regular hours and days of employment are rotating.
- b) Petitioner lives 5 miles from his place of employment.
- c) Petitioner is required to drive as far as 10 miles from his place of employment in the course of employment related duties.
14. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
15. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reasons contained in the following Finding of Facts #5, 6, 10, 10a-e and 11a-b. Therefore, it is recommended that he be denied driving relief.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter 11, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
3. Given the unresolved issues raised herein (See Finding(s) of Fact 15), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.

RECOMMENDATION:

The petition for the reinstatement of full driving privileges or in the alternative, for a restricted driving permit should be **DENIED**.

HEARING OFFICER

RESPONSE TO DENIAL

Pet. #1
12/1/19

9 December 2019

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: [REDACTED]
DOB: [REDACTED]
D.L.: [REDACTED]

The Petitioner is responding to a Denial letter from a recent formal hearing

The question of whether or not a person has received proper care in a treatment setting is the clinical domain of the treatment provider. It is not the place of someone who spends less than 30 minutes with an individual, especially if the individual has little or no clinical training in the field, and has no significant experience as a clinical professional.

It is to some degree within the purview of an evaluator with over a quarter century of clinical experience to make determinations, but again, even the most experience evaluators spend one to two hours with an individual. On the other hand the recent Response to Denial includes a tacit acknowledgement that the Petitioner did indeed spend over thirty hours.

Using a clinical model, it is not at all unusual that a condition is treated without a complete and exact list of 100% accurate symptoms. Whether it be a common cold, an injury of some kind, or something more invasive, treatment in some form begins as best as possible with an understanding of the symptoms, and is then adjusted according as more symptoms become more clear, or as lesser symptoms are recognized accordingly.

There is nothing in the Denial Letter that suggests that Changes Place –

- the treatment provider of record for this Petitioner, as well as
- the clinical entity that spent more than ten times the amount of time with the client that either the evaluator or hearing officer combined,

is clinically negligent or anything less than exemplary in their successful treatment of their clients. With that in mind, basic common sense suggests that the clinical agency

[REDACTED]

that worked at length with an individual would have the best idea as to how the person is doing, how honest they are, etc.

In other words, if Changes Place says the Petitioner has done enough to warrant a successful discharge, and the state acknowledges the agency's ability to state that, then the Petitioner is indeed done with treatment.

Regarding Findings of Fact - The Hearing Officer noted in the Denial Letter that "the Petitioner also testified to a trespass to private property charge for which he was under the influence of alcohol; theft in 2016 for which he was under the influence of alcohol; and criminal damage to property for which he was under the influence of alcohol (he indicated he was binge drinking for 3 days). Said arrests were not reported on his Uniform Report dated June 19, 2019." The Hearing Officer went on to mention that "discrepancies in the DSM symptoms/criteria supporting his current DSUPR classification and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment."

The Hearing Officer does not explain how unexplored comments in a non-clinical setting relates to a successfully treated clinical condition. The Hearing Officer's reference to Cusack vs. Edgar suggests that a case decision over thirty years old takes precedence over the clinical judgment of a licensed evaluator that worked with the client for over two hours as well as a licensed agency that worked with an individual for at least thirty hours.

The case referred to a concern as to whether or not the original evaluation provider was aware of these prior issues. It should now be clear that the original evaluator is indeed aware of the Petitioner's prior history, as well as the Petitioner's stated recollection of DSM 5 criteria as he shared it at the hearing.

A trained clinical professional would not simply record what someone says and compare it to other records. Clinical professionals understand that a treatment setting involves discussing real life issues as they arise. It does not involve "testimony" in a legal context.

A trained clinical professional would follow up those words with exploratory language to determine if this was indeed what the person meant as opposed to something inadvertent and misunderstood. **Any kind of clinical determination must be done in a clinical setting, and not a courtroom or hearing room.** With that in mind, the determinations the Changes Place came up with in their thirty hours of work with the Petitioner should be seen as the best as most accurate understanding of the Petitioner's needs, and of his current success with dealing with the alcohol issues he acknowledges he had.

[REDACTED]

Regarding the Petitioner's stated substance use history, he now acknowledges some errors in what was said before, due to an inadvertent and faulty recollection. The changes are noted in a "Revision To Use History" form, created in addition to this Response.

He acknowledges what the use history that he shared in his Hearing may indeed be more accurate. However, as previously noted, **none of that would change the results of the June 2019 Uniform Report as well as his treatment success.** Regardless of how he got there, and regardless of what exactly occurred before he got there, he did indeed get there, and then he got better, so much so that a professionally run and licensed agency was willing to go on the record and state that.

In short, nothing arose during the Hearing to seriously question the clinically based conclusion from the treatment provider that the Petitioner was indeed successful in his treatment, and that no further evaluations or treatment was necessary.

Respectfully submitted,

[REDACTED]

[REDACTED]

REVISIONS TO USE HISTORY

[REDACTED]

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: [REDACTED]
DOB: [REDACTED]
D.L.: [REDACTED]

Petitioner now acknowledges that:

"... since his last DUI arrest on March 11, 2008, he stopped drinking for a year, then resumed drinking 6 beers through a week for a 3 month period then resumed the same drinking pattern of 6 beers 5 times a week. Petitioner became abstinent on July 5, 2016."

In short, The Petitioner acknowledges that what he shared at his most recent Formal Hearing is more accurate than what was shared before.

He wishes to stress that at no time was there an effort to deliberately mislead, and that inconsistencies in stated use history was inadvertent.

Respectfully submitted,

[REDACTED]

State of Illinois
Department of Human Services

Alcohol and Drug Evaluation
Uniform Report

PART I. OFFENDER INFORMATION

Offender Name: [REDACTED]

IL Driver's License Number or State ID: [REDACTED]

Other Valid Driver's License Number/State: [REDACTED]

Home Address: [REDACTED]

County of Residence: [REDACTED]

Citizenship: USA Citizen

Telephone Number(s): [REDACTED]

Date of Birth: [REDACTED] Age: 37

Gender: Male

Race(s): White

Hispanic Origin: Not Hispanic

Primary Language: English Interpreter Services: Services not needed

Marital Status: Never Married

Education Level: High school graduate or equivalency certificate

Employment Status: Employed full time (unsubsidized)

Occupation: concrete

Annual Household Income: Not Disclosed Number of Dependents: 1

Physical or Mental Disability: none Religious Affiliation: Unknown

Emergency Contact Person: [REDACTED]

Contact Telephone Number: [REDACTED]

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Substance Use Prevention and Recovery is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

PET #1
7-31-19
AB

PART 2 - CURRENT DUI ARREST INFORMATION

2.1 Referral Source: Court
2.2 Beginning Date of Evaluation: 06/19/2019
2.3 Completion Date of Evaluation: 06/19/2019
2.4 Date of Arrest: 03/12/2008
2.5 Time of Arrest: 10:23 PM
2.6 County of Arrest: Lee
2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: RT
2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DUI arrest (in order of most to least).
Alcohol

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DUI arrest.
Gary (180 pounds) recalls in before that he consumed unspecified amounts of beer between 6:00 PM - 10:00 PM. He does not deny or minimize impairment.

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.
Not Applicable

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

3.1 Prior DUI dispositions including boating and snowmobiling (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
01/16/2006	01/03/2006	UK

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions).

Zero Tolerance		Illegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Please note that the DUI dates listed on the drivers abstract that the client brought in today (created 06/13/19 in Sterling) has both "01/15/06" and "01/16/06" as DUI arrest dates. The abstract used for the 06/09/2015 Uniform Report lists 01/16/06 as the first DUI arrest date, and that one arrest is the only DUI arrest listed for 2006.

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1

Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
Marijuana	18	NA	NA	1999
Alcohol	17	17	21	2014

Chronological History Narrative:

MARIJUANA - One time use at age 18, none before/since. ALCOHOL - first recalled use at age 17 or 18, consisting "up to two to three drinks 10 times or less" until age 21. At age 21, client recalls consuming 3-3 beers two to three times a week until his first DUI arrest in 2006 (at age 25.) After the first DUI arrest, client recalls that he stopped use completely for "months" but a number of specifics, within a year he resumed his past pattern of use (2-3 beers two to three times a week) until the second DUI arrest in 2008. Client recalls use "slowed down" then resumed past levels (2-3 beers two to three times a week) until Thanksgiving holiday 2014. No use since. All other recreational substance use denied.

4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

Not Applicable

4.6 Identify the significant other and summarize the information obtained in the interview.

Not Applicable

4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

Client completed a alcohol/drug related treatment program while incarcerated at [REDACTED] (no date). Client also has a Continuing Care Plan document copy with the contact "no entry message" for [REDACTED].
[REDACTED] IL. Client also completed a significant Kiosk program at [REDACTED] from 16 June 2015 until successful discharge 12 December 2015.

4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

Not Applicable

Marriage or significant other relationships

Not Applicable

Legal Status

Client acknowledges a personal history of imperfect decision making, but added that only the DUI arrests were influenced by alcohol use and that other decisions were not affected by substance use of any kind.

Socially

Not Applicable

Vocational/work

Not Applicable

Economic status

Not Applicable

Physically/Health

Not Applicable

PART 3. OBJECTIVE TEST INFORMATION

- | | | | |
|------------|--|---------------------------------------|--|
| 5.1 | Martimer/Fiklas - | Score: 44 | Category: Presumptive Problem Drinker |
| 5.2 | ASUDS-R1 Risk Level Guidelines - | Score: | Category: |
| 5.3 | Driver Risk Inventory (DRI) Scales and Risk Ranges: | | |
| | | Validity Scale: | |
| | | Alcohol Scale: | |
| | | Driver Risk Scale: | |
| | | Drugs Scale: | |
| | | Stress Coping Abilities Scale: | |

PART 6. CRITERIA FOR SUBSTANCE USE DISORDER

6.1 Identify any Substance Use Disorder Criteria occurring within a 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission. One symptom will result in a Moderate Risk Level classification. Two or three symptoms will result in a Significant Risk classification. Four or more symptoms will result in a High Risk classification.

- Alcohol or drugs are taken in larger amounts or over a longer period than intended.
- There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use.
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use.
- Craving, or a strong desire or urge to use alcohol or drugs.
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home.
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs.
- Important, social, occupational, or recreational activities are given up or reduced because of alcohol or drug use.
- Recurrent alcohol or drug use in situations in which it is physically hazardous.
- Alcohol or drug use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol or drugs.
- Tolerance - Either a need for markedly increased amounts of alcohol or drugs to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of alcohol or drugs.
- Withdrawal - As manifested by either the characteristic withdrawal syndrome for alcohol or drugs, or alcohol or drugs are taken to relieve or avoid withdrawal.

6.2 If the offender meets Substance Use Disorder Criteria based on a past episode and is now assessed as being in remission, identify and describe the specifier that reflects the offender's current status.

Current Status: Not Applicable

6.3 Has the offender ever met Substance Use Disorder Criteria by history but and is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria were met and why it is not clinically significant for the purposes of a current risk assessment. The explanation must include the length of time since the last episode, the exact duration of the episode, and any need for continued evaluation or monitoring.

No

PART 7. OFFENDER BEHAVIOR

7.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

When [REDACTED] did his evaluation here at [REDACTED] in June 2015, he was clear in his stated belief that the decisions that he made regarding choices made that resulted in incarceration or other severe consequences were not made due to alcohol use (except for the two DWI arrests.) He maintains that belief, and he appears to be accepting responsibility for the alcohol related choices as well as other choices he made.

7.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

None noted

7.3 Identify any special assistance provided to the offender in order to complete the evaluation.

None needed

7.4 Where was the offender interview conducted?

Licensed Site

PART 8. CLASSIFICATION

8.1 Classification:

SIGNIFICANT RISK: One prior conviction or court ordered supervision for DUI, or one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; AND/OR a SAC of .20 or higher as a result of the most current arrest from DUI; AND/OR two or three symptoms of a Substance Use Disorder.

8.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

Waived June 19, 2019 after successful completion of Significant Risk program at [REDACTED]. Treatment and completion dates listed in this Uniform Report. Waiver attached.

PART 9. MINIMAL REQUIRED INTERVENTION

9.1 Minimal Intervention:

SIGNIFICANT RISK: Completion of a minimum of 10 hours of DUI Risk Education, and a minimum of 20 hours of substance abuse treatment, and, upon completion of any and all necessary treatment, and, after discharge, active on going participation in all activities specified in the continuing care plan.

9.2 The offender was referred as follows:

Secretary Of State's Office

PART 10. VERIFICATION

Licensed Site Information:

Name: [REDACTED]
 Address: [REDACTED]
 Telephone Number: [REDACTED]
 License Number: [REDACTED]
 Evaluator Name: [REDACTED]
 Evaluator Credentials: CADC

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature: [REDACTED] Date: 6/9/19

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature: X [REDACTED] Date: 6/9/19

PART 11. DISPOSITION

This evaluation may only be released to the Illinois Circuit Court of venue or its court officials as specified by local court rules, to the Office of the Secretary of State, or to the Illinois Department of Human Services, Division of Substance Use Prevention and Recovery. Any other release requires the written consent of the DUI offender.

If this evaluation was prepared for the Circuit Court, send the signed original to the court in accordance with established local court rules or policy.

If this evaluation was prepared for the Secretary of State, give the signed original to the DUI offender so that it may be presented to the hearing officer at the time of the formal or informal hearing.

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges or in the alternative, for a Restricted Driving Permit ("RDP") is hereby **DENIED**.

This Order is final and subject to appeal within thirty-five (35) days pursuant to the Administrative Review Law. The Department of Administrative Hearings does not consider motions to reconsider a decision made or Order entered in a formal hearing, pursuant to 92 IL ADC 1001.80.

FINDINGS AND RECOMMENDATIONS
OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on **December 11, 2019**, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privileges or in the alternative, the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at

the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

- 4. An Order revoking Petitioner's driver's license and driving privileges was entered effective **May 28, 2008** pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order summarily suspending Petitioner's driver's license and driving privileges was entered effective **April 27, 2008** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

Petitioner was arrested on **March 21, 2014** and **June 04, 2008** for driving on a revoked/suspended license.

- 5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **March 11, 2008 (BAC 0.13)** and **January 16, 2006 (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1)**. The Petitioner further testified to being arrested for a trespass to private property, domestic violence and property damage for which he was under the influence of alcohol.

Petitioner's last arrest for DUI occurred on **March 11, 2008**. Petitioner testified that prior to said arrest he consumed 6 beers or more and 2-5 shots from 12:00 p.m. to 7:00 p.m. and was arrested after crashing his vehicle. Petitioner weighed 185 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed in a single vehicle rollover accident, admitted to having 4 beers, having red bloodshot eyes and a slight odor of alcohol (Secretary of State's Exhibit #3). Petitioner refused to take a chemical test.

Petitioner's first arrest for DUI occurred on **January 16, 2006**. Petitioner testified that prior to said arrest he consumed 6 beers and 2 shots from 11:00 a.m. to 3:00 p.m. and was stopped for squealing his tires. Petitioner weighed 185 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed illegally squealing his tires, failing to stop at stopped intersection, having a strong odor of alcohol, displayed poor balance and coordination and Petitioner stated that he probably should not be driving (Secretary of State's Exhibit #3). Petitioner took and failed a chemical test, registering a 0.13 BAC at 4:27 a.m.

- 6. Material inconsistencies exist between the BAC recorded at Petitioner's DUI arrest(s) and his testimony regarding the amounts consumed. The BAC reading(s) of .13 suggest(s) that substantially more alcohol was consumed. See J. Kinney and G. Leaton, Loosening the Grip: A Handbook of Alcohol Information, pp. 41-46, (6th ed. 2000). This issue was raised at the previous hearing. However, the evaluator fails to address this issue in the Response to Denial Letter. The Petitioner's evaluator must explain the reasons for the discrepancies in the BAC level(s) with Petitioner's reported consumption at his next formal hearing.

7. The Hearing Officer took official notice of the prior formal hearing(s) **J-02013-19** pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
8. Petitioner is required to participate in the **BAIID** (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAIID program. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAIID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAIID Questionnaire" (see Petitioner's Exhibit #2), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.
9. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on **November 30, 2015**, conducted by [REDACTED] Secretary Ex #3).
10. Petitioner submitted the following evaluations: a Response to Prior Hearing dated **December 9, 2019** conducted by [REDACTED] (Petitioner's Exhibit #1); and a previously submitted Alcohol and Drug Evaluation Uniform Report dated **June 19, 2019** and conducted by [REDACTED] (Secretary Ex #3)
11. The Hearing Officer fully considered the alcohol/drug evaluations presented by Petitioner and finds that the evidence might not be consistent with the **Significant Risk** classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985); Christiansen v. Edgar, 209 Ill. App. 3rd 36, 567 N.E.2d 696 (4th Dist. 1999).
- a) Petitioner testified that he consumed 12-24 beers with mixed drinks and shots daily in the year prior to both DUI arrests on **January 16, 2006** and **March 11, 2008**. Pe-

petitioner further testified to smoking marijuana at the age of 19, once, sharing a joint. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated **June 19, 2019** which indicates that his actual pattern was 2-3 beers 2-3 times a week in the year prior to both DUI arrest. At the last formal hearing on **July 31, 2019**, Petitioner testified to consuming 6 beers 5 times a week and on the weekends he would drink through the night (an unknown amount) until he was intoxicated. The evaluator in his Response to Denial (Petitioner Ex #1) states that the Petitioner acknowledges that the use history he testified to at the last formal hearing "may indeed be more accurate". However, the history previously testified to is not what the Petitioner testified to at the instant hearing. **The Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.**

b) Petitioner testified that since his last DUI arrest on **March 11, 2008**, he stopped drinking for 2 months then resumed drinking 12-24 beers with mixed drinks and shots daily. Petitioner became abstinent on **July 5, 2016**. Petitioner's testimony is inconsistent with the reporting contained in the Revisions to Use History dated **December 9, 2019** which indicates that after the last DUI he stopped drinking for a year, then resumed drinking 6 beers through a week for a 3 month period then resumed the same drinking pattern of 6 beers 5 times a week. Petitioner became abstinent on July 5, 2016. These issues were raised at the Petitioner's last formal hearing and the evaluator in the Revisions to Use History dated **December 9, 2019** (Petitioner Ex #1) addressed these issues. However, the Petitioner's instant testimony again is different than what is being reported. The evaluator states that "the Petitioner acknowledges that what he shared at his most recent Formal Hearing is more accurate than what was shared before" this statement is not sufficient enough for Hearing Officer to determine the Petitioner's use of alcohol following the last DUI arrest and his abstinence date. **Petitioner needs to return to the evaluator to address these issues. The evaluator's written response should be submitted at the next formal hearing.**

c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: blackouts, passing out, loss of control, binge drinking, withdrawal, hangovers, drinking more than intended and increased tolerance; social problems; excessive use of time and money; and impairment of or reduction in duties due to use. Because of his excessive use he has received complaints from family or friends. In regard to these symptoms, Petitioner further testified to morning drinking and family history of alcoholism (mom and dad). Therefore, the Petitioner's testimony, evaluations and treatment documents submitted to date suggest that the Petitioner has experienced the following **DSM** symptoms/criteria:

Alcohol and drugs are taken in larger amounts or over a longer period than intended (per testimony of drinking more than intended).

There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use (per testimony of loss of control and unsuccessful attempts at abstinence).

A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use (per testimony of binge drinking and his daily drinking).

Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home (per testimony of reduction in work, school and social duties due to use).

Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drug use. (per testimony of receiving complaints from family/friends due to use).

Recurrent alcohol or drug use in situations in which it is physically hazardous (per testimony).

Tolerance-Either a need for markedly increased amounts of alcohol drugs to achieve intoxication or desired effect or a markedly diminished effect with continued use of the same amount of alcohol or drugs (per testimony).

Withdrawal, as manifested by either the characteristic withdrawal syndrome for alcohol or drugs or alcohol or drugs are taken to relieve or avoid withdrawals (per testimony)

The current Uniform Report dated June 19, 2019 fails to reflect any/all of the DSM symptoms/criteria listed above. The Petitioner was denied in part at his last formal hearing for questions regarding his symptomatology. The Petitioner was required to return to his evaluator to address the issue. The evaluator in the current Response to Denial (Petitioner Ex #1) does contemptuously report that "...the original evaluator is indeed aware of the Petitioner's prior history, as well as the Petitioner's stated recollection of DSM 5 criteria as he shared it at the hearing". This statement in and of itself indicates that the Petitioner has experienced more than 4 DSM symptoms and calls into question the accuracy of the Petitioner current classification. **Petitioner needs to provide a detailed explanation either ruling out or diagnosing alcohol dependency at his next formal hearing.**

- d) Petitioner admits being a chemically dependent person and he strongly believes he cannot have another drink (Petitioner's Testimony). **The Petitioner admits he is an alcoholic and always will be at his previous and again at the instant hearing. However, the evaluator keeps identifying him as only Presumptive Problem Drinker (Petitioner Ex #1).** Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. Berner v. Edgar, No. 4-89-278 (Rule 23, Dec. 21, 1989). **This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.**

- e) Petitioner was administered the Mortimer/Filkins Test (M-F) as part of an alcohol and drug evaluation, and scored 44 points. This places Petitioner in the Presumptive Problem drinker category (Secretary of State Exhibit #3). The M-F is a detection and assessment instrument used to assist in the identification of an alcohol problem/alcoholism. See 1 Recent Developments in Alcoholism, pp. 377-408 (M. Galanter, ed. 1983). Responses that affect the final M-F score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol. **Petitioner's low M-F score is found to be more reflective of his continued denial and minimization of the severity of his alcohol/drug problem, and its accuracy is questionable.**
 - f) The previous Hearing Officer questioned the Petitioner's drinking pattern and discrepancies in his drinking and/or drug history. The Hearing Officer clearly questioned the fact that despite the Petitioner's 2 DUI arrests the evaluator found no DSM symptoms and the fact that Petitioner admitted he is a chemically dependent person and has no control over his drinking. As a result the effectiveness of treatment and the accuracy of the Uniform Report were questioned. The evaluator in the Response to Denial dated December 9, 2019 only vaguely responds to the Denial Order. The Hearing Officer notes that the current Response to Denial fails to specifically address any of the issues called into question as a result of Petitioner's previous hearing. As such, said issues remain unresolved.
12. Petitioner completed 20 hours of outpatient treatment between June 16, 2015 and December 16, 2015, by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and Continuing Care Status (Secretary Ex #3). The evaluator finds that "nothing arose during the hearing to seriously question the clinically based conclusion from the treatment provider that the Petitioner was indeed successful in his treatment, and that no further evaluations or treatment was necessary." Given that the Response to Denial fails to adequately address any of the previous issues, the Hearing Officer finds that the treatment waiver holds little weight.
- a) Petitioner's drinking was caused by trying to find himself, and coping with his life. During treatment he learned about the difference between an alcoholic (dependent on alcohol) and an abuser of alcohol (drinking to the point of intoxication) and the effects of alcohol on body and brain. He claims to have made significant changes to his life-style by not seeing the old friends, not going to bars, working on cars, spending time with his family and keeping himself busy. However, Petitioner's explanation as to the nature and causes of his drinking and weight to be given his treatment waiver and/or detailed explanation is undermined by the fact that he identifies himself as an alcoholic, minimized his alcohol use history and discrepancies in the DSM symptom/criteria. **For these reasons the treatment waiver and/or detailed explanation does not carry much weight.**
 - b) Petitioner's admittance of being an alcoholic, minimization of his drinking and/or drug history, discrepancies in the DSM symptoms/criteria supporting his current DSUPR classification and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his

treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. **The provider's response must be submitted in writing at the next formal hearing.**

- 13. Petitioner is employed by [REDACTED] (Petitioner's Testimony).
 - a) Petitioner's regular hours and days of employment are Monday thru Friday from 5:00 a.m. to 3:00 p.m.
 - b) Petitioner lives 3 miles from his place of employment.
 - c) Petitioner is required to drive as far as 100 miles from his place of employment in the course of employment related duties.
- 14. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
- 15. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reason(s): (See Finding(s) of Fact # 6, 11, 11(a-f) and 12(a-b)). Therefore, it is recommended that he be denied driving relief.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

- 1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
- 2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
- 3. Given the unresolved issues raised herein (See Finding(s) of Fact 15), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.

RECOMMENDATION:

The petition for the reinstatement of full driving privileges or in the alternative, for a restricted driving permit should be **DENIED**.


HEARING OFFICER

RESPONSE TO DENIAL

9 July 2020

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: 
DOB: 
D.L.: 

The Petitioner is responding to a Denial letter from a recent formal hearing

When reviewing the Response to Denial from the previous Hearing, the Petitioner acknowledged to this evaluator that everything he had told him before was wrong, and that he also did not tell the treatment provider the truth while in treatment years before.

The Petitioner added that his true history, consequences of use, and DSM 5 criteria was correct as he shared it with the Hearing Officer.

This Response then comes from that acknowledgement.

The issues at hand are these:

- 1) Is the Petitioner presenting any current ongoing problematic behavior due to alcohol or drug use? No. See below

It is the responsibility of a certified alcohol/drug counselor working at a license state agency to work with the person as they are today. Alcohol/drug treatment, group and classes should not be seen as a consequence due to bad behavior, or as a sentence to be deferred or added onto based on violations. "Treatment", "counseling", etc., are meant to deal with an issue at hand, whether that issue is to prevent ongoing use, or to prevent a relapse or some other problematic behavior.

No evidence was presented to the evaluator suggesting an alcohol/drug related legal complication arose after the most recent Response.

And the Petitioner's testimony suggested while there may be challenges in his mind regarding truthfulness, there are no "warning signs" or "red flags" indicating ongoing problematic alcohol or drug use.

- 2) Is there any evidence to suggest that a blatant lack of honesty up until recently is sufficient to order a return to treatment for more groups or classes? No.

People going through this Hearing process for license reinstatement often believe that the very last place on earth for a Petitioner to be candid about his alcohol or drug use is in front of a Hearing Office officer. But that is exactly what [REDACTED] did. Recovery programs and treatment agencies and everyone else in this field encourage our clients and our patients to be honest. Ideally, that honesty comes *while the person is actively being seen in groups and classes*, but in this case, it clearly did happen, and it happened in a setting where the person speaking their truth was clearly not in a place in which his candor would help him.

But untruthfulness by itself is not sufficient criterium for a return to an alcohol/drug treatment program. And with a disclosure of that magnitude, it is unlikely that there is another bombshell in his story yet to be shared with anyone.

- 3) Would the Petitioner's past acknowledgement of significant use and problematic behavior suggest perhaps that even a short return to a treatment facility be of help?

Not necessarily, there is research on the idea of "spontaneous remission" or problematic alcohol or drug behavior.

One example to share here is from the "American Journal of Drug and Alcohol Abuse"

(2000 Aug;26(3):443-60. doi: 10.1081/ada-100100255. - Spontaneous Remission From Alcohol, Tobacco, and Other Drug Abuse: Seeking Quantitative Answers to Qualitative Questions

G D Walters

PMID: 10976668 DOI: 10.1081/ada-100100255)

Their most pointed observation is that:

"A quantitative review of the substance abuse literature revealed a mean general prevalence of spontaneous remission from alcohol, tobacco, and other drugs abuse of 26.2% when a broad definition of remission was employed and 18.2% when a narrow definition was implemented. From the results of this review, it was concluded that few meaningful differences exist between spontaneous remitters and persons who either continue misusing substances or remit through treatment on pre-remission measures of prior drug involvement."

In simpler terms, the success of people quitting on their own appeared to be about as good as people who went through treatment.

Another example comes from the US Government's Office of Technology Assessment, a researched work entitled:

"HEALTH TECHNOLOGY CASE STUDY

The Effectiveness and Costs of Alcoholism Treatment, MARCH 1983".

Researchers on this study included Leonard Saxe, Ph. D., Boston University with Denise Dougherty, Boston University, Katharine Esty, Boston University and Michelle Fine, Ph. D., University of Pennsylvania.

Their conclusion was in general that while treatment for alcohol and drug issues had documented positive effects, it was not to a degree that made it necessary for someone to stop drinking or using drugs, and that at least some people could and did stop on their own, and maintain sobriety.

[REDACTED]

(available via
<https://www.princeton.edu/~ota/disk3/1983/8307/830707.PDF>)

The last example to include here is entitled:

"Spontaneous remission in alcoholics. Empirical observations and theoretical implications."
Journal of Studies on Alcohol, 42(7), 626-641 (1981).
B S Tuchfeld
<https://doi.org/10.15288/jsa.1981.42.626>
Published Online: January 04, 2015"

(available via <https://www.jsad.com/doi/10.15288/jsa.1981.42.626>)

This research piece echoed similar sentiments from other research suggesting that while stopping drinking or using drugs individually was not endorsed through their work, it was also not completely without a possibility of sustained success.

In general, research consistently suggests:

- Treatment can work if done effectively and sustained through proper clinical practice, but also that
- People have stopped drinking and using on their own, and have maintained a level of sobriety broadly comparable to those who completed conventional treatment programs.

In conclusion:

- 1) There is certainly no reason now to doubt the Petitioner's sincerity
- 2) He shared what he says is now his definitive alcohol/drug use history, which does not include current use
- 3) No evidence has been presented to suggest problematic use of alcohol or drugs at present

Regardless of how the Petitioner got to the path of "rigorous honesty" referred to in the *Alcoholics Anonymous Big Book*, he got there. With that in mind, there is no reason to recommend further groups or classes. Further groups and classes continue to be waived.

Respectfully submitted,
[REDACTED]
[REDACTED]
[REDACTED]

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges or in the alternative, for a Restricted Driving Permit ("RDP") is hereby DENIED.

This Order is final and subject to appeal within thirty-five (35) days pursuant to the Administrative Review Law. The Department of Administrative Hearings does not consider motions to reconsider a decision made or Order entered in a formal hearing, pursuant to 92 IL ADC 1001.80.

FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on July 10, 2020, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privileges or in the alternative, the issuance of a Restricted Driving Permit ("RDP") for employment, family educational and daycare purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart-D, and where required; clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUJPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no

circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective **May 28, 2008** pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order summarily suspending Petitioner's driver's license and driving privileges was entered effective **April 27, 2008** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

Petitioner was arrested on **March 21, 2014** and **June 04, 2008** for driving on a revoked/suspended license.

5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **March 11, 2008 (refusal)** and **January 15, 2006 (BAC .13)**. (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1). Petitioner testified that he has various charges for which he was under the influence of alcohol including: trespass to private property, domestic violence, property damage, and burning his friends' house down.

Petitioner's last arrest for DUI occurred on **March 11, 2008**. Petitioner testified that prior to said arrest he consumed alcohol all day and does not recall the exact amount nor the time period. He indicated that all he remembers is being in the hospital. Petitioner was involved in a single car accident where he rolled his vehicle. Petitioner weighed 200 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed being involved in a single vehicle rollover accident, admitted to having 4 beers, having red bloodshot eyes and a slight odor of alcohol. (Secretary of State's Exhibit #3). Petitioner refused to take a chemical test.

Petitioner's first arrest for DUI occurred on **January 15, 2006**. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was observed illegally squealing his tires, failing to stop at stopped intersection, having a strong odor of alcohol, displayed poor balance and coordination and Petitioner stated that he probably should not be driving. (Secretary of State's Exhibit #3). Petitioner took and failed a chemical test, registering a 0.13 BAC at 4:27 AM.

6. The Hearing Officer took official notice of the prior formal hearing(s) **J-03240-19** and **J-02013-19** pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
7. Petitioner is required to participate in the **BAIID** (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012

where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(e) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAID program if they have three or less convictions for DUI in their life. If the Petitioner has four or more convictions for DUI in their life (the last occurring on or after January 1, 1999), they will be a Life-time permittee no matter what stops, if any, appear on their driving record. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAID Questionnaire" (see Petitioner's Exhibit #2), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAID Program.

8. Petitioner submitted the following evaluations: an Alcohol and Drug Evaluation Uniform Report with Response to Prior Hearing all dated **July 09, 2020** and conducted by [REDACTED] (Petitioner's Exhibit #1); a previously Response to Prior Hearing dated **December 9, 2019** conducted by [REDACTED] (Secretary Ex #3); and a previously submitted Alcohol and Drug Evaluation Uniform Report dated **June 19, 2019** and conducted by [REDACTED] (Secretary Ex #3)
9. The Hearing Officer fully considered the alcohol/drug evaluations presented by Petitioner. The Hearing Officer finds that Petitioner is currently classified as **High Risk Dependent-In Remission**. Chemical dependency is a progressive, incurable disease (See J. Kinney, Loosening the Grip: A Handbook of Alcohol Information, (6th ed. 2000) and Encyclopedic Handbook of Alcoholism, (Pattison and Kaufman, ed. 1982). Petitioners classified chemically dependent must completely disclose and accept their dependency, successfully complete treatment for their dependency, document their abstinence consisting of a sufficient period of time, and document their involvement in an active, ongoing support program to maintain their sobriety. They must demonstrate at the time of the hearing that they have met each of these requirements in order to demonstrate that they are a low or minimal risk to avoid relapse. (See 92 IAC, §1001.440(b)).
 - a) Petitioner testified that he consumed 6-24 beers/shots/moonshine in the year prior to his last DUI arrest on **March 11, 2008**. Petitioner further testified that he consumed marijuana from ages 19 to the present smoking about 2 joints or just enough to self-medicate and not to get "messed up" daily. Petitioner indicated that "it's legal" and uses it to self-medicate for his ADHD and anxiety. Petitioner indicated that a doctor has not prescribed medical marijuana but prefers using marijuana over Ritalin. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it is inconsistent with the report dated July 09, 2020 which indicates that his actual pattern was 6 beers 5 times a week in the year prior to his last DUI arrest. Of greater concern is Petitioner's testimony of his daily use of mariju-

ana to self-medicate for his ADHD and anxiety. Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.

- b) Petitioner testified that since his last DUI arrest on **March 11, 2008**, he consumed 6-24 beers/shots/moonshine until **July 04, 2016** when he decided to quit drinking. Petitioner has remained abstinent since **July 04, 2016**. **Petitioner failed to submit any letters attesting to his abstinence. Again of more urgent concern is the fact that he continues to use marijuana daily in the attempt to self medicate for ADHD and anxiety. Said issues must be addressed in detail with his provider with documentation of the same submitted at the time of his next formal hearing.**

Petitioners classified as High Risk Dependent, or any other petitioner with a recommendation of abstinence by a DASA licensed evaluator or treatment provider, must have a minimum of 12 consecutive months of documented abstinence, except as provided in subsections (e)(3) and (4), in regard to opiate substitution and medical cannabis programs. This means that the petitioner must be abstinent from alcohol and all controlled substances, legal and illegal, unless the drug is prescribed by a physician, and regardless of whether alcohol or another drug was the petitioner's drug of choice when using. Abstinence that occurs during a period of extended incarceration is not favored, unless petitioner took proactive steps to rehabilitate himself or herself while incarcerated, as it occurs in a controlled environment. See 92 Ill. Adm. Code Sec. 1001.440(e)(1), as amended.

92 Illinois Administrative Code Section 1001.440(e) provides that Petitioners classified as High Risk Dependent or any other Petitioner with a recommendation of abstinence by a DASA licensed evaluator or treatment provider should have a minimum of twelve (12) consecutive months of documented abstinence. Documentation of abstinence must be received from at least three (3) independent sources. Letters or witness testimony establishing abstinence should contain at the minimum, the following: (1) the person's relationship to the Petitioner (2) how long the person has known the Petitioner (3) how often the person sees the Petitioner (4) how long the person knows the Petitioner has abstained and (5) the letters must be dated and signed, within 45 days of the date of the hearing.

- c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM): blackouts, passing out, loss of control, binge drinking, withdrawal, hangovers, drinking more than intended, increased tolerance, and impairment of or reduction in work duties due to use; has received complaints from family or friends, has a family history of alcoholism (grandparents and parents), unsuccessful attempts at remaining abstinent and admitted to driving while intoxicated on occasions independent of his DUI arrests.**
- d) Petitioner admits being an alcoholic. (Petitioner's Testimony). However, Petitioner denied having a problem/abusing marijuana despite his continual daily usage. Reviewing courts have held that the degree of self-acceptance of chemical dependency is a proper consideration in determining whether he has met his bur-

den that he would not endanger the public safety and welfare. Berner v. Edgar, No. 4-89-278 (Rule 23, Dec. 21, 1989). This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his chemical dependence.

- e) Petitioner was administered the Mortimer/Filkins Test (M-F) as part of an alcohol and drug evaluation, and scored 56 points. This places Petitioner in the Problem drinker category. (Petitioner's Exhibit #1). The M-F is a detection and assessment instrument used to assist in the identification of alcoholism. See Recent Developments in Alcoholism, pp. 377-408 (M. Galanter, ed. 1983). Responses that affect the final M-F score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol. **Petitioner's low M-F score is found to be more reflective of his continued denial and minimization of the severity of his chemical dependency, and its accuracy is questionable.**
 - f) Petitioner was denied relief at his last hearing due to discrepancies in his alcohol/drug use history, discrepancies in the DSM symptom and Petitioner's acknowledgement of being an alcohol despite being classified significant risk which was not all adequately addressed in the documentation and testimony presented at the instant hearing because continues to minimize his alcohol/drug use history in particular his marijuana use.
10. Petitioner had previously completed 20 hours of outpatient treatment between **June 16, 2015 and December 16, 2015** by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and Continuing Care Status. (Secretary Ex #3). Petitioner previously submitted a Treatment Needs Assessment and Waiver dated **June 19, 2019** all conducted by [REDACTED] (Secretary Ex #3). **The Response to Denial dated July 9, 2020 submitted waive further groups and classes based on his "rigorous honesty", there being no reason to doubt the Petitioner's sincerity and his abstinence with no "warning signs or red flags indicating ongoing problematic alcohol or drug use". It also indicates that that given petitioner's past acknowledgement of significant use and problematic behavior, a return to treatment may not necessarily be helpful due to the possibility of "spontaneous remission". It further identified several research cites supporting the idea of spontaneous remission where "treatment for alcohol/drug issues had documented positive effects but it was not to a degree that made it necessary for someone to stop drinking or using drugs and that at least some people could and did stop on their own and maintained sobriety". The Hearing Officer finds that although a spontaneous remission is possible, it clearly is not pertinent regarding the Petitioner as he continues to use marijuana daily.**
- a) Petitioner's drinking was caused by dealing with him not being able to see his son. During treatment he learned about his triggers and the dangers of drinking and driving. He claims to have made significant changes to his life-style by starting a business [REDACTED] and spending more time with his kids. Petitioner identified the following as his relapse triggers: a hot day, his prevention is

to "think about being in a jail cell with a gangster from Chicago and not seeing his son". However, Petitioner's explanation as to the nature and causes of his drinking and weight to be given his treatment waiver is undermined by the fact that testified to use marijuana daily to self-medicate, he denial of having a problem with marijuana and his minimization of his alcohol/drug use. **For these reasons the treatment waiver does not carry much weight.**

- b) Petitioner's denial of having a problem with marijuana, minimization of his drinking and/or drug use history and/or conflicting reasons provided for his chemical dependency indicates that the Petitioner has been less than successful in identifying and addressing his chemical dependency, notwithstanding the treatment provider's positive prognosis and waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. **The provider's response must be submitted in writing at the next formal hearing.**

11. Petitioner has not established an adequate ongoing support/recovery program.

- a) Petitioner testified that he currently doesn't have a support program in place. He indicated that he has his family who has been there for him and has seen his change. Petitioner admits that he is dependent to them and it is very important that he gets his family back after so many years that he stayed away. Petitioner has not provided sufficient evidence attesting to his current involvement in support/recovery because failed to provide proof that he has a group in which he relies on for his sobriety other than having family that knows his situation.

Mere abstinence for an alcoholic is not enough to remove or sufficiently diminish the risk to the public safety. A working support system needs to be in place to prevent a relapse. The potential for relapse for every alcoholic is real and everlasting. See: J. Kinney and G. Leaton, Loosening the Grip: A Handbook of Alcohol Information, pp. 254 - 262, 3d ed. 1987. If the Petitioner's support program does not involve a structured, organized, recognized program such as A.A. or N.A., the Petitioner is required to identify what that program is, explain how it works and keeps the Petitioner abstinent. The Petitioner is required to present either witness testimony or written verification of the program from at least three independent sources involved in the program, which if letters, should be signed and dated and which must contain at a minimum, the following: (1) the person's relationship to the Petitioner, (2) how long the person has known the Petitioner, (3) how often the person sees the Petitioner, (4) how the persons involved in the Petitioner's recovery program and what role the person plays in helping the Petitioner abstain from alcohol/drugs and (5) what changes the person has seen in the Petitioner since Petitioner's abstinence. See 92 Illinois Administrative Code §1001.440(i)

12. Petitioner is employed by [REDACTED] (Petitioner's Testimony).

- a) Petitioner's regular hours and days of employment are Monday - Saturday 7 am-7pm.
 - b) Petitioner lives 4 miles from his place of employment.
 - c) Petitioner is required to drive as far as 300 miles from his place of employment in the course of employment related duties.
13. Petitioner is self-employed d.b.a. [REDACTED] (Petitioner's Testimony).
- a) Petitioner's regular hours and days of employment are rotating.
 - b) Petitioner is required to drive as far as 300 miles from his place of residence in the course of employment related duties.
14. There is a need for Petitioner (and/or all persons living within his household and/or non-custodial immediate family members when permitted by rule) to take his kid to educational courses and to drive to a daycare location.
15. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
16. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reasons contained in the following Finding of Facts # 9a-b, 9d-e, 10, 10a-b, 11 and 11a. Therefore, it is recommended that he be denied driving relief.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*


CONCLUSIONS OF LAW:

1. The evidence established that the petitioner is an alcoholic/chemically dependent person. See 92 Ill. Adm. Code Sec. 1001.410, as amended.
2. The Petitioner, who is an alcoholic/chemically dependent person, has not maintained abstinence for a sufficient period of time and/or has not been involved in a support program for a sufficient period of time. See 92 Ill. Adm. Code Sec. 1001.440(b)(4), (e) and (g) as amended.

3. The Petitioner's claim that he is abstinent and supporting his abstinence by active participation in a self-help program is insufficiently documented and substantiated. See 92 Ill. Adm. Code Sec. 1001.440(e) and (g), as amended.
4. The Petitioner failed to carry his burden of proving that he has established an adequate support system in order to ensure continuous recovery from his alcoholism/chemical dependency. See 92 Ill. Adm. Code Sec. 1001.440(b)(4) and (g), as amended.
5. Given the unresolved issues raised herein (See Finding of Fact 16), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(s), 1001.420, 1001.430 and 1001.440(b), as amended.

RECOMMENDATION:

The petition for the reinstatement of full driving privileges or in the alternative, a restricted driving permit should be **DENIED**.


HEARING OFFICER

Alcohol and Drug Evaluation
Uniform Report

PART I. OFFENDER INFORMATION

Offender Name: [REDACTED]

IL Driver's License Number or State ID: [REDACTED]

Other Valid Driver's License Number/State: [REDACTED]

Home Address: [REDACTED]

County of Residence: [REDACTED]

Citizenship: [REDACTED]

Telephone Number(s): [REDACTED]

Date of Birth: [REDACTED]

Age: 38

Gender:

Male

Race(s):

White

Hispanic Origin:

Not Hispanic

Primary Language:

English

Interpreter Services:

Services not needed

Marital Status:

Never Married

Education Level:

High school graduate or equivalency certificate

Employment Status:

Employed full time (unsubsidized)

Occupation:

concrete

Annual Household Income:

Not Disclosed

Number of Dependents: 1

Physical or Mental Disability: none

Religious Affiliation:

Unknown

Emergency Contact Person: [REDACTED]

Contact Telephone Number: [REDACTED]

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Substance Use Prevention and Recovery is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

Pl. # 1
7/10/20

PART 2. CURRENT DUI ARREST INFORMATION

- 2.1 Referral Source: Court
- 2.2 Beginning Date of Evaluation: 07/06/2020
- 2.3 Completion Date of Evaluation: 07/09/2020
- 2.4 Date of Arrest: 03/11/2008
- 2.5 Time of Arrest: 10:23 PM
- 2.6 County of Arrest: [REDACTED]
- 2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: RT
- 2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DUI arrest (in order of most to least).

Alcohol

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DUI arrest.

[REDACTED] now says he drank at least 12 beers of unspecified size and at least five shots of distilled alcohol of unspecified size sometime before the arrest. He recalled weighing 200 pounds at the time and does not dispute his DUI BAC.

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.

Yes

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

- 3.1 Prior DUI dispositions including boating and snowmobiling (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
01/16/2006	03/03/2006	.13

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions):

Zero Tolerance		Blegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1	Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
	Marijuana	16	NA	NA	1997
	Alcohol	17	17	17	2016

Chronological History Narrative:

CANNABIS - "Hits" twice at age 16, none now recalled prior/since. ALCOHOL - [REDACTED] did not dispute or wish to revise his early alcohol history - first reported use at age 17, "up to 2-3 drinks 10x/year or less" until no later than the year before his 2006 DUI arrest (at age 25.) [REDACTED] now recalls drinking Six beers 5x/week in the year prior to both DUI arrests. After the 2008 DUI arrest, [REDACTED] now admits that after two initial months of abstinence, he drank "12-24 beers with mixed drinks and shots daily" until his stopped on July 5, 2016

- 4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

- 4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

- 4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

- 4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

[REDACTED] acknowledged other alcohol related legal issues not previously addressed in prior evaluations.

- 4.6 Identify the significant other and summarize the information obtained in the interview.

Not Applicable

- 4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

[REDACTED] did complete a program via [REDACTED] as previously acknowledged; see Response to Denial.

- 4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

See DSM Criteria page

Marriage or significant other relationships

See DSM Criteria page

Legal Status

See DSM Criteria page

Socially

See DSM Criteria page

Vocational/work

See DSM Criteria page

Economic status

See DSM Criteria page

Physically/Health

See DSM Criteria page

PART 5. OBJECTIVE TEST INFORMATION

- 5.1 **Mortimer/Filkins -** Score: 56 Category: Problem Drinker
- 5.2 **ASUDS-RI Risk Level Guidelines -** Score: Category:
- 5.3 **Driver Risk Inventory (DRI) Scales and Risk Ranges:**
- Validity Scale:
 - Alcohol Scale:
 - Driver Risk Scale:
 - Drugs Scale:
 - Stress Coping Abilities Scale:

PART 6. CRITERIA FOR SUBSTANCE USE DISORDER

6.1 Identify any Substance Use Disorder Criteria occurring within a 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission. One symptom will result in a Moderate Risk Level classification. Two or three symptoms will result in a Significant Risk classification. Four or more symptoms will result in a High Risk classification.

- Alcohol or drugs are taken in larger amounts or over a longer period than intended.
- There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use.
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use.
- Craving, or a strong desire or urge to use alcohol or drugs.
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home.
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs.
- Important, social, occupational, or recreational activities are given up or reduced because of alcohol or drug use.
- Recurrent alcohol or drug use in situations in which it is physically hazardous.
- Alcohol or drug use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol or drugs.
- Tolerance - Either a need for markedly increased amounts of alcohol or drugs to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of alcohol or drugs.
- Withdrawal - As manifested by either the characteristic withdrawal syndrome for alcohol or drugs, or alcohol or drugs are taken to relieve or avoid withdrawals.

6.2 If the offender meets Substance Use Disorder Criteria based on a past episode and is now assessed as being in remission, identify and describe the specifier that reflects the offender's current status.

Current Status: Sustained Remission

No evidence of problematic use since July 2016

6.3 Has the offender ever met Substance Use Disorder Criteria by history but and is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria were met and why it is not clinically significant for the purposes of a current risk assessment. The explanation must include the length of time since the last episode, the total duration of the episode, and any need for continued evaluation or monitoring.

No evidence of problematic use since July 2016. [REDACTED] eventually acknowledged a full and significantly problematic alcohol and drug use history to SOS staff at a formal hearing, which ran counter to previous accounts recorded in past evaluations and RTDs.

PART 7. OFFENDER BEHAVIOR

7.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

[REDACTED] behavior and responses were consistent. In the light of recent changes to use history, no evidence was presented recently regarding reliability, but no evidence was presented to question it, either.

7.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

None clearly noted.

7.3 Identify any special assistance provided to the offender in order to complete the evaluation.

None needed

7.4 Where was the offender interview conducted?

Licensed Site

PART 8. CLASSIFICATION

8.1 Classification:

HIGH RISK: Four or more symptoms of a Substance Use Disorder (regardless of driving record); AND/OR within the ten year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents.

8.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

This most recent interview correlates with SOS testimony.

PART 9. MINIMAL REQUIRED INTERVENTION

9.1 Minimal Intervention:

HIGH RISK: Completion of a minimum of 75 hours of substance abuse treatment; and upon completion of any and all necessary treatment and, after discharge, active on going participation in all activities specified in the continuing care plan.

9.2 The offender was referred as follows:

Secretary Of State Office

PART 10. VERIFICATION**Licensed Site Information:**

Name: [REDACTED]

Address: [REDACTED]

Telephone Number: [REDACTED]

License Number: [REDACTED]

Evaluator Name: [REDACTED]

Evaluator Credentials: [REDACTED]

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature: [REDACTED]

Date: 2/9/2020

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature: [REDACTED]

Date: 7-9-20

PART 11. DISPOSITION

This evaluation may only be released to the Illinois Circuit Court of venue or its court officials as specified by local court rules, to the Office of the Secretary of State, or to the Illinois Department of Human Services, Division of Substance Use Prevention and Recovery. Any other release requires the written consent of the DUI offender.

If this evaluation was prepared for the Circuit Court, send the signed original to the court in accordance with established local court rules or policy.

If this evaluation was prepared for the Secretary of State, give the signed original to the DUI offender so that it may be presented to the hearing officer at the time of the formal or informal hearing.

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

[REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for issuance of a Restricted Driving Permit ("RDP") for: employment purposes for driving to and from work and/or while performing job related duties for his primary employer, [REDACTED]

[REDACTED] is hereby GRANTED; support/recovery purposes for attending no more than three (3) meetings per week is hereby GRANTED; medical purposes to allow Petitioner to drive himself to and from regularly scheduled medical appointments is hereby GRANTED; and daycare purposes to drive his children to and from daycare is hereby GRANTED; days, hours and other conditions of which are to be established by verification.

All driving relief is conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office, as to when this report should be submitted.

Any permit issued under this Order shall expire no later than (12) months from the date of the issuance of the first permit under this Order. Additionally, this Order is based upon the Petitioner's driving record at the time of this hearing and it is subject to the subsequent receipt of any report of conviction or other notice that would result in the loss of driving privileges making the Petitioner ineligible for the relief granted.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

This Order is not to be construed as an authorization to operate a motor vehicle. Petitioner must meet any and all requirements of the Office of the Secretary as well as all of the terms and conditions of the **Breath Alcohol Ignition Interlock Device Program**, and be in receipt of said RDP, prior to the operation of any motor vehicle.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on [REDACTED] pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED], a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the issuance of a Restricted Driving Permit ("RDP") for employment, support/recovery, medical, and daycare purposes. Petitioner is not eligible for full reinstatement until April 13, 2015 due to his lack of twelve continuous months of abstinence. The burden of proof is upon Petitioner for any relief in this hearing. 92 IAC, §1001.100(s). The standard of proof is by clear and convincing evidence. 92 IAC, §§1001.420(c), 430(b) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary of State of Illinois has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Alcoholism and Substance Abuse ("DASA") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's yellow application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status (NVS) [REDACTED]

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(S)
[REDACTED]

and/or Visa Status [VS] at the time of the Hearing. Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing. Secretary's Exhibit #6 is the BAID Terms and Conditions.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective **June 02, 2010** pursuant to IVC §6-205(a)2, due to a conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order summarily suspending Petitioner's driver's license and driving privileges was entered effective **April 21, 2010** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

5. Petitioner has two arrests for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrests of **March 6, 2010 (BAC 0.23)** and **September 30, 2005**. (Secretary of State's Exhibit #3)

Petitioner's last arrest for DUI occurred on **March 6, 2010**. Petitioner testified that prior to said arrest he consumed, 12 beers and 8 shots over 6 hours. Petitioner testified he was prescribed Klonopin at the time, and had taken it. Petitioner weighed 230 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report (Secretary's Exhibit #3) indicates that Petitioner was arrested in Randolph County at 1:21 a.m. when he was stopped for failure to stop at a 4 way intersection. Petitioner took and failed a chemical test, registering a 0.23 BAC. Petitioner's statutory summary suspension was rescinded due to no reasonable grounds on May 14, 2010. Petitioner was convicted of this offense on May 14, 2010.

Petitioner's first arrest for DUI occurred on **September 30, 2005**. Petitioner testified that prior to said arrest he smoked marijuana earlier that day, taking six hits throughout the day. Petitioner weighed 200 pounds. He denies being intoxicated. The arresting officer's Law Enforcement Sworn Report (Secretary's Exhibit #3) indicates that Petitioner was arrested in Randolph County at 12:38 a.m. Petitioner refused to take a chemical test.

6. Petitioner is required to participate in the **BAID** (Breath Alcohol Ignition Interlock Device) program because the Petitioner: has two or more DUI convictions or reckless homicide convictions where the use of alcohol or drugs was an element of the offense, including similar out of state convictions, or any combination thereof, with one of the convictions resulting in the current loss of privileges; or, has been convicted of driving while revoked if the underlying revocation currently in effect is due to a conviction of reckless homicide or a similar provision of a law of another state; or, is currently revoked for DUI or reckless homicide where alcohol or other drugs is recited as an element of the offense, or similar out-of-state offenses and has a statutory summary suspension pursuant to Section 11-501.1, or a suspension pursuant to Section 6-203.1 or any combination thereof, within 10 years of the current suspension/revocation; or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. See IVC §6-205(c), and/or §6-205(d), and/or §6-206.1 and/or §6-206(c)3. Also See 92 IAC 1001.444(a)4. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAID) Terms and Conditions" (see Secretary's Exhibit #5) and "BAID Questionnaire" (see Petitioner's Exhibit #5), and he

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MAY 14 2010

[REDACTED]

has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.

7. Petitioner submitted the following evaluations: a current updated alcohol and drug evaluation dated [REDACTED] with a Chronological History dated September 16, 2014 both conducted by [REDACTED] (Petitioner's Exhibit #1); and an Alcohol and Drug Evaluation Uniform Report dated [REDACTED] and an Addendum dated [REDACTED] conducted by [REDACTED] and [REDACTED] respectively. (Petitioner's Exhibit #1)

8. The Hearing Officer finds that the evidence does support the **High Risk Dependent-In Remission** classification contained therein. Petitioner's testimony regarding his alcohol/drug use, his submitted documents, and other evidence establish the following regarding the nature and extent of Petitioner's use/abuse of alcohol and/or drugs:

a) Petitioner testified that he consumed alcohol 3-5 times a week, 8-10 beers and 3 shots, in the year prior to his last DUI arrest, which occurred on March 6, 2010. Petitioner testified that following his last DUI, he consumed 5-7 days a week, 12 beers and 3-5 shots up through 2011, into 2012. Petitioner testified that this was his heaviest pattern of alcohol use.

Petitioner testified he used marijuana beginning at the age of 17 or 18, and that he last used in 2005. His heaviest use was 10 one hitters a day in 2003 and 2004. Petitioner testified he did not become dependent on marijuana.

b) Petitioner testified that he cut down his drinking in 2013 to 3-5 times a week, 8-12 beers. He has remained abstinent since April 13, 2014. Petitioner intends to maintain abstinence indefinitely and his resolve to remain abstinent appears sincere. (Petitioner's testimony) Petitioner has provided sufficient evidence attesting to his abstinence (Petitioner's Exhibit #3).

c) Petitioner testified that he has experienced the following indicators of The Diagnostic Statistical Manual of Mental Disorders (DSM-IV) symptoms of alcohol/drug abuse/dependence: blackouts, passing out, withdrawal (sweats, shaking), hangovers, drinking more than intended, and increased tolerance. Because of his excessive use he has promised self/others to stop or slow down and joined a program to help stop drinking.

d) Petitioner admits being a chemically dependent person and admits he was a problem user. (Petitioner's testimony)

e) Petitioner was administered one of the required objective tests (Mortimer/Filkins Test, Driver Risk Inventory or ASUDS) as a part of an alcohol and drug evaluation and the results were analyzed therein.

9. Petitioner has completed 76.25 hours of outpatient treatment as recommended for his classification. Treatment was provided between April 8, 2014 and August 7, 2014 by [REDACTED] which provided documents including [REDACTED] Treatment

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[REDACTED]

Verification, Discharge Summary, Treatment Plan, and Continuing Care Plan. (Petitioner's Exhibit #2) Petitioner submitted a Treatment Waiver Form dated October 21, 2014 completed by [REDACTED] (Petitioner's Exhibit #2) Petitioner submitted a Continuing Care Status Report dated [REDACTED] completed by [REDACTED]

- a) Petitioner learned the following regarding his alcoholism: about his triggers. He made significant changes to his life-style by getting married in May, and being a father now. He has obtained a degree and an improved job. Petitioner identified the following as his relapse triggers: anxiety, loneliness, bowling alleys, and clubhouse activities. He has had no recent cravings. His last urge to drink was on his mother's birthday, April 13, 2014 when he had a drink. He would call his mother, an AA member, his pastor, or fiancée if he had an urge.
10. Petitioner has established an adequate ongoing support/recovery system.
- a) Petitioner has attended AA regularly from May 2014 to the present. He currently attends 1 meeting per week and plans to attend indefinitely. Petitioner does not currently have a sponsor. (Petitioner's testimony) Petitioner has provided sufficient evidence attesting to his current involvement. (Petitioner's Exhibit #4)
 - b) Petitioner has worked through the 10th step of AA. Petitioner demonstrated knowledge, understanding of, commitment to, and involvement in the program. Petitioner currently advances the message of sobriety to other dependent persons by performing service work including: telling own story in public. Petitioner's support/recovery group attendance helps him remain abstinent by providing a place to discuss dependency with others who are going through the same things. Admitting he was an alcoholic was the hardest step (Petitioner's testimony)
 - c) Petitioner has also established an ongoing church based support/recovery system. Petitioner has attended regularly from Jan. 2015 to the present. He currently attends 1-2 meetings per week. The meetings are where other members know Petitioner is an alcoholic. Petitioner's attendance helps him remain abstinent because the pastor knows about his past and shares God's forgiveness. (Petitioner's testimony)
11. In the course of the hearing, it was discovered that the Petitioner suffers from the following mental/physical conditions which may affect his ability to safely operate a motor vehicle: gout, high cholesterol and anxiety. It is unknown whether Petitioner currently takes prescribed medication to address the above conditions, which may affect his ability to safely drive a motor vehicle. As a result, all driving relief should be conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit which addresses this problem. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office, as to when this report should be submitted.
12. There is a need for Petitioner to attend support/recovery meetings, days and hours to be established by affidavit.

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[REDACTED]

13. There is a need to allow Petitioner to drive himself to and from regularly scheduled medical appointments, days and hours to be established by affidavit.
14. There is a need to allow Petitioner to drive his fiance's children to and from daycare, days and hours to be established by affidavit.
15. Petitioner is employed by [REDACTED] days and hours to be established by affidavit. (Petitioner's testimony)
16. For the foregoing reasons, Petitioner has carried his burden of proving that he has satisfactorily addressed his chemical dependency and that he would be a safe and responsible driver if granted driving relief. Therefore it is recommended that he be granted driving relief. Because of the extent of his drinking history, his poor driving record, and less than 1 year of continuous abstinence, the Hearing Officer recommends that Petitioner be granted an RDP as a probationary device.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner is an alcoholic/chemically dependent person, in remission.
2. The Petitioner has carried his burden of proving that he is responsibly addressing his alcoholism/chemical dependency, as he has completed treatment, has maintained abstinence for a sufficient period of time, and is participating in AA and a church based program to support continued abstinence. See 92 Ill. Adm. Code Sec. 1001.440(b)(3), as amended.
3. The evidence indicates that a Restricted Driving Permit for employment, support/recovery, medical and daycare purposes should be issued as a probationary device. See 92 Ill. Adm. Code Sec. 1001.420(h), as amended.
4. The evidence indicates that the Petitioner will be a safe and responsible driver and that to issue to him a Restricted Driving Permit will not endanger the public safety and welfare. See 92 Ill. Adm. Code Sec. 1001.420, as amended.
5. The Petitioner is eligible for the "breath alcohol ignition interlock device" (BAIID) program and must, therefore, comply with all of the provisions of the program. See Sec. 11-501(i) of the IVC and 92 Ill. Adm. Code Sec. 1001.441.

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[REDACTED]

[REDACTED]

RECOMMENDATION:

The petition for the issuance of an RDP for employment, support/recovery, medical and daycare purposes should be **GRANTED**, after Petitioner meets any and all requirements of the Secretary's Office including the terms and conditions of the Breath Alcohol Ignition Interlock Device (BAIID) Program. All driving relief is conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office, as to when this report should be submitted.

[REDACTED]

[REDACTED]

ILLINOIS PETITIONER TREATMENT VERIFICATION



Office of the
Secretary of State
DEPARTMENT OF
ADMINISTRATIVE HEARINGS

Additional forms may be obtained at
www.sos.state.il.us

The rules of the Secretary of State's Department of Administrative Hearings require a petitioner to document completion of any recommended treatment or provide a treatment waiver as recommended in the Treatment Needs Assessment (TNA). This form may be completed and submitted for this purpose. If more space is needed, attach additional sheets.

Copies of the following documents must be attached to this form:

- 1) Individualized Treatment Plan
- 2) Discharge Summary
- 3) Continuing Care Plan
- 4) Continuing Care Status Report
- 5) Continuing Care Summary Report or Treatment Waiver

PETITIONER INFORMATION:

Name: (Last, First, Middle)		Illinois Driver's License Number:	
Address: (Street/City/State/ZIP)			
Sex:	Date of Birth:	Home Telephone Number:	Work Telephone Number:
<input checked="" type="checkbox"/> M <input type="checkbox"/> F			

1. Referral Source: Court/Legal

2. Admission Date: 4/14/14 Discharge Date: 4/14/14
(Primary treatment only, not follow-up/aftercare)

3. Admission Diagnosis: 305.00 - Alcohol Abuse

Discharge Diagnosis: 305.00 - Alcohol Abuse

OR

TNA Date: _____ Diagnosis: _____

4. Treatment Modality:

- Outpatient counseling..... Number of hours completed: _____
- Intensive outpatient counseling..... Number of hours completed: 78.25 hours Level B Group
- Inpatient..... Number of days in inpatient treatment: _____
- Individual therapy
- Group therapy

5. Prognosis after completing treatment and/or TNA. Must include a discussion of what the petitioner appears to have gained from treatment and whether it has substantially reduced the potential for future alcohol/drug-related problems. Prognosis is "Good" after successfully completing treatment program. Petitioner appears to have gained clarity on his internal and external triggers, as explored during group sessions. Petitioner has also gained knowledge of the trigger, thought, craving, use paradigm and is able to actively disrupt cycle at various points. Petitioner has demonstrated continued abstinence from alcohol as evident by two negative urinalysis results. Petitioner also learned how to share his story/faults, while allowing group members to provide feedback on ways to improve. Petitioner has done well to utilize thought-stopping techniques, such as relaxation, and has made efforts to encourage other participants to make better choices. Petitioner is active with community programs such as Eagles Club and AA. Petitioner also has identified supportive friends and family who assist him in his goal of remaining abstinent from alcohol. Petitioner has substantially reduced the potential for future alcohol/drug-related problems.

6. Continuing Care Status:

- Petitioner has completed continuing care (summary report required).
- Petitioner is currently involved in a continuing care plan (status report required).
- Petitioner has completed a continuing care plan.
- Petitioner has not initiated continuing care.
- Continuing care waived (rationale required).
- Petitioner has initiated but failed to complete a continuing care plan for the following reason:

7. Rationale for: a) any modification in the number of treatment hours or change in treatment modality as recommended by the petitioner's last evaluation; b) treatment waiver; or c) additional treatment recommendations as a result of the TNA.

N/A

If a petitioner classified as "High Risk" has been determined to be "Non-Dependent," a detailed explanation by the treatment provider as to why dependency was ruled out must be submitted.

I certify that I have accurately reported the data collected and required to complete the treatment verification. I also have attached copies of the petitioner's Individualized Treatment Plan, Discharge Summary, Continuing Care Plan, Continuing Care Status Report, and Continuing Care Summary Report or TNA.

Provider's Name: (type or print) [REDACTED]	
Provider's Signature: [REDACTED]	Date: [REDACTED]
Provider's Title: [REDACTED]	Telephone Number: [REDACTED]
Program Name: [REDACTED]	Accreditation/License Number: [REDACTED]
Address: (Street/City/State/Zip) [REDACTED]	

Alcohol and Drug Evaluation
Uniform Report

PART 1. OFFENDER INFORMATION

Offender Name: [REDACTED]
IL Driver's License Number or State ID: [REDACTED]
Other Valid Driver's License Number/State: [REDACTED]
Home Address: [REDACTED]
County of Residence: [REDACTED]
Citizenship: USA Citizen
Telephone Number(s): [REDACTED]
Date of Birth: [REDACTED] Age: 28
Gender: Male
Race(s): White
Hispanic Origin: Not Hispanic
Primary Language: English Interpreter Services: Services not needed
Marital Status: Never Married
Education Level: Some college, no degree
Employment Status: Employed full time (unsubsidized)
Occupation: [REDACTED]
Annual Household Income: [REDACTED] Number of Dependents: [REDACTED]
Physical or Mental Disability: [REDACTED] Religious Affiliation: [REDACTED]
Emergency Contact Person: [REDACTED]
Contact Telephone Number: [REDACTED]

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Alcoholism and Substance Abuse, is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

PART 2. CURRENT DU/ARREST INFORMATION

- 2.1 Referral Source: Court
- 2.2 Beginning Date of Evaluation: 03/24/2014
- 2.3 Completion Date of Evaluation: 03/24/2014
- 2.4 Date of Arrest: 03/06/2010
- 2.5 Time of Arrest: 01:21 AM
- 2.6 County of Arrest: Randolph
- 2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: .23
- 2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DU/ arrest (in order of most to least).

Alcohol, Benzodiazepines

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DU/ arrest.

Offender reports he began drinking at 8pm on a Friday night. He states he was at the VFW in [REDACTED] the entire night until the bar closed at 1am. Offender reports drinking 18 miller light bottle necks and about 8 shots in 5 hours time frame. He was also on Klonopin .5mg every 3 hours with his last use at 3pm.

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.

Yes

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

- 3.1 Prior DUI dispositions (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
09/30/2005	11/15/2005	NA
03/06/2010	05/14/2010	.23

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
09/30/2005	11/15/2005	NA
03/06/2010	05/14/2010	.23

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions).

Zero Tolerance		Illegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Not Applicable

3.6 Describe any boating/knowmobiling under the influence arrests as reported by the offender (including out-of-state dispositions).

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1	Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
	Alcohol	15	15	23	2014
	Marijuana	18	NA	18	2005

Chronological History Narrative:

Offender had his first drink of alcohol at age 15 with his peers and reports getting intoxicated that night. He reports drinking 1-2x/month drinking "a 30 pack between three people". He reports never drinking all 10 beers but states he would drink until getting drunk or buzzed. This lasted through high school. After high school, he would drink every weekend "but mostly to get away from the grind". He reports it being more casual drinking "at a BBQ" type of environment. He reports going to college full-time and working full-time. Around age 21, he started dating his fiancée, she worked in a bar and he would visit her every night and have a couple drinks, drinking 3-5 times per week. He would drink a couple miller light bottles during the week and this increased to miller light bottles and shots on the weekend. Offender reports he was also getting drunk every weekend. This all lasted a year and a half (ages 18-23). Age 23/24, his fiancée and him broke up, he lost his job shortly after that and he started drinking a 12 pack of miller light bottles every night. This last for around a year (age 25). His alcohol use cut down to 3x/week, drinking during the weekend and once during the week. He reports getting drunk every other weekend (when he wasn't on call for his work). Around age 27, he started drinking every other weekend but not usually to the point of intoxication. Offender reports using Marijuana at age 18, was smoking 4-5 times per week and spending \$20 per week. This continued until his DUI in 2005 for Marijuana. Offender attended Risk Education sessions in [REDACTED] in 2005.

- 4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

Offender is currently taking Lexapro 10mg 1x/day for Anxiety and has been on it for 3 months.

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY:

- 4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

Offender's father used weed in the 1970's and he reports his parents drink every weekend. Maternal and Paternal grandfathers were both alcoholics.

- 4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

- 4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

Not Applicable

- 4.6 Identify the significant other and summarize the information obtained in the interview.

Offender's mother [REDACTED] was the significant other interview. She sees the offender 10-15 times per month and talks with him 1-3 times per week. She was concerned about offender's alcohol use/behavior in his early 20's; however, she does not have concerns about his use now. Her information was consistent with the offender's information.

- 4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

Carbondale for DUI risk education classes in 2005 from his first DUI.

Offender attended counseling with [REDACTED] who suggested he go to AA meetings.

- 4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

Ch attended AA a couple times 2011.

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

His mother was concerned/worried about him and his health

Marriage or significant other relationships

Not Applicable

Legal Status

Offender reports "it sucks" that he has these 2 DUI's on his record. "This has stopped me from getting work/jobs. It's horrible".

Socially

Not Applicable

Vocational/work

Offender reports it difficult to take a traveling job in the future.

Economic status

Not Applicable

Physically/Health

Not Applicable

PART 5. OBJECTIVE TEST INFORMATION

- 5.1 Martimer/Filkins - Score: Category:
- 5.2 ASUDS-RI Risk Level Guidelines - Score: 4 Category: High
- 5.3 Driver Risk Inventory (DRI) Scales and Risk Ranges:
- Validity Scale:
 - Alcohol Scale:
 - Driver Risk Scale:
 - Drugs Scale:
 - Stress Coping Abilities Scale:

PART 6. CRITERIA FOR SUBSTANCE ABUSE

- 6.1 Identify any Substance Abuse criteria that have occurred repeatedly during the same 12 month period or been persistent. This may be done using the offender's current presentation or by the appearance of symptoms judged to be a new episode of previously met Substance Abuse criteria even before the full criteria is met.
- Recurrent substance use resulting in a failure to fulfill major role obligations at work, school or home
 - Recurrent substance use in situations in which it is physically hazardous
 - Recurrent substance related legal problems
 - Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance
- 6.2 Does the offender have a prior history meeting criteria for Substance Abuse? If yes, please explain when the criteria was met and why it is not clinically significant for the purposes of risk assessment.
- No

PART 7. CRITERIA FOR SUBSTANCE DEPENDENCE

- 7.1 Identify any Substance Dependence criteria occurring any time in the same 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission (any combination of three or more indicates dependence).
- Tolerance - Either a need for markedly increased amounts of the substance to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of the substance.
 - Withdrawal - As manifested by either the characteristic withdrawal syndrome for the substance or the same or closely-related substance is taken to relieve or avoid withdrawal symptoms.
 - The substance is often taken in larger amounts or over a longer period than was intended.
 - There is a persistent desire or unsuccessful efforts to cut down or control substance use (including prior periods of abstinence).
 - A great deal of time is spent in activities necessary to obtain the substance, use the substance, or recover from its effects.
 - Important social, occupational, or recreational activities are given up or reduced because of substance use.
 - The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.
- 7.2 If the offender meets Substance Dependence criteria based on a past episode and is not assessed as being in remission, identify and describe the course specifier that reflects the offender's current status.
- Current Status: Not Applicable
- 7.3 Has the offender ever met Substance Dependence criteria by prior history but is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria was met and why it is not clinically significant for the purposes of risk assessment. The explanation must include the length of time since last period of disturbance, the total duration of the disturbance, and any need for continued evaluation.
- No

PART 8. OFFENDER BEHAVIOR

8.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

Offender's behavior and responses were consistent, reliable and non-evasive.

8.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

Offender is diagnosed with Anxiety and is on medication for this.

8.3 Identify any special assistance provided to the offender in order to complete the evaluation.

No special assistance was provided to the offender in order to complete the evaluation.

8.4 Where was the offender interview conducted?

Licensed Site

PART 9. CLASSIFICATION

9.1 Classification:

HIGH RISK: Symptoms of substance dependence (regardless of driving record); AND/OR within the ten year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents.

9.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

Information obtained from the interview and objective test correlates with the information obtained from the DUI/alcohol offender.

PART 10. MINIMAL REQUIRED INTERVENTION

10.1 Minimal Intervention:

HIGH RISK: Completion of a minimum of 75 hours of substance abuse treatment; and upon completion of any and all necessary treatment, and, after discharge, active on going participation in all activities specified in the continuing care plan.

10.2 The offender was referred as follows:

High Risk: Completion of a minimum of 75 hours of substance abuse treatment, on-going participation in all activities specified in the continuing care plan.

PART 11. VERIFICATION**Licensed Site Information:**

Name: [REDACTED]

Address: [REDACTED]

Telephone Number: [REDACTED]

License Number: [REDACTED]

Evaluator Name: [REDACTED]

Evaluator Credentials: [REDACTED]

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature: [REDACTED]

Date: 3/24/14

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature: [REDACTED]

Date: 3/24/14

PART 12. DISPOSITION

This evaluation may only be released to the Illinois Circuit Court of venue or its court officials as specified by local court rules, to the Office of the Secretary of State, or to the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse. Any other release requires the written consent of the DUI offender.

If this evaluation was prepared for the Circuit Court, send the signed original to the court in accordance with established local court rules or policy.

If this evaluation was prepared for the Secretary of State, give the signed original to the DUI offender so that it may be presented to the hearing officer at the time of the formal or informal hearing.

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges, or in the alternative, for a Restricted Driving Permit ("RDP") is hereby **DENIED**.

This Order is final and subject to appeal within thirty-five (35) days pursuant to the Administrative Review Law. The Department of Administrative Hearings does not consider motions to reconsider a decision made or Order entered in a formal hearing, pursuant to 92 IL ADC 1001.80.

FINDINGS AND RECOMMENDATIONS
OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on **September 11, 2020**, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED], a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privileges or in the alternative, the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at

the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective **July 16, 2017** pursuant to IVC §6-206(a)6, due to conviction of an offense in another State, which if committed in this State would be grounds for suspension or revocation.

Petitioner was arrested on **July 17, 2017** and **March 12, 2011** for driving on a revoked/suspended license.

5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **January 9, 2017 (State of Minnesota)** and **December 25, 2006 (BAC 0.18)** (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1).

Petitioner's last arrest for DUI occurred on **January 9, 2017 (State of Minnesota)**. Petitioner testified that prior to said arrest he consumed 3-4 mixed drinks, he consumed his last drink around 10:00 p.m. Petitioner was stopped for swerving at 12:11 a.m. (Secretary's Exhibit #3). Petitioner weighed 220 pounds. He admits being intoxicated. Petitioner refused to take a chemical test. The Hearing Officer finds that the Petitioner's testimony regarding the amounts of alcohol he consumed on the occasion of this DUI arrest is minimal in nature and is not enough to bring the Petitioner to the point of reaching the legal limit of intoxication (0.08). **The Petitioner needs to return to his evaluator for the purpose of exploring this DUI arrest and determining a realistic amount of alcohol that would equate to the Petitioner being arrested for DUI.**

Petitioner's first arrest for DUI occurred on **December 25, 2006**. Petitioner testified that prior to said arrest he consumed unknown amount of eggnog from 10:00 p.m. to 11:00 p.m. and was stopped for swerving. Petitioner weighed 180 pounds. He admits being intoxicated. Petitioner took and failed a chemical test, registering a 0.18 BAC.

6. Petitioner is required to participate in the **BAIID** (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAIID program if they have three or less convictions for DUI in their life. If the Petitioner has four or more convictions for DUI in their life (the last occurring on or after January 1, 1999), they will be a Life-time permittee no matter what stops, if any, appear on their driving record. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAIID) Terms and

Conditions" (see Secretary's Exhibit #6) and "BAIID Questionnaire" (see Petitioner's Exhibit #4), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.

7. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on **August 2, 2020**, conducted by [REDACTED] (Petitioner Ex #2).
8. Petitioner submitted the following evaluation: an Alcohol and Drug Evaluation Uniform Report dated **July 23, 2020** conducted by [REDACTED] (Petitioner Ex #1).
9. The Hearing Officer fully considered the alcohol/drug evaluations presented by Petitioner and finds that the evidence might not be consistent with the **Significant Risk** classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985), Christiansen v. Edgar, 209 Ill. App. 3d 36, 567 N.E.2d 696 (4th Dist. 1999).
 - a) Petitioner testified that he consumed 2-3 drinks once every 2-3 months prior to his first and last DUI arrest in 2006 and 2017. He further testified that the heaviest use was in college, he would drink 3 drinks once a month. Petitioner further testified to trying cannabis in the past, 2 hits, and last usage was 2 years ago. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated **July 23, 2020** which indicates that his actual drinking pattern was only 1 beer (12oz) once every 6 months prior to his first and last DUI arrest in 2006 and 2017. The evaluator also reports Petitioner still smoking cannabis occasionally with friends approximately once every six months which is in direct conflict with Petitioner's testimony at the instant hearing. The Hearing Officer cannot determine the Petitioner's use of cannabis. Additionally, the Petitioner's testimony and evaluator's reporting in the Uniform Report are not consistent with a .18 BAC recorded on the occasion of his first DUI arrest which suggests a greater tolerance than expected given his minimal drinking pattern. See Encyclopedic Handbook of Alcoholism, pp. 65-66 and pp. 359-360 (Pattison and Kaufman ed. 1982). **Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.**
 - b) Petitioner testified that since his last DUI arrest on **January 9, 2017**, he has remained abstinent from alcohol.

- c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: hangover.

Petitioner also denies that he drove under the influence on occasions aside from his DUI arrests. **Petitioner's denial of drinking and driving on occasions other than his DUI arrests is statistically contrary to information compiled over time associated with the number of times an individual has driven under the influence before he has been arrested for DUI.**

The current Uniform Report dated **July 23, 2020** fails to reflect any of the **DSM** symptoms/criteria listed above. This may result in a change in classification if the evaluator determines that Petitioner has clinically significant number **DSM** symptoms/criteria to diagnose alcohol dependence pursuant to the rules of the **Division of Substance Use Prevention and Recovery ("DSUPR")**.

The Hearing Officer finds the total lack of symptoms/indicators indicated in the Uniform Report dated July 23, 2020 to be inconsistent with one who has been arrested twice for DUI.

- d) Petitioner **denies** having problem alcohol/drugs independent of the occasions of his DUI arrests and **denies** experiencing all significant symptoms of an alcohol problem. (Petitioner's Testimony). Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. *Berner v. Edgar*, No. 4-89-278 (Rule 23, Dec. 21, 1989). **This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.**

- e) Petitioner was administered the Driver Risk Inventory Test (DRI) during the course of the uniform report alcohol/drug evaluation, and scored: Validity Scale: High/Severe Problem, Alcohol Scale: High/Severe Problem, Driver Risk: High/Severe Problem, Drugs Scale: High/ Severe Problem and Stress Coping Ability: High/Severe Problem (Petitioner's Exhibit #1). The DRI Scale is a detection and assessment instrument used to assist in the identification of an alcohol problem/alcoholism. Responses that affect the final DRI score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol.

The Hearing Officer has to question the results of the DRI test and scoring giving the fact that Petitioner scored High/Sever Problem on all 5 scales and risk ranges, additionally, has absolutely no symptoms recorded by the evaluator, minimal drinking pattern and denies having an alcohol/drug problem. The Evaluator needs to explain the findings from the scoring of the DRI test along with other issues outlined above and the evaluator's response must be submitted in writing at the next formal hearing.

10. Petitioner has most recently completed 20 hours of outpatient treatment between **August 2, 2020 and September 9, 2020** by [REDACTED] which provided documents including Treatment Plan, Discharge Summary, Continuing Care Status Report and Continuing Care Plan (start date October 9, 2020) (Petitioner Ex #3).
- a) Petitioner's drinking was caused by celebration, grief, stress. During treatment he learned about the difference between an alcoholic (drinks heavily) and an abuser (drinking more than you should). He claims to have made significant changes to his life-style by going to gym, coaching baseball team, spending time with his 2 sons, playing chess and watching movies. However, Petitioner's explanation as to the nature and causes of his drinking and weight to be given his treatment waiver and/or detailed explanation is undermined by the facts outlined in this order. **For these reasons the treatment waiver and/or detailed explanation does not carry much weight.**
 - b) Petitioner's denial of his substance abuse problem, minimization of his drinking and/or drug history, discrepancies in the DSM symptoms/criteria supporting his current DSUPR classification and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. **The provider's response must be submitted in writing at the next formal hearing.**
11. Petitioner is employed by [REDACTED] (Petitioner's Testimony).
- a) Petitioner's regular hours and days of employment are Monday thru Friday from 9:00 a.m. to 6:00 p.m.
12. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
13. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reason(s): (See Finding(s) of Fact #5, 9 (a, c, d and e) and 10 (a-b)). Therefore, it is recommended that he be denied driving relief.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-206(a)6, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
3. Given the unresolved issues raised herein (See Finding(s) of Fact #13), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.

RECOMMENDATION:

The petition for the reinstatement of full driving privileges or in the alternative, for a restricted driving permit should be **DENIED**.

A large, irregular black redaction mark covers the signature of the hearing officer.

HEARING OFFICER

State of Illinois
Department of Human Services

Alcohol and Drug Evaluation
Uniform Report

PART 1. OFFENDER INFORMATION

Offender Name: [REDACTED]
IL Driver's License Number or State ID: N/A - Alternate License: [REDACTED]
(Expired driving license)
Other Valid Driver's License Number/State:
Home Address: [REDACTED]
County of Residence: [REDACTED]
Citizenship: [REDACTED]
Telephone Number(s): [REDACTED]
Date of Birth: [REDACTED] Age: 38
Gender: Male
Race(s): Black or African American
Hispanic Origin: Not Hispanic
Primary Language: English Interpreter Services: Services not needed
Marital Status: Never Married
Education Level: College Bachelors Degree
Employment Status: Employed full time (unsubsidized)
Occupation: [REDACTED]
Annual Household Income: Not Disclosed Number of Dependents: 3
Physical or Mental Disability: No Religious Affiliation: Other
Emergency Contact Person: [REDACTED]
Contact Telephone Number: [REDACTED]

PJM
9-11-20

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Substance Use Prevention and Recovery is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

PART 2. CURRENT DUI ARREST INFORMATION

- 2.1 Referral Source: Court
- 2.2 Beginning Date of Evaluation: 07/23/2020
- 2.3 Completion Date of Evaluation: 07/23/2020
- 2.4 Date of Arrest: 01/09/2017
- 2.5 Time of Arrest: 01:25 AM
- 2.6 County of Arrest: Out of State
- 2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: RT
- 2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DUI arrest (in order of most to least).
Alcohol

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DUI arrest.
Offender reported consuming 4 hard liquor, 2 oz, within 3 hours period before he stopped by the police on 01/09/2017.
Offender reported being on the road for 30 minutes prior to his arrest on 01/09/2017

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.
Not Applicable

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

- 3.1 Prior DUI dispositions including boating and snowmobiling (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
12/26/2006	09/13/2007	.18
01/09/2017	06/26/2017	RT

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

- 3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions).

Zero Tolerance		Illegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1	Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
	Alcohol	21	21	NA	2017
	Marijuana	21	NA	NA	2020

Chronological History Narrative:

Client reported age of first use of alcohol at 21. Reported between age 21-38 consuming only one beer, 12 oz.. Reported drinking socially and occasionally approximation once every 6 months. reported never consumed any alcohol since January 2017.

Client Reported first age smoking Marijuana at age 21. Reported smoking occasionally with friend approximately once every six months.

- 4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

- 4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

- 4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

- 4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

Offender first arrest was on 12/26/2006 at Du Page county for consuming alcohol prior to his arrest the second arrest was on 01/09/2019 (out of state). Alcohol was his primary contribution to his arrest

- 4.6 Identify the significant other and summarize the information obtained in the interview.

Not Applicable

- 4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

Not Applicable

- 4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

Not Applicable

Marriage or significant other relationships

Not Applicable

Legal Status

Not Applicable

Socially

Not Applicable

Vocational/work

Not Applicable

Economic status

Not Applicable

Physically/Health

Not Applicable

PART 4. OBJECTIVE TEST INFORMATION

5.1	Mortimer/Filkins -	Score:	Category:
5.2	ASUDS-RJ Risk Level Guidelines -	Score:	Category:
5.3	Driver Risk Inventory (DRI) Scales and Risk Ranges:		
	Validity Scale:		High/Severe Problem
	Alcohol Scale:		High/Severe Problem
	Driver Risk Scale:		High/Severe Problem
	Drugs Scale:		High/Severe Problem
	Stress Coping Abilities Scale:		High/Severe Problem

PART 6. CRITERIA FOR SUBSTANCE USE DISORDER

6.1 Identify any Substance Use Disorder Criteria occurring within a 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission. One symptom will result in a Moderate Risk Level classification. Two or three symptoms will result in a Significant Risk classification. Four or more symptoms will result in a High Risk classification.

- Alcohol or drugs are taken in larger amounts or over a longer period than intended.
- There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use.
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use.
- Craving, or a strong desire or urge to use alcohol or drugs.
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home.
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs.
- Important, social, occupational, or recreational activities are given up or reduced because of alcohol or drug use.
- Recurrent alcohol or drug use in situations in which it is physically hazardous.
- Alcohol or drug use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol or drugs.
- Tolerance - Either a need for markedly increased amounts of alcohol or drugs to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of alcohol or drugs.
- Withdrawal - As manifested by either the characteristic withdrawal syndrome for alcohol or drugs, or alcohol or drugs are taken to relieve or avoid withdrawals.

6.2 If the offender meets Substance Use Disorder Criteria based on a past episode and is now assessed as being in remission, identify and describe the specifier that reflects the offender's current status.

Current Status: Not Applicable

6.3 Has the offender ever met Substance Use Disorder Criteria by history but and is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria were met and why it is not clinically significant for the purposes of a current risk assessment. The explanation must include the length of time since the last episode, the total duration of the episode, and any need for continued evaluation or monitoring.

No

PART 7. OFFENDER BEHAVIOR

7.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

Client behavior and responses were consistent, reliable, and non-evasive throughout the whole evaluation process

7.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

There are no indications that client has any significant physical, emotional/mental or psychiatric disorders.

7.3 Identify any special assistance provided to the offender in order to complete the evaluation.

There were no special assistance provided to client during the process of his evaluation

7.4 Where was the offender interview conducted?

Licensed Site

PART 8. CLASSIFICATION

8.1 Classification:

SIGNIFICANT RISK: One prior conviction or court ordered supervision for DUI, or one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; AND/OR a BAC of .20 or higher as a result of the most current arrest from DUI; AND/OR two or three symptoms of a Substance Use Disorder.

8.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

The information that was obtained from both the interview and objective test were correlate with the information obtained from the DUI/alcohol/drug offender

PART 9. MINIMAL REQUIRED INTERVENTION

9.1 Minimal Intervention:

SIGNIFICANT RISK: Completion of a minimum of 10 hours of DUI Risk Education; and a minimum of 20 hours of substance abuse treatment; and, upon completion of any and all necessary treatment, and, after discharge, active on going participation in all activities specified in the continuing care plan.

9.2 The offender was referred as follows:

The offender was given a referral list of Illinois Licensed significant Risk provider and signed a referral list verification form provide indicating that he was given the referral list

PART 10. VERIFICATION

Licensed Site Information:

Name: [REDACTED]
Address: [REDACTED]
Telephone Number: [REDACTED]
License Number: [REDACTED]
Evaluator Name: [REDACTED]
Evaluator Credentials: CADC

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature: [REDACTED] Date: 7/23/2020

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature: [REDACTED] Date: 7/23/2020

PART 11. DISPOSITION

This evaluation may only be released to the Illinois Circuit Court of venue or its court officials as specified by local court rules, to the Office of the Secretary of State, or to the Illinois Department of Human Services, Division of Substance Use Prevention and Recovery. Any other release requires the written consent of the DUI offender.

If this evaluation was prepared for the Circuit Court, send the signed original to the court in accordance with established local court rules or policy.

If this evaluation was prepared for the Secretary of State, give the signed original to the DUI offender so that it may be presented to the hearing officer at the time of the formal or informal hearing.

Patient Name: [REDACTED] Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 08/02/2020

ASAM Dimension I

Goal: N/A

Objective(s): [REDACTED] will engage in significant Risk Treatment to assist him with identifying his weakness and about his drinking behavior that lead to his DUI arrest

Intervention(s): N/A

08/02/2020
Start Date

N/A
Review Date

08/02/2020
Today's Date

Patient Signature: _____ Date: 08/02/2020

Staff Signature: [REDACTED] Date: 08/02/2020

[REDACTED]
[REDACTED]

pb
SM
9/1/20

Patient Name: [REDACTED] Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 02/06/2020

ASAM Dimension II

Goal: N/A

Objective(s): N/A

Intervention(s): N/A

Start Date	Review Date	08/06/2020 Today's Date
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Patient Signature: [REDACTED] Date: 08/06/2020

Staff Signature: [REDACTED]

[REDACTED]

Patient Name: [REDACTED] Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 08/02/2020

ASAM Dimension III

Goal: [REDACTED] engage in a full assessment with counselor and determine if he wants to engage in treatment and intervention. Client will develop adequate skilled to deal with life stressors. client to lean about his drinking behavior and learn to never drive if he ever drink alcohol

Objective(s): [REDACTED] will engage in significant Risk Treatment to assist him with identifying compilation of assessment with counselor for Pt. to determine if he will benefit from engaging in treatment and to encourage client to engage services. Pt with counselor will explore strategies and developing needed coping skills.

Intervention(s): client has been informed of the rational to complete and engage in treatment

08/02/2020
Start Date

08/02/2020
Review Date

08/02/2020
Today's Date

Patient Signature: _____ Date: 8/12/2020

Staff Signature: [REDACTED]

[REDACTED]

[REDACTED]

Patient Name: 

Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 08/02/2020

ASAM Dimension IV

Goal: Client will continue to developing high levels of motivation to prevent further alcohol use. Client is motivated and encouraged to complete his treatment. Client stated "I will never drink alcohol again". Client is ready to move forward for his treatment. Client is in a Significant treatment program he is in a ready stage.

Objective(s): Pt will identify and creates a list of all behavior that he has to cease in order to main abstinence. Client will process completion of assignment with counselor during individual sessions. Client will share his finding during groups with his peers

Intervention(s): Rational has been given to client to support completion of assignment. Counselor will check progress of assignment during sessions and offer assistance if needed. Client is encouraged to learn and practice what have learned to reach his goals and complete his

Significant Risk Treatment

08/02/2020

Start Date

08/02/2020

Review Date

08/02/2020

Today's Date

Patient Signature: 

Date: 8/02/2020

Staff Signature: 



Patient Name: [REDACTED] Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 08/02/2020/0

ASAM Dimension V

Goal: [REDACTED] wants to learn prevention and relapse techniques. "drinking is not an option for me anymore".

Objective(s): Client to identify triggers that would help him remain abstinent.

Intervention(s): Rational was given to client regarding developed strategy to assist him with developing relapse prevention skills. Client has been scheduled to attend relapse prevention activity.

08/02/2020		08/02/2020/04/201920
Start Date	Review Date	Today's Date

Patient Signature: [REDACTED] Date: 8/02/2020

Staff Signature: [REDACTED] Date: 8/02/2020

[REDACTED]

Patient Name: _____ Date of Birth: 06/01/1982

Individualized Treatment Plan

Today's Date: 08/02/2020

ASAM Dimension VI

Goal: Client appears motivated and encouraged to comply with the Secretary of State .Client wii
engage in 3 months aftercare treatment as recommended. Client to enhance his lifestyle by
finding ways to communicate with his family. client to get married this summer. client is searchin

Objective(s): Client to attend to complete his significant risk treatment and attend aftercare
treatment.

Intervention(s): Patient will be assisted with meeting all of his treatment recommended
as a result of his assessment.

08/02/2020
Start Date

N/A
Review Date

08/02/2020
Today's Date

Patient Signature: _____ Date: 08/02/2020

Staff Signature: _____

Name: [REDACTED]

Admit Date: 07/23/2020

Discharge Date: 09/09/2020

Continuing Care Treatment: (Include appointment date(s), time, address, and phone number)	Date Developed	Start Date
Client to attend 3 sessions of monthly aftercare (schedule attached).	09/09/2020	10/09/2020
Support Group Referral:		
N/A	N/A	N/A
Other Referrals: (i.e., vocational, educational)		
N/A	N/A	N/A
Other Discharge Instructions: (i.e., diet, activity therapy)		
[REDACTED] will continue to follow his healthy diet and exercise program to help reduce day-to-day stress.		
Medical/Psychiatric Referrals: (Include appointment date(s), time, address, and phone number)		
N/A	N/A	N/A

Discharge Medication(s)	Dose	Frequency	Quantity Given	Indication
None.				

How to contact agency for further treatment services, if needed.

Contact Person: [REDACTED]

[REDACTED]

[REDACTED] Date

[REDACTED] Date

Discharge Summary

Name : ██████████

Admission Date: 07/23/2020

Discharge Date: 09/09/2020

Reason for Intervention: Completion of Intervention

Progress of client relative to each goal and objective int the client's treatment plan:

DIMENTION I (Acute Intoxication/Withdrawal)

No Risk

DIMENSION II (Biomedical Condition or Complications)

None

DIMENSION III (Emotional /Behavioral Conditions and Complications)

None

DIMENSION IV (Readiness to Change)

Client was compliant throughout the Intervention

DIMENSION V (Relapse potential)

Client reports no use of Alcohol or other substances

DIMENSION VI (Recovery Environment)

Client reports good support system through family and friends.

Prognostic: Good

Client appeared to have learned the negative affects of drinking and driving

09/09/2020

RE: [REDACTED]
DOB: 06/01/1982

Continuing Care Status Report

To Whom it May Concern

Mr. [REDACTED] successfully completed his Significant Risk Treatment on 09/09/2020

For further questions and/or concerns, please contact me at [REDACTED]
Mr. [REDACTED] was recommended to engage 3-months of aftercare which entails him to appear once a month. Mr. [REDACTED] is scheduled to attend the first session of aftercare on 10/09/2020.

Please note, this letter is intended to inform that he is in compliances with his program. Also, his prognosis remains good.

Respectfully,

[REDACTED]

09/09/2020

RE: [REDACTED]
DOB: 06/01/1982

To whom it may concern

Mr. [REDACTED] entered treatment at [REDACTED] on 07/23/2020 to satisfy his Significant Risk Treatment requirements as recommended by his Alcohol and Drug Evaluation

Mr. [REDACTED] successfully completed his Significant Risk program and obtained a completion letter on 09/09/2020

Mr. [REDACTED] is scheduled to attend 3 months of after-care starting on 10/09/2020

For further questions and/or concerns, please contact me at [REDACTED]

Respectfully,

Name: [REDACTED]

Admit Date: 07/23/2020

Discharge Date: 09/09/2020

Continuing Care Treatment: (include appointment date(s), time, address, and phone number)	Date Developed	Start Date
Client to attend 3 sessions of monthly aftercare (schedule attached).	09/09/2020	10/09/2020
Support Group Referral:		
N/A	N/A	N/A
Other Referrals: (i.e., vocational, educational)		
N/A	N/A	N/A
Other Discharge Instructions: (i.e., diet, activity therapy)		
[REDACTED] will continue to follow his healthy diet and exercise program to help reduce day-to-day stress.		
Medical/Psychiatric Referrals: (include appointment date(s), time, address, and phone number)		
N/A	N/A	N/A

Discharge Medication(s)	Dose	Frequency	Quantity Given	Indication
None.				

How to contact agency for further treatment services, if needed.

Contact Person: [REDACTED]

Phone Number: [REDACTED]

Discharge instructions given by: [REDACTED]

09/09/2020
Date

I received a copy of my Continuing Care Discharge Plan and understand it:
[REDACTED]

Date

**JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS**

**IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER [REDACTED]**

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer,

[REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for issuance of a Restricted Driving Permit ("RDP") for: employment purposes for driving to and from work and/or while performing job related duties for his self-employment [REDACTED]

[REDACTED]; days, hours and other conditions of which are to be established by verification.

Any permit issued under this Order shall expire no later than (24) months from the date of the issuance of the first permit under this Order. Since Petitioner has two or three convictions for DUI, he is only eligible for a restricted driving permit to be driven on for five years without any significant BAIID violations prior to being eligible for full reinstatement. Additionally, this Order is based upon the Petitioner's driving record at the time of this hearing and it is subject to the subsequent receipt of any report of conviction or other notice that would result in the loss of driving privileges making the Petitioner ineligible for the relief granted.

This Order is not to be construed as an authorization to operate a motor vehicle. Petitioner must meet any and all requirements of the Office of the Secretary as well as all of the terms and conditions of the Breath Alcohol Ignition Interlock Device Program and the BAIID Multiple Offender Program if not yet completed, and be in receipt of said RDP, prior to the operation of any motor vehicle.

FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on April 23, 2019, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED], a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears with his attorney [REDACTED]. The Secretary of State ("Secretary") was represented by [REDACTED].

RELIEF REQUESTED:

Petitioner seeks the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). Petitioner has two or three convictions for DUI and is only eligible for a restricted driving permit to be driven on for five years without any significant BAIID violations prior to being eligible for full reinstatement. 92 IAC, §1001.410(definitions). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record

(including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. Orders revoking Petitioner's driver's license and driving privileges were entered effective **July 11, 2007, February 01, 2000, February 14, 1998, July 14, 1989 (two separate Orders), and August 11, 1987** pursuant to IVC §6-205(a)2, due to convictions for operating a motor vehicle while under the influence of alcohol or other drugs, a conviction for a felony in the commission of which a motor vehicle was used, and a conviction for having possessed, displayed, or attempted to fraudulently use a driver's license or permit.

Orders summarily suspending Petitioner's driver's license and driving privileges were entered effective **January 30, 2008, September 20, 2001, July 26, 1997, and May 22, 1986** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

Petitioner was arrested on multiple occasions for driving on a revoked/suspended license, the last of which occurred on **February 25, 2014**. Petitioner testified that the last arrest for driving on a revoked/suspended license was the most recent occasion on which he disregarded his driver's license revocation and drove a motor vehicle.

5. Petitioner has five arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **December 15, 2007, August 5, 2001, June 10, 1997 (BAC .12), August 03, 1986, and April 06, 1986 (BAC .10)**. (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1).

Petitioner's last arrest for DUI occurred on **December 15, 2007**. Petitioner testified that prior to said arrest he consumed 14 to 18 beers. He admits being intoxicated. Petitioner refused to take a chemical test.

Petitioner's fourth arrest for DUI occurred on **August 5, 2001**. Petitioner testified that prior to said arrest he consumed large unknown quantity of alcohol. He admits being intoxicated. Petitioner refused to take a chemical test.

Petitioner's third arrest for DUI occurred on **June 10, 1997**. Petitioner testified that prior to said arrest he consumed 14 to 18 beers. He admits being intoxicated. Petitioner took and failed a chemical test, registering a .12 BAC.

Petitioner's second arrest for DUI occurred on **August 3, 1986**. He testified that prior to said arrest he consumed an unknown quantity of alcohol. He admits being intoxicated. He refused to take a chemical test.

Petitioner's first arrest for DUI occurred on April 6, 1996. He testified that prior to said arrest he consumed an unknown quantity of alcohol. He admits being intoxicated. He refused to take a chemical test.

6. The Hearing Officer took official notice of the prior formal hearing(s) J-03113-13 and C-04367-12 pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
7. Petitioner is required to participate in the BAID (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAID program. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAID Questionnaire" (see Petitioner's Exhibit #2), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAID Program. Petitioner is also a BAID Multiple Offender due to, having been convicted of a second or subsequent offense under Section 11-501 of this Code or a similar provision of a local ordinance and is therefore also required to install a BAID in every motor vehicle registered in his name, either solely or jointly, upon the issuance of relief and to comply with the requirements of the BAID Multiple Offender Program. A BAID Multiple Offender must drive on a restricted driving permit for five years. However, anyone who has completely fulfilled the requirements of a BAID Multiple Offender as a result of prior hearings or is currently in the system as a Life-time, MDDP or BAID permittee is not a BAID Multiple Offender. 92 IAC, §1001.410(definitions).
8. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on [REDACTED] conducted by [REDACTED] (Secretary Ex #3).
9. Petitioner submitted the following evaluations: a current Updated Alcohol and Drug Evaluation dated [REDACTED] conducted [REDACTED] (Petitioner Ex #1); a previously submitted Updated Alcohol and Drug Evaluation dated September 10, 2013 by [REDACTED] ON (Secretary Ex #3); and an Alcohol and Drug Evaluation Uniform Report dated August 9, 2018 conducted by [REDACTED] CO. (Secretary Ex #3) and a previously submitted Alcohol and Drug Evaluation Uniform Report dated October 5, 2012 by [REDACTED] ON (Secretary Ex #3).

10. The Hearing Officer finds that the evidence does support the **Significant Risk** classification contained therein. Petitioner's testimony regarding his alcohol/drug use, his submitted documents, and other evidence establish the following regarding the nature and extent of Petitioner's use/abuse of alcohol and/or drugs:
- a) Petitioner testified that he consumed 10 to 18 beers 2 times per week in the year prior to his last DUI arrest on **December 15, 2007**. He ingested cannabis between the ages of 16 and 19 years. He ingested cocaine 2 times per year between the ages 20 and 37 years.
 - b) Petitioner testified that he has remained abstinent from alcohol and illicit drugs since December 15, 2007. Petitioner intends to maintain abstinence indefinitely and his resolve to remain abstinent appears sincere.
 - c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: blackouts, hangovers, and increased tolerance.
 - d) Petitioner admits he was a problem drinker/user. (Petitioner's testimony).
 - e) Petitioner was administered the required objective test (Mortimer/Fitkins Test, Driver Risk Inventory or ASUDS) as a part of an alcohol and drug evaluation and the results were analyzed therein.
 - f) As a result of his prior formal hearing, Petitioner was recommended for a restricted driving permit. The permit was never issued because Petitioner failed to fulfill the Secretary's requirements in a timely fashion.
11. Petitioner has most recently completed 20 hours of outpatient treatment between April 26, 2007 and June 13, 2007 by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and Continuing Care Status. (Secretary Ex #3).
- a) Petitioner's drinking was caused by his peer group and his social habits. During treatment he learned that he was abusing alcohol. He made significant changes to his life-style by choosing to abstain from alcohol, changing his circle of friends, no longer socializing with alcohol abusers, no longer frequenting bars, leaning healthy methods to respond to stress (including exercising), participating in outdoor activities, and spending time with his family.
12. Petitioner is self-employed [REDACTED] (Petitioner's Testimony).
- a) Petitioner's regular hours and days of employment vary.
 - b) Petitioner is required to drive as far as 75 miles from his place of residence in the course of employment related duties.

13. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
14. For the foregoing reasons, Petitioner has carried his burden of proving that he has satisfactorily addressed his alcohol problem and that he would be a safe and responsible driver if granted driving relief. Petitioner should operate a motor vehicle continuously on an RDP, utilizing the BAID for five years, before he is eligible for reinstatement of his driving privileges.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner used alcohol/drugs irresponsibly in the past, but that he has responsibly addressed this past abusive behavior.
2. The Petitioner provided evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440(b)(3), as amended, as amended.
3. The evidence indicates that the Petitioner will be a safe and responsible driver and that to issue him a Restricted Driving Permit will not endanger the public safety and welfare. See Ill. Adm. Code Sec. 1001.430, as amended.
4. The Petitioner is eligible for the "breath alcohol ignition interlock device" (BAID) program and must, therefore, comply with all of the provisions of the program. 92 IAC, §1001.410(definitions) and the BAID Multiple Offender Program. 92 IAC, §1001.410(definitions).
5. Since Petitioner has two or three convictions for DUI, he is only eligible for a restricted driving permit to be driven on for five years without any significant BAID violations prior to being eligible for full reinstatement. 92 IAC, §1001.410(definitions).

RECOMMENDATION:

The petition for the issuance of an RDP for employment purposes should be **GRANTED**, after Petitioner meets any and all requirements of the Secretary's Office including the terms and conditions of the **Breath Alcohol Ignition Interlock Device (BAIID) Program** and the **BAIID Multiple Offender Program** if not yet completed. Since Petitioner has two or three convictions for DUI, he is only eligible for a restricted driving permit to be driven on for five years without any significant BAIID violations prior to being eligible for full reinstatement. 92 IAC, §1001.410(definitions)


HEARING OFFICER

December 31, 2019

Detail Summary

Name: MR. [REDACTED]
Address: [REDACTED]

Driver License Number: [REDACTED]
Permit Issue Date: Nov/21/2019

Day	Date	Time	Event	BAC	Result
SAT	Dec/21/2019	13:23	RUNNING RETEST SANCTION	0.0820	FAIL

Regarding:

DL# [REDACTED]

To Whom it may Concern/Secretary of State:

I am writing this response as an explanation of a drive permit violation which was requested by your office.

On December 21, 2019 I was driving my vehicle with the BAID system which appeared to be functioning properly.

I was visiting a friend who had been working outside on his own vehicle and because he was cold he asked to sit in my car to warm up. In order to keep the heat on I left the car running. My friend offered me a cocktail, which I had just finished consuming when the machine immediately signaled for me to blow.

This is a circumstance of forgetfulness and poor judgment. I had the BAID installed in December of 2019. I was struggling with learning how to use the device as the model installed had been giving me frequent problems and failures that required numerous visits to the installation mechanic. In addition to adjusting to the devices inconsistencies, I also forgot that I cannot keep the car running. I had intended to have just one drink and drive home in a few hours.

I have since had the model changed out after several requests so that I can accommodate myself to the proper use of the device. I also now understand that regardless of the weather I cannot keep the car running to warm it up for anyone and that any time the vehicle is running I must assume that it is as if I am driving.

I appreciate your attention to this matter and would like to maintain my driving privileges in order to continue to provide financially for my family.

Sincerely,

[REDACTED]

REJECTED

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges is hereby DENIED.

This Order is final and subject to appeal within thirty-five (35) days pursuant to the Administrative Review Law. The Department of Administrative Hearings does not consider motions to reconsider a decision made or Order entered in a formal hearing, pursuant to 92 IL ADC 1001.80.

FINDINGS AND RECOMMENDATIONS
OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on **March 5, 2020**, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears with his attorney [REDACTED]. [REDACTED] The Secretary of State ("Secretary") was represented by [REDACTED].

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privilege. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Re-

sponse, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. Orders revoking Petitioner's driver's license and driving privileges were entered effective **July 11, 2007, February 14, 1998 (two separate orders) and August 11, 1987** pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order revoking Petitioner's driver's license and driving privileges was entered effective **February 01, 2000** pursuant to IVC §6-206(a)10, a conviction for having possessed, displayed, or attempted to fraudulently use a driver's license or permit not issued to you.

Two separate orders revoking Petitioner's driver's license and driving privileges were entered effective **July 14, 1989** pursuant to IVC §6-205(a)3, due to any felony under the laws of any State or the federal government in the commission of which a motor vehicle was used.

Orders summarily suspending Petitioner's driver's license and driving privileges were entered effective **January 30, 2008, September 20, 2001, July 26, 1997 and May 22, 1986** pursuant to IVC §11-501.1, after he failed or refused a chemical test.

Petitioner was arrested on **May 01, 2014, April 30, 2014, February 25, 2014, January 21, 2014, December 15, 2007, October 25, 2007, August 10, 2007, July 21, 2003, June 09, 1997, July 01, 1995, February 22, 1995, February 02, 1995, November 02, 1990, February 17, 1989 and August 03, 1986** for driving on a revoked/suspended license.

5. Petitioner has 5 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of **December 15, 2007 (positive for drugs), August 5, 2001 (refusal), June 10, 1997 (BAC .12), August 03, 1986 and April 06, 1986 (BAC .10)**. (Secretary of State's Exhibits #3 & 5).

Pursuant to stipulation: Petitioner's last arrest for DUI occurred on **December 15, 2007**. Petitioner testified that prior to said arrest he consumed 14 to 18 beers. He admits being intoxicated. Petitioner refused to take a chemical test.

Petitioner's fourth arrest for DUI occurred on **August 5, 2001**. Petitioner testified that prior to said arrest he consumed large unknown quantity of alcohol. He admits being intoxicated. Petitioner refused to take a chemical test.

Petitioner's third arrest for DUI occurred on **June 10, 1997**. Petitioner testified that prior to said arrest he consumed 14 to 18 beers. He admits being intoxicated. Petitioner took and failed a chemical test, registering a .12 BAC.

Petitioner's second arrest for DUI occurred on **August 3, 1986**. He testified that prior to said arrest he consumed an unknown quantity of alcohol. He admits being intoxicated. He refused to take a chemical test.

6. The Hearing Officer took official notice of the prior formal hearing(s) [REDACTED] and [REDACTED] pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
7. Petitioner attended and completed an additional alcohol/drug remedial education course or DUI risk education course on February 28, 2020, conducted by [REDACTED] (Petitioner Ex #2). Petitioner previously completed an alcohol/drug remedial education course or DUI risk education course on June 13, 2007, conducted by [REDACTED] (Secretary Ex #3).
8. Petitioner submitted the following evaluations: a current Updated Alcohol and Drug Evaluation dated February 4, 2020 conducted by [REDACTED] (Petitioner Ex #1); a previously submitted Updated Alcohol and Drug Evaluation dated April 17, 2019 by [REDACTED] (Secretary Ex #3); an Alcohol and Drug Evaluation Uniform Report dated August 9, 2018 conducted by [REDACTED] (Secretary Ex #3) and a previously submitted Alcohol and Drug Evaluation Uniform Report dated October 5, 2012 by [REDACTED] (Secretary Ex #3).
9. The Hearing Officer fully considered the alcohol/drug evaluations presented by Petitioner and finds that the evidence might not be consistent with the Significant Risk classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985), Christiansen v. Edgar, 209 Ill. App. 3rd 36, 567 N.E.2d 696 (4th Dist. 1999).
 - a) Petitioner testified that he consumed 10 to 18 beers 2 times per week in the year prior to his last DUI arrest on December 15, 2007. Petitioner used cannabis between the ages of 16 and 19 years and cocaine 2 times per year between the ages 20 and 37 years.
 - b) Petitioner testified that since his last DUI arrest on December 15, 2007, he remained abstinent until October 27, 2018 when he got married and began consuming 1-3 beers 1-2 times a month. The Hearing Officer finds that Petitioner's testimony regarding his current drinking pattern is inconsistent with his updated evaluation dated February 4, 2020 which indicates that this drinking pattern began following his last evaluation dated April 17, 2019. Also, given Petitioner's less than truthful testimony given at his last hearing dated April 22, 2019 indicating that he had remained abstinent since his last DUI arrest, Petitioner's credibility is diminished. Moreover, of concern to the Hearing Officer is Petitioner's testimony of being abstinent for over 11 years, then resuming his

alcohol use and receiving a BAID violation with a BAC reading of .082 indicating insufficient changes in his attitude toward alcohol/drugs to avoid future arrest.

The Court has held that the Plaintiff's credibility has some bearing on whether he will be safe and responsible driver. People v. Masten (5th Dist., 1991), 219 Ill.App.3d 172, 579 N.E.2d 27, 161 Ill.Dec. 770.

Petitioner experienced a BAID violation on **December 21 2019** registering a BAC reading of .082 at 1:23 PM. The BAID Violation Review Form dated January 21, 2020 indicates that Petitioner admits to consuming alcohol. (Secretary's Ex #6). At instant hearing Petitioner testified that on December 21, 2019 he arrived at a work establishment (where he keeps equipment and tools) and saw a couple coworkers. He indicated that he left his vehicle running because he didn't expect to stay long and the weather was cold. The coworkers wanted to celebrate an account the company had landed and offered Petitioner a drink. Petitioner had a drink and right after that he heard the BAID device in his vehicle signaling for a retest so he went to his vehicle and retested resulting in a .082 BAC reading. Petitioner testified that he began drinking before lunch between 11:00 AM 12:00 PM on that occasion then changed his testimony to drinking the shot about a minute after the he heard the device signaled a retest. Petitioner testified that he wasn't intoxicated at that time and hasn't been intoxicated since 2007. **The Hearing Officer finds Petitioner's testimony of not being intoxicated after a BAC reading of .082, which is considered to be legally intoxicated, is disconcerting and inconsistent. Petitioner's denial of intoxication, after 5 DUI arrests and a legally intoxicated BAC reading, rises questions concerning what he has gained from his treatment experience and if additional treatment is necessary. Given Petitioner's past and present alcohol use, Petitioner needs to provide a detailed explanation either ruling out or diagnosing alcohol dependency at his next formal hearing.**

- c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: blackouts, hangovers, and increased tolerance.
- d) Petitioner admits he was a problem drinker/user. (Petitioner's Testimony). However, denies being intoxicated after a BAC reading of .082. Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. Berner v. Edgar, No. 4-89-278 (Rule 23, Dec. 21, 1989). **This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.**
- e) Petitioner was administered the required objective test (Mortimer/Filkins Test, Driver Risk Inventory or ASUDS) as a part of an alcohol and drug evaluation and the results were analyzed therein.

- f) Petitioner was granted relief at his last hearing and subsequently issued a BMO RDP.
10. Petitioner previously completed 20 hours of outpatient treatment between **April 26, 2007** and **June 13, 2007** by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and Continuing Care Status. (Secretary Ex #3). Due to the BALID violation, Petitioner completed an additional 10 hours of Risk Education to refresh his knowledge of the effects of alcohol, BAC and the consequences of drinking and driving.
- a) Petitioner's drinking was caused by peer pressure. During treatment he learned that he was abusing alcohol. He made significant changes to his life-style by changing his circle of friends, no longer socializing with alcohol abusers, no longer frequenting bars, learning healthy methods to respond to stress (including exercising), participating in outdoor activities and spending time with his family. However, Petitioner's explanation as to the nature and causes of his drinking is undermined by the issues brought up in this order.
- b) Petitioner's denial of being intoxicated after a BAC reading of .08, minimization of his drinking and/or drug history and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. **The provider's response must be submitted in writing at the next formal hearing.**
11. In addition to the documents specifically required by 92 IAC, §1001, *et seq.*, Petitioner offered the following documents which were admitted into evidence: Petitioner submitted a copy of a Wisconsin identification card issued on **December 18, 2019**. Petitioner testified early at the instant hearing that he had moved to Wisconsin about a year ago then changed his testimony to having become a resident about 3 months ago. Petitioner testified that he has not driven since he moved to Wisconsin due to his permit becoming invalid based on his move. **The Hearing Officer again questions Petitioner's credibility based on the fact that he received a BALID violation on December 21, 2019 clearly indicating that Petitioner was driving knowing that his permit was no longer valid due to him becoming a resident of Wisconsin. Petitioner's disregard for Illinois Vehicle Law places him as an unacceptable risk for public safety at this time.**
12. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
13. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reasons contained in the following Finding of Facts # 9, 9b, 9d, 10a-b and 11. Therefore, it is recommended that he be denied driving relief.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
3. Given the unresolved issues raised herein (See Finding(s) of Fact 13), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.

RECOMMENDATION:

The petition for the reinstatement of full driving privileges should be **DENIED**.

~~_____~~
~~_____~~
~~_____~~

**ILLINOIS PETITIONER
ALCOHOL/DRUG EVALUATION
REPORT UPDATE**



ORIGINAL



**Office of the
Secretary of State
DEPARTMENT OF
ADMINISTRATIVE HEARINGS**

Additional forms may be obtained at
www.cyberdriveillinois.com

INSTRUCTIONS:

An Alcohol/Drug Evaluation Report Update cannot be used if the petitioner has been arrested for DUI since his/her Uniform Report/Investigative Report was completed (a new Uniform Report must be submitted).

Investigative Reports that did **not** recommend intervention normally do **not** require an updated evaluation unless otherwise directed by the Secretary of State Department of Administrative Hearings.

If your agency only completed a Treatment Needs Assessment (TNA), early intervention or continuing care, your agency may **not** complete the Alcohol/Drug Evaluation Report Update (a new Uniform Report must be submitted).

This petitioner's case file transferred to this agency on ___/___/___ from _____

YES NO

My agency completed a Uniform Report/Investigative Report on 08 / 09 / 18.

YES NO

My agency provided primary alcohol/drug-related treatment to this petitioner on ___/___/___.
(Discharge Date)

YES NO

If you answered yes to any of the last three statements, your agency may conduct the Alcohol/Drug Evaluation Update. This document shall report the nature and extent of the petitioner's use of alcohol and other drugs from the time period from his/her last evaluation to the present. Any new or additional recommended countermeasures must be reported and completed by the petitioner and documented for his/her application for driving relief. A petitioner is expected to complete the recommended countermeasures. If it is an ongoing countermeasure (such as support system attendance, abstinence, etc.), he/she is expected to follow those recommendations.

All items contained in this form must be completed. The information provided should be typed, as illegible documents will delay the application process or result in the denial of petitioner's application. If more space is needed, attach additional sheets. Before completing this evaluation, review all previous evaluations, treatment summaries and the petitioner's last Denial Order from the Secretary of State (if applicable).

NOTE: If not previously submitted, attach a copy of the Alcohol/Drug Evaluation Uniform Report, any subsequent Alcohol/Drug Evaluation Update and a copy of the petitioner's chronological alcohol and drug use history. If the Alcohol/Drug Evaluation Update is being completed by a treatment agency, a Comprehensive Discharge Summary also must be submitted.

PERSONAL:

This Alcohol/Drug Evaluation Report Update form reports the nature and extent of the use of alcohol or drugs and the resulting recommendations for the following petitioner:

Name: (Last, First, Middle) [REDACTED]		Illinois Driver's License Number: [REDACTED]	
Address: (Street/City/State/ZIP) [REDACTED]			
Sex: <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Date of Birth: 05 / 11 / 1969	Home Telephone Number: ([REDACTED])	Work Telephone Number: ()

Beginning Date of Evaluation: February 4, 2020

Completion Date of Evaluation: February 4, 2020

PI
DM
3-5-20

Instructions: All items under the following sections must be answered. If more space is needed, attach additional sheets. When including any direct-quote statements, identify them with appropriate quotation marks. **This evaluation covers the time between the petitioner's last evaluation through the completion date of this Alcohol/Drug Evaluation Update.**

1. ALCOHOL/DRUG USE HISTORY:

Since the petitioner's last evaluation, report any periods of abstinence from alcohol, the length of each period of abstinence, and the reasons for becoming abstinent. If currently abstinent, report petitioner's abstinent date _____

What is your clinical impression on the petitioner's ability to maintain abstinence from alcohol?

Not Applicable

Since the petitioner's last evaluation, has he/she become intoxicated while using alcohol? YES NO
If yes, how many times: _____

On the occasions the petitioner became intoxicated, did he/she typically consider himself/herself:
 slightly intoxicated, moderately intoxicated or heavily intoxicated?

On the occasions the petitioner became intoxicated, how much alcohol was typically consumed and over what time period?

Not Applicable

2. Since the petitioner's last evaluation, report any periods of abstinence from substances other than alcohol. Identify the substance used, the length of each period of abstinence, and the reasons for becoming abstinent. If currently abstinent from all substances (excluding alcohol), report petitioner's abstinent date 2007

What is your clinical impression on the petitioner's ability to maintain abstinence from illicit drug use?

[REDACTED] continues to report abstinence from marijuana since 1989 and cocaine since 2007. His prognosis for continued abstinence is good as demonstrated by his continuance with all positive lifestyle changes and his abstinence thus far.

Since the petitioner's last evaluation, has he/she become intoxicated while using substances other than alcohol?
 YES NO If yes, how many times: _____

On the occasions the petitioner became intoxicated, did he/she typically consider himself/herself:
 slightly intoxicated, moderately intoxicated or heavily intoxicated?

On the occasions the petitioner became intoxicated, how much of the substance(s) were typically used and over what time period?

Not Applicable

3. Since the petitioner's last evaluation, did he/she concurrently use alcohol and other substances? YES NO
If yes, explain:

Not Applicable

4. If the petitioner has used alcohol and/or drugs since his/her last evaluation, describe the petitioner's drinking and drug use pattern since the last evaluation, including frequency, type, amount, duration of said pattern, and report frequency of intoxications.

Mr. [REDACTED] reports, following his last evaluation dated 04/17/2019, he made the personal decision to drink alcohol in a responsible, non-problematic way. He reports his current alcohol use as 1-2x per month, 1-3 beers per occasion, with no intoxication.

5. Since the petitioner's last evaluation, has he/she exhibited any impairments in significant life areas (social, legal, family, marital, physical, economic), and/or has he/she exhibited any alcohol/drug-related problems, **including but not limited to** black-outs, increased tolerance, loss of control, withdrawal symptoms, increased alcohol or drug use, and using substances to self-medicate chronic pain or symptoms of depression? YES NO Report frequency of each.

There are no impairments in any significant life areas. There are no alcohol/drug related problems.

6. Report any current significant physical, medical, emotional/mental health or psychiatric problem(s) and participation in and/or completion of any treatment not previously reported or which has occurred since the last evaluation. A treatment discharge summary should be submitted for any treatment completed. A progress report should be submitted for any treatment not completed. The petitioner will be informed whether a Medical Report Form is required.

There are no current physical, medical, mental health, or psychiatric issues nor has there been any treatments.

7. Is the petitioner taking any medication (prescription or over-the-counter) that when taken alone or in combination with alcohol or other drugs might impair driving ability? YES NO If yes, identify the medication and discuss any potential impairment. Petitioner will be informed whether a Medical Report Form is required.

Not Applicable

Section 8 (a-d) is required for the first update evaluation only.

8. Review the information previously obtained regarding the petitioner's most recent DUI arrest or, if not revoked for DUI, the most recent alcohol/drug-related arrest. This should include, at a minimum, the time and date of the arrest, reason for arrest, type and amount of alcohol or drugs consumed over what time period, petitioner's perception of the effect of the alcohol and/or drugs consumed, and any chemical test results.

- a. Date of offense: _____ Type of offense: DUI
- b. Time of first drink: _____ Time of last drink: _____ Time breath or chemical test given: _____
Total consumption metabolism time (from first drink until test given): _____
- c. Does the blood-alcohol (BAC) reading of _____ correlate with the amount of alcohol consumed, total consumption metabolism time and petitioner's body weight _____ at that time? YES NO Explain:

This is the petitioner's 2nd update.

- d. Type of substance used (other than alcohol): _____ Amount of substance used: _____ Time period substance was used: _____
Last time substance used before the alcohol- or drug-related arrest: _____
9. Indicate any significant lifestyle changes, including employment, marital, social, family, economic, etc., if applicable.

The petitioner reports none.

10. Identify current peer group and recreational activities, if applicable.

Mr. [REDACTED] continues to report avoiding all old peers, people who consume alcohol heavily, or places where alcohol is abused. He reports he continues to spend any free time with his family. He reports working on cars, exercising, outings with his family, and projects around the house as activities he enjoys and engages in regularly.

11. If the petitioner is still using alcohol/drugs, what is his/her intent toward the future use of alcohol and/or drugs? Or, if the petitioner is abstinent, what is the petitioner's intent toward maintaining long-term abstinence?

Mr. [REDACTED] reports he intends to maintain his non-problematic pattern of alcohol use long-term.

12. If the petitioner is "**Alcoholic/Chemically Dependent**," identify his/her support system, frequency of contacts with other members, duration of current attendance, petitioner's intent to continue with this support system, and the evaluator/treatment provider's impression as to whether this support system is sufficient to maintain long-term abstinence.

Not Applicable

13. Report any alcohol/drug-related arrests not previously reported or which have occurred since the last evaluation, in any state, including felonies, misdemeanors, petty offenses and local ordinance violations since the petitioner's last evaluation, including the name of the offense(s), where and when it occurred, disposition of the offense(s), and whether the petitioner is on probation or parole regarding the offense(s).

The petitioner reports none.

14. If you have been using the BAIIID device how many, if any, BAIIID violations have you had from the date of installation to date? 1- 12/21/2019- positive reading at running retest

CORROBORATION:

Interview with a Significant Other — May be a family member, friend, employer, parent/guardian, etc. The summary should include, but not be limited to, the following information: significant other's name, age and relationship to the petitioner; how long he/she has known the petitioner; how often he/she sees the petitioner, how long he/she has maintained his/her present level of contact with the petitioner, his/her perception of the petitioner's current alcohol or other drug use pattern and/or abstinence, and whether he/she can verify the duration of the petitioner's current alcohol use or other drug use and/or abstinence. Discuss how corroborative information from the interview either correlates or does not correlate with the information obtained from the DUI/alcohol/drug offender. **This interview requirement cannot be waived and must be conducted in every updated alcohol/drug evaluation completed.**

[REDACTED] (petitioner's sister) continues to report talking to the petitioner throughout the week. She continues to report having no current concerns and was able to verify all information provided.

RESPONSE TO PRIOR DENIAL OF DRIVING RELIEF AND/OR ALL BAIIID VIOLATIONS:

The evaluator/treatment provider's response may be completed on agency letterhead and attached.

- a. The petitioner must submit to the evaluator/treatment provider his/her (a) last Order/Letter of Denial; (b) and/or Letter of Rejection of Explanation from the BAIIID Department regarding a BAC violation incurred while driving on an RDP or MDDP; (c) and/or Order/Letter issuing a Restricted Driving Permit but containing unresolved issues to be addressed prior to reinstatement. The evaluator/treatment provider must effectively address the significant issues raised therein. Was this documentation submitted? YES NO **Petitioner's failure to provide this information may result in the denial of the application for driving relief.**

- b. Summarize how each significant issue was effectively addressed and/or resolved.
Mr. [REDACTED] reports, on 12/21/2019, he stopped at a friend/ co-worker's house. Upon arriving, he left his car running, as he was not planning to stay long. The petitioner reports he was offered a toast of 1 shot of alcohol to celebrate a big account they had just secured for work, and he took the shot. He reports, moments later, he heard his BAIIID device going off, and without thinking, he blew into the device, resulting in the .082 reading. The petitioner reports he was able to drive his vehicle 30-45 minutes later. [REDACTED] fully acknowledges he made an extremely poor choice in taking the shot.

- c. Provide a clear and complete explanation of why this additional information either changes or does not change the petitioner's classification and/or alters your clinical impression.
The petitioner's past and present alcohol use and symptomatology were explored in depth. The history and symptoms the petitioner continues to report are consistent with his Level II Significant classification, thus no change in classification is warranted.

- d. Provide a clear and complete explanation as to whether this additional information warrants or does not warrant additional treatment hours. **Additional treatment hours must be completed and properly documented before applying for driving relief.**

While Mr. [REDACTED] only reports taking 1 shot and does not appear to have drunk to intoxication, his choice to consume any alcohol when planning to drive represents extremely poor judgement on his part. In the moment, it appears the petitioner did not think through the potential consequences of his actions. Based on this information, it appears Mr. [REDACTED] would benefit from completing an additional 10 hours of Risk Education to refresh his knowledge of the effects of alcohol, BAC, consequences of drinking and driving, and remind him of the costs of his past drinking and driving behavior.

CLASSIFICATION:

This classification is based on the petitioner's alcohol/drug-related driving arrests, criminal arrests and symptoms of alcohol/drug abuse/dependency. **Any reclassification to a higher classification requires referral to a licensed treatment provider to assess the petitioner's current need for treatment.**

CURRENT CLASSIFICATION:

- MINIMAL RISK
- MODERATE RISK
- SIGNIFICANT RISK
- HIGH RISK NON-DEPENDENT

PREVIOUS CLASSIFICATION:

- MINIMAL RISK
- MODERATE RISK
- SIGNIFICANT RISK
- HIGH RISK NON-DEPENDENT

(3 DUI dispositions in a 10 year period from the date of the most recent DUI arrest: further assessment required)

- HIGH RISK CHEMICAL DEPENDENCY
- HIGH RISK CHEMICAL DEPENDENCY

(four or more DSM V symptoms of dependency)

- ACTIVE
- IN REMISSION
- ACTIVE
- IN REMISSION

Provide your rationale for selecting this classification, including an explanation if the classification appears to conflict with those symptoms or general indicators you have identified and described in this report.

A review of all of the evidence including the petitioner's alcohol/drug use history indicates that the petitioner was appropriately classified, and there is no new information which would warrant changing the classification.

1. RECOMMENDATIONS:

Report previous recommendations and when they were successfully completed.

[REDACTED] was initially recommended to complete 20 hours of treatment which he completed on 06/13/2007. He has successfully completed all prior recommendations.

- 2. Report any new or additional recommendations and provide a rationale for such recommendations. If "d" was completed under **PRIOR DENIAL OF DRIVING RELIEF, no response is necessary. Additional treatment hours must be completed and properly documented before applying for driving relief.**

[REDACTED] is recommended to complete an additional 10 hour Risk Education course.

EVALUATOR VERIFICATION (required):

I certify that I have accurately reported the data collected and required in order to complete the evaluation update.

Provider's Name: (type or print) [REDACTED]	
Date: 2/4/2020	[REDACTED]
Provider's Title: [REDACTED]	Telephone Number: [REDACTED]
Program Name: [REDACTED]	Accreditation/License Number: [REDACTED]
Address: (Street/City/State/ZIP) [REDACTED]	

This evaluation update must be signed, dated and be no more than six months old from the Completion Date of Evaluation found on page 1 when received by the Secretary of State's office.

PETITIONER VERIFICATION:

Must be verified in the presence of the evaluator/treatment provider.

The information I have provided for this Alcohol/Drug Evaluation Report Update is true and correct. I have read the information contained in this report and all the recommendations have been explained to me.

Petitioner's Signature: [REDACTED] Date: 2-28-20

State of Illinois
Department of Human Services

**DUI Risk Education
Certificate of Completion**

Offender Information

Name: [REDACTED]
Home Address: [REDACTED]
County of Arrest: DuPage
IL Driver's License Number or State ID: [REDACTED]
Other Valid Driver's License Number/State: [REDACTED]

Risk Education Verification

Did the DUI offender complete a total of at least 10 hours of alcohol and drug education?
Yes

Test Scores - Pre-test Score: 65 Post-test Score: 89

Please specify the dates the offender attended risk education.

02/07/2020 02/14/2020 02/21/2020 02/28/2020

Licensed Site Certification

Name: [REDACTED]
Address: [REDACTED]
Phone Number: [REDACTED]
License Number: [REDACTED]
Instructor Name: [REDACTED]
CADC

Under penalty of perjury, I affirm that the offender listed above has successfully completed DUI risk education and that all the information specified on this form is true and correct.

Signature: [REDACTED] Date: 2/28/2020

PZ
JIM
3/5/20

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, THERESA COSMANO in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for a Restricted Driving Permit ("RDP") is hereby DENIED.

FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on October 28, 2016, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is not eligible for full reinstatement until August 20, 2017 and therefore must demonstrate an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(d). Petitioner has two or three convictions for DUI and is only eligible for a restricted driving permit to be driven on for five years without any significant BAIID violations prior to being eligible for full reinstatement. 92 IAC, §1001.410(definitions). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Alcoholism and Substance Abuse ("DASA") unless specified otherwise. The Petitioner was granted leave to submit a letter clarifying the date of his Treatment Needs Assessment and Waiver within seven days of the instant hearing. Said documents were admitted into evidence as Petitioner's Exhibit #1.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into

evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status (NVS) and/or Visa Status (VS) at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS-History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective August 20, 2016 pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.
5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of August 16, 2015 (R) and April 19, 2015 (R) in the state of Indiana. (Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1).

Petitioner's last arrest for DUI occurred on August 16, 2015. Petitioner testified that prior to said arrest he consumed 1 beer and 1 top-shelf long island ice tea from 6:00 p.m. until approximately 9 p.m. at a bar. After driving 9 miles he was stopped for swerving. Petitioner weighed 205 pounds. He admits being intoxicated. Petitioner refused to take a chemical test.

Petitioner's first arrest for DUI occurred on April 19, 2015 in Indiana. Petitioner testified that prior to said arrest he was at his cousin's place where he consumed 6 to 7 beers from 7:30 p.m. to 11:30 p.m. and drove 8 miles when he was stopped. Petitioner weighed 205 pounds. He admits being intoxicated. Petitioner refused to take a chemical test.

6. Petitioner is required to participate in the BAID (Breath Alcohol Ignition Interlock Device) program because the Petitioner: has two or more DUI convictions or reckless homicide convictions where the use of alcohol or drugs was an element of the offense, including similar out-of-state convictions or any combination thereof, resulting in the current loss of driving privileges or has been convicted of driving while revoked if the underlying revocation currently in effect is due to a conviction for reckless homicide where alcohol or drugs is recited as an element of the offense or similar out-of-state offense or has a statutory summary suspension pursuant to 11-501.1 or a suspension pursuant to Section 6-203 or any combination thereof, Petitioner has a single conviction pursuant to Section 11-501(d)(i)(c) or 11-501(d)(f) or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC, 92 IAC, §1001.410(definitions). He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAID Questionnaire" (see Petitioner's Exhibit #4), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAID Program. Petitioner is also a BAID Multiple Offender due to having two or more DUI convictions and is therefore also required to install a BAID in every motor vehicle registered in his name, either solely or jointly, upon the issuance of relief and to comply with the requirements of the BAID Multiple Offender Program. 92 IAC, §1001.410(definitions).

7. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on May 26, 2016, conducted by [REDACTED] (Petitioner Ex #3).
8. Petitioner submitted the following evaluation: an Alcohol and Drug Evaluation Uniform Report dated October 27, 2016 and Treatment Waiver dated October 21, 2016 conducted by [REDACTED] (Petitioner Ex #1). Petitioner was granted to leave to correct the date of the Treatment Waiver which indicated the Treatment Waiver was completed before the Uniform Report. The Petition did submit an additional letter but it merely reiterates that the Treatment Waiver was conducted on October 21, 2016 before the Uniform Report.
9. The Hearing Officer fully considered the alcohol/drug evaluation presented by Petitioner and finds that the evidence might not be consistent with the Significant Risk classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985), Christiansen v. Edgar, 209 Ill. App. 3rd 36, 567 N.E.2d 696 (4th Dist. 1999).
 - a) Petitioner testified that he consumed 2 to 3 beers 2 to 3 times per month and never more in the year prior to his last DUI arrest of August 16, 2015. Petitioner further testified that he consumed this same pattern in the year prior to his first DUI arrest. Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated October 27, 2016 which indicates that his pattern was, in addition to the 2 to 3 beers 2 to 3 times a month, also to consume 5 to 7 beers 6 to 8 times annually during this same time. See Encyclopedic Handbook of Alcoholism, pp. 65-66 and pp. 359-360 (Pattison and Kaufman ed. 1982). Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.
 - b) Petitioner testified that since his last DUI arrest on August 16, 2015, he stopped drinking when he entered treatment in the fall of 2015. Petitioner's evaluation states that he stopped drinking when he entered treatment in April of 2016. He remains abstinent and intends to so remain. (Petitioner's Exhibit #1). This discrepancy needs to be explained in writing by his evaluator for the next hearing.
 - c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of The Diagnostic Statistical Manual of Mental Disorders (DSM): drinking more than intended. Therefore, the Petitioner's testimony, evaluations and treatment documents submitted to date suggest that the Petitioner has experienced the following DSM symptoms/criteria:

Alcohol and drugs are taken in larger amounts or over a longer period than intended. (Per testimony).

Recurrent alcohol or drug use in situations in which it is physically hazardous. (Per report dated October 27, 2016).

The current Uniform Report dated October 27, 2016 fails to reflect all of the DSM symptoms/criteria listed above. This may result in a change in classification if the evaluator determines that Petitioner has clinically significant number DSM symptoms/criteria to diagnose alcohol dependence pursuant to the rules of the Department of Alcohol and Substance Abuse (DASA). Petitioner's failure to testify to DSM symptoms/criteria contained in the evaluations submitted to date suggests that he is minimizing his current DASA classification. Petitioner evaluator needs to provide a detailed explanation discussing these discrepancies at his next formal hearing.

- d) Petitioner denies being a chemically dependent person, denies having a problem with alcohol/drugs even on the occasions of his DUI arrest and denies experiencing all significant symptoms of an alcohol problem. (Petitioner's Testimony). Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. *Bemer v. Edgar*, No. 4-89-273 (Rule 23, Dec. 21, 1989). This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.
 - e) Petitioner was not administered the Mortimer/Filkins Test (M-F) as part of an alcohol and drug evaluation (Petitioner's Exhibit #1). The M-F is a detection and assessment instrument used to assist in the identification of an alcohol problem/alcoholism. See 1. Recent Developments in Alcoholism, pp. 377-408 (M. Galanter, ed. 1983). Responses that affect the final M-F score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol. Petitioner's should return to his provider and have the Mortimer/Filkin Test administered to determine the extent of Petitioner's drug/alcohol problem.
10. Petitioner has most recently completed 20 hours of outpatient treatment between April 19, 2016 and June 8, 2016 by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan, Continuing Care Status and Treatment Waiver dated October 21, 2016. (Petitioner Ex #2).
- a) Petitioner's testified that he began drinking when his parent died. He also stated that he used to drink with coworkers. He further testified that during treatment he learned about denial, tolerance, and that he made mistakes. He claims to have made significant changes to his life-style by no longer seeing the people he drank with and he now spends time with kids and goes bowling. The weight to be given his

treatment waiver and/or detailed explanation is undermined by the fact that Petitioner denied abusing alcohol. For these reasons the treatment waiver and/or detailed explanation does not carry much weight.

- b) Petitioner's denial of his substance abuse problem, minimization of his drinking and/or drug history, discrepancies in the DSM symptoms/criteria supporting his current DASA classification and/or conflicting reasons provided for his substance abuse problem indicates that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. The provider's response must be submitted in writing at the next formal hearing.
11. In the course of the hearing, it was discovered that Petitioner suffers from the following mental/physical condition(s) which may affect his ability to safely operate a motor vehicle: high blood pressure, high cholesterol, gout. Petitioner currently takes prescribed medication to address the above condition(s), which may affect his ability to safely drive a motor vehicle. As a result, all driving relief should be conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit which addresses this problem. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office as to when the report should be submitted.
 12. In addition to the documents specifically required by 92 IAC, §1001, *et seq.*, Petitioner offered the following documents which were admitted into evidence: BAID Questionnaire (Petitioner Exhibit #4).
 13. Petitioner is employed by [REDACTED], IL. (Petitioner's Testimony).
 - a) Petitioner's regular hours and days of employment are Monday, Tuesday, Thursday, Friday, and Saturday from 4 a.m. to 4 p.m.
 - b) Petitioner lives 50 miles from his place of employment.
 - c) Petitioner is required to drive as far as 20 miles from his place of employment in the course of employment related duties.
 - d) Petitioner has missed work two months of work as he has been suspended/on FMLA leave. There are no light duty positions available. He needs to drive or be terminated.
 - e) There is no alternative means of transportation available to Petitioner's driving himself to work and/or in the course of his employment related duties for Snak King because he has to have a license no light duty offered. Therefore, the Hearing Officer finds that there is an undue hardship as it pertains to employment. In order to demonstrate an undue hardship, there must be clear and convincing evidence that all other reasonable means of transportation are unavailable to the petitioner.

er. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

- 14. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner stated that needs a license as he needs to work.
- 15. In conclusion, the Petitioner, [REDACTED] has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reason(s): his drinking patterns are inconsistent; his denies abusing alcohol, symptomatology and his Treatment Waiver is dated before the start and completion of his Uniform Report. (See Finding(s) of Fact #9 (a), (b), (c), (d) and Findings of Fact 11 (a) and (b)). Therefore, it is recommended that he be denied driving relief. Although the Petitioner demonstrated undue hardship as it pertains to his employment, the Secretary may deny the Petitioner's application for a restricted Driving Permit even though the evidence establishes an undue hardship when the evidence indicates that the public safety will be endangered if the person is permitted to drive. *Fooge v. Edgar*, 110 Ill. App. 3d 190, 441 N.E. 2d 1267 (1st Dist. 1982); *Cusack v. Edgar*, 137 Ill. App. 3d 505, 484 N.E. 2d 1145 (1st Dist. 1985). See: 92 Ill. Adm. Code, Sec. 1001.420(f) as amended, Sec. 6-206 (c) and Sec. 6-206 (c) 3, of the Ill. Vehicle Code.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

- 1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
- 2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
- 3. Given the unresolved issues raised herein (See Finding(s) of Fact #10 (a-d) and 11 (a-b)), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.
- 4. The Petitioner's undue hardship with regard to maintaining employment, is secondary to the Secretary of State's obligation and duty to protect the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.420(f), as amended.

RECOMMENDATION:

The petition for a restricted driving permit should be **DENIED**.



[REDACTED]

TREATMENT NEEDS ASSESSMENT

February 24, 2017

Office of the Secretary of State
Department of Administrative Hearings

RE [REDACTED]
DDL# [REDACTED]
Treatment Needs Assessment

A Treatment Needs Assessment was conducted with petitioner, [REDACTED] on February 24, 2017 as indicated in his Denial Letter [REDACTED]

[REDACTED] presented himself in a reflective manner as he discussed his significant risk treatment. He explained that for him treatment was a period of self-examination. He explored his personal substance use history and became aware of problems alcohol had caused in his life. The subject states that he has learned the difference between social use, abuse and dependence. He accepts his history of substance abuse, noting that he used and sometimes abused alcohol in social settings. He has since changed friends, no longer associating with people who abuse alcohol.

Chronological Substance Use History

Age 20: Client reports first use of alcohol occurred at age 20, when he shared a quart of MD20/20 with friends. Notes feelings of intoxication and then became sick.

Age 20-40: Client states that was an athlete and that following his first experience with alcohol did not consumed again until age 40.

Age 40-mid-40's: Reports that both parents passed within 9 months of each other. He notes that this was a very emotional time for him. Client began to stop after work with co-workers, 2 times monthly. He reports having shared a few pitchers of beer with dinner, consuming approximately 24-36oz of beer. In addition, on special occasions (3-4 times annually), he would consume 2-3 (12oz) imported beer.

[REDACTED]

Treatment Needs Assessment
[REDACTED]

Mid-late 40's: Relationship issues began to surface. Client denies that alcohol was an issue. He states he would consume 2-3 imported beers, 1-2 times monthly. In addition, on special occasions (6-8 times annually) the client would consume 5-7 (12 oz) beers. This is the pattern that led to client's DUI arrests.

Following arrest: Reports having consumed 2-3 (12 oz) beers or 1 glass of wine, 2 times weekly. This remained the petitioner's drinking pattern until he began substance abuse treatment April 2016. No further use of alcohol to date.

DSM-5 Criteria

- 1) Recurrent substance use in situations in which it is physically hazardous
- 2) Alcohol or drugs taken in larger amounts or over a longer period than intended

Summary

[REDACTED] states that the information provided in the above chronological substance use history is accurate to the best of his recollection. He is well aware that his substance use history appears minimal for a person with 2 DUI/OVI arrests. He, however, has reproduced this same history throughout the treatment process. The client appears credible.

[REDACTED] has successfully completed Significant Risk Treatment. He demonstrates knowledge of substance abuse and the physical and psychological effects both on the individual and society. He has accepted his history of alcohol abuse and personalized his symptomatology. Petitioner identifies his relationship with alcohol as having used in social occasions and relief drinking following the death of both parents within a short time frame. Petitioner further examined his substance use history. He acknowledges that on the occasions when he consumed 5-7 beers during his mid-late 40's petitioners, he did consume more alcohol & over a longer period than intended. The addition of this criteria does not change the client's risk classification level.

[REDACTED] no longer associates with people who abuse alcohol. Petitioner states that he deals with issues as they arrive & in a direct manner. [REDACTED] is very family oriented, spending as much time with his three adult children. He attends weekly church services, often with his children and has joined the choir. Petitioner likes to cook, care for his home and workout.

Treatment Needs Assessment
[REDACTED]

[REDACTED] has made the necessary lifestyle changes conducive to non-problematic alcohol use, making the choice to live an alcohol-free lifestyle. Prognosis for this client appears good at this time. No additional treatment is indicated. Therefore, any additional treatment is waived at this time.

Respectfully,

[REDACTED]
[REDACTED]
[REDACTED]

2-24-17

Date

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF LARRY GOLDEN
DRIVER'S LICENSE NUMBER: G435-5206-8006

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,
WHEREAS, the record has been reviewed; and,
WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,
WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,
WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;
NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for a Restricted Driving Permit ("RDP") is hereby DENIED.

FINDINGS AND RECOMMENDATIONS
OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on February 27, 2017, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED], a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is not eligible for full reinstatement until August 20, 2017 and therefore must demonstrate an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(d) The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b)

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Alcoholism and Substance Abuse ("DASA") unless specified otherwise. The Petitioner was granted leave to submit an original *signed* Alcohol and Drug Evaluation Update within seven days of the instant hearing. A document was received and admitted into evidence as Petitioner's Exhibit #1.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no circumstances which otherwise would have precluded the Petitioner from proceeding with the

hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective August 20, 2016 pursuant to IVC §6-205(a)2, due to conviction for operating a motor vehicle while under the influence of alcohol or other drugs.
5. Petitioner has 2 arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of August 16, 2015 and April 19, 2015 in the state of Indiana. (Secretary of State's Exhibits #3 & 5)

Petitioner's last arrest for DUI occurred on August 16, 2015. Petitioner testified that prior to said arrest he consumed 2 beers and 1 Long Island Iced Tea from 5:00 p.m. to 10:00 p.m. while at a wedding and drove 10 minutes until he was stopped for speeding and crossing the median. Petitioner weighed 200 pounds. He denied being intoxicated. Petitioner refused to take a chemical test. To the contrary, the Alcohol and Drug Uniform Evaluation dated October 27, 2016 indicates that he felt intoxicated on this occasion and he testified to this intoxication at his prior formal hearing. (Secretary Exhibit #3) The Alcohol and Drug Evaluation Update dated February 24, 2017 indicates that he consumed alcohol from 8:00 p.m. to 12:00 a.m. contrary to his current testimony. Additionally, this updated evaluation fails to indicate "type and amount of alcohol or drugs consumed", as was requested in the document. (Petitioner Exhibit #1) He should return to the evaluator to address both his denial of having been intoxicated on this occasion as well as the amount and type of alcohol consumed on this occasion. The evaluator's written response should be submitted and this matter resolved at the next formal hearing.

Petitioner's first arrest for DUI occurred on April 19, 2015 in the state of Indiana. Petitioner testified that prior to said arrest he consumed 5-7 beers and 1 shot of vodka from 4:00 p.m. to 11:30 p.m. while at his cousin's house and drove 6 miles until he was stopped for crossing into the oncoming lane of traffic while he was answering his phone. Petitioner weighed 200 pounds. He admits being intoxicated. Petitioner refused to take a chemical test.

6. The Hearing Officer took official notice of the prior formal hearing(s) C-04727-16 pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
7. Petitioner is required to participate in the BAIDD (Breath Alcohol Ignition Interlock Device) program because the Petitioner: has two or more DUI convictions or reckless homicide convictions where the use of alcohol or drugs was an element of the offense, including similar out-of-state convictions or any combination thereof, resulting in the current loss of driving privileges or has been convicted of driving while revoked if the underlying revocation currently in effect is due to a conviction for reckless homicide where alcohol or drugs is recited as an element of the offense or similar out-of-state offense or has a statutory summary

suspension pursuant to 11-501.1 or a suspension pursuant to Section 6-203 or any combination thereof, Petitioner has a single conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC, 92 IAC, §1001.410(definitions). He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAIID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAIID Questionnaire" (see Petitioner's Exhibit #), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.

7. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on May 26, 2016, conducted by [REDACTED] (Secretary Ex #3)
8. Petitioner submitted the following evaluations: a current Updated Alcohol and Drug Evaluation dated February 24, 2017 with a Treatment Needs Assessment and Denial Response Letter, both dated February 24, 2017, a Continuing Care Summary Report signed on January 14, 2017 conducted by [REDACTED] (Petitioner Ex #1) and an Alcohol and Drug Evaluation Uniform Report dated October 27, 2016 conducted by [REDACTED] (Secretary Ex #3)
9. The Hearing Officer fully considered the alcohol/drug evaluations presented by Petitioner and finds that the evidence might not be consistent with the Significant Risk classification contained therein. The extent of Petitioner's alcohol/drug problem is unclear due to material discrepancies within the evidence. Without a clear and accurate disclosure of Petitioner's relationship with alcohol, the Hearing Officer is unable to assess Petitioner's understanding and acceptance of the nature and extent of his problem with alcohol/drugs, the effectiveness of his treatment, and the resulting changes in lifestyle and consumption patterns. This assessment is necessary before the Secretary can be convinced such a person is a low or minimal risk to repeat his abusive behavior in the future. (See 92 IAC, §1001.440(c) and (d)). The Secretary of State may disregard the findings of any evaluation if the evidence indicates that it is unreliable or incomplete. Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E.2d 1145 (1st Dist. 1985), Christiansen v. Edgar, 209 Ill. App. 3d 36, 567 N.E.2d 696 (4th Dist. 1999)
- a) Petitioner testified that in the year prior to his last DUI arrest on August 16, 2015 he consumed 1-2 beers 1-2 times a week and up to 3 beers one of those times in the week. Petitioner further testified that in the year prior to the first DUI arrest he would consume the same amount.

Petitioner's testimony is inconsistent with the reports contained in the evaluations and other documentation submitted since it conflicts with the report dated February 24, 2017 which indicates that his actual pattern was to consume 2-3 imported beers 1-2 times a month and on special occasions 6-8 times a year he would consume 5-7 beers. Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.

b) Petitioner testified that since his last DUI arrest on August 16, 2015, he consumed one -2 4 ounce glasses of wine once a week until he started class in April 2016. Petitioner has been abstinent since April 2016. The report dated February 24, 2017 indicates that after his last DUI arrest he would consume 2-3 beers or 1 glass of wine twice a week until abstinence.

c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of The Diagnostic Statistical Manual of Mental Disorders (DSM): blackouts, hangovers, drinking more than intended and increased tolerance. In regard to these symptoms, Petitioner further testified that his uncle is an alcoholic. Therefore, the Petitioner's testimony, evaluations and treatment documents submitted to date suggest that the Petitioner has experienced the following DSM symptoms/criteria:

Alcohol and drugs are taken in larger amounts or over a longer period than intended. (per testimony and report dated February 24, 2017)

Recurrent alcohol or drug use in situations in which it is physically hazardous. (per reports dated October 27, 2016 and February 24, 2017)

Tolerance-Either a need for markedly increased amounts of alcohol drugs to achieve intoxication or desired effect or a markedly diminished effect with continued use of the same amount of alcohol or drugs. (per testimony)

The current Uniform Report dated October 27, 2016 fails to reflect all of the DSM symptoms/criteria listed above. This may result in a change in classification if the evaluator determines that Petitioner has a clinically significant number DSM symptoms/criteria to diagnose alcohol dependence pursuant to the rules of the Department of Alcohol and Substance Abuse (DASA). Because of the inconsistency between documentation and testimony, the Hearing Officer is unable to determine the Petitioner's symptoms/indicators of abuse/dependence. He should return to the evaluator to address this issue. The evaluator's written response should be submitted and this matter resolved at the next formal hearing.

d) Petitioner denies being a chemically dependent person, denies having a problem with alcohol/drugs independent of the occasions of his DUI arrests, denied having been intoxicated at his last DUI arrest and denied to his evaluator having experienced some significant symptoms of an alcohol problem. He also testified that alcohol abuse is using too much alcohol and that he abused alcohol on the occasion of his first DUI arrest but not at the second arrest and did not abuse alcohol at any other time. (Petitioner's Testimony)

This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his alcohol/drug problem.

Reviewing courts have held that the degree of self-acceptance of an alcohol/drug problem is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. Berner v. Edger, No. 4-89-278 (Rule 23, Dec. 21, 1989).

- e) Petitioner was administered the Mortimer/Filkins Test (M-F) as part of an alcohol and drug evaluation, and scored 32 points. This places Petitioner in the Social drinker category. (Petitioner's Exhibit #1) The M-F is a detection and assessment instrument used to assist in the identification of an alcohol problem/alcoholism. See Recent Developments in Alcoholism, pp. 377-408 (M. Galanter, ed. 1983). Responses that affect the final M-F score are elicited from questions that are primarily designed to relate to an individual's use/abuse of alcohol. Petitioner's low M-F score is found to be more reflective of his continued denial and minimization of the severity of his alcohol/drug problem, and its accuracy is questionable.
- f) Petitioner was denied relief at his last hearing due to inconsistencies between documentation and testimony with respect to the Petitioner's alcohol use history; because of inconsistency between documentation and testimony with respect to the Petitioner's symptoms/indicators of abuse/dependence; because although classified as a Significant Risk, he denied having abused alcohol; because his Alcohol and Drug Uniform Evaluation dated October 27, 2016 failed to include a Mortimer-Filkins score; because his Treatment Needs Assessment/Waiver dated October 21, 2016 was conducted prior to his Alcohol and Drug Evaluation Uniform Report dated October 27, 2016 and because his treatment experience and treatment waiver were called into question. With the exception of having provided a Mortimer Filkins score and having provided a new Treatment Needs Assessment dated February 24, 2017, the other issues causative of his denial were not adequately addressed in the documentation and testimony presented at the instant hearing.

10. Petitioner has most recently completed 20 hours of outpatient treatment between April 19, 2016 and June 8, 2016 by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan and a Continuing Care Status. At the prior hearing he submitted a Treatment Waiver dated October 21, 2016. (all, Secretary Ex #3) At the instant hearing the Petitioner also submitted a Treatment Needs Assessment dated February 24, 2017 that contains a waiver. (Petitioner Exhibit #1)

- a) Petitioner's drinking was caused by working too much and needing to relax. During treatment he learned about tolerance, impairment and triggers. He claims to have made significant changes to his life-style by having new friends, working out, joining the church choir, and spending time with his children and grandchildren. However, Petitioner's explanation as to the nature and causes of his drinking and weight to be given his treatment waiver and/or detailed explanation is undermined by the fact that his alcohol use history and symptoms/indicators of abuse/dependence are not known, because he has denied having been intoxicated at his last DUI arrest and because he denied having abused alcohol on any occasion other than his last DUI arrest. For these reasons the treatment waiver and/or detailed explanation does not carry much weight.

b) Petitioner's denial of his substance abuse problem, minimization of his drinking and/or drug history discrepancies in the DSM symptoms/criteria supporting his current DASA classification and denial of intoxication at his last DUI arrest indicate that the Petitioner has been less than successful in identifying and addressing his alcohol/drug problem, notwithstanding the treatment provider's positive prognosis and/or waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. The provider's response must be submitted in writing at the next formal hearing.

11. In the course of the hearing, it was discovered that Petitioner suffers from the following mental/physical condition(s) which may affect his ability to safely operate a motor vehicle: high blood pressure, high cholesterol and gout. Petitioner currently takes prescribed medication to address the above condition(s), which may affect his ability to safely drive a motor vehicle. As a result, all driving relief should be conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit which addresses this problem. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office as to when the report should be submitted.

12. Petitioner is employed by [REDACTED] (Petitioner's Testimony)

a) Petitioner's regular hours and days of employment are Monday, Wednesday, Thursday, Friday and Saturday from 4:00 a.m. to 4:00 p.m.

b) Petitioner lives 20 miles from his place of employment.

c) Petitioner is required to drive as far as 50 miles from his place of employment in the course of employment related duties.

d) Petitioner is currently on FMLA leave.

e) There is no alternative means of transportation available to Petitioner driving himself to work and/or in the course of his employment related duties for Snak King because he is a delivery man who must drive in the course of his employment. Therefore, the Hearing Officer finds that there is an undue hardship as it pertains to employment. In order to demonstrate an undue hardship, there must be clear and convincing evidence that all other reasonable means of transportation are unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked. However, the Petitioner's undue hardship with regard to maintaining employment secondary to the Secretary of State's obligation and duty to protect the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.420(d) and 1001.430(f), as amended.

13. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.

14. In conclusion, the Petitioner, [REDACTED], has failed to carry his burden of proving that he has satisfactorily resolved his alcohol problem and that he would be a safe and responsible driver if granted driving relief. The Petitioner is being denied driving privileges for the following reason(s) as indicated in Finding(s) of Fact #5, 9 and 10. Therefore, it is recommended that he be denied driving relief. Although the Petitioner demonstrated undue hardship as it pertains to employment, the Secretary may deny the Petitioner's application for a restricted Driving Permit even though the evidence establishes an undue hardship when the evidence indicates that the public safety will be endangered if the person is permitted to drive. Fooge v. Edgar, 110 Ill. App. 3d 190, 441 N.E. 2d 1267 (1st Dist. 1982); Cusack v. Edgar, 137 Ill. App. 3d 505, 484 N.E. 2d 1145 (1st Dist. 1985). See: 92 Ill. Adm. Code, Sec. 1001.420(f) as amended, Sec. 6-206 (c) and Sec. 6-206 (c) 3, of the Ill. Vehicle Code.

STATUTES AND RULES APPLICABLE:

The authority sections of the JVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner's abuse of alcohol/drugs developed into an alcohol/drug problem, but the extent of that problem is not clear.
2. The Petitioner failed to provide evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440, as amended.
3. Given the unresolved issues raised herein (See Finding(s) of Fact 14), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.
4. The Petitioner to demonstrated that the denial of the privilege to drive would impose an undue hardship on his capacity (and/or all persons living within his household and/or non-custodial immediate family members when permitted by rule) to maintain employment. See 92 Ill. Adm. Code Sec. 1001.420, as amended.
5. The Petitioner's undue hardship with regard to maintaining employment is secondary to the Secretary of State's obligation and duty to protect the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.420(f), as amended.

RECOMMENDATION:

The petition for a restricted driving permit should be DENIED.

[REDACTED]

HEARING OFFICER

See Ex #1

State of Illinois
Department of Human Services
Alcohol and Drug Evaluation
Uniform Report

PART I. OFFENDER INFORMATION

Offender Name: [REDACTED]

IL Driver's License Number or State ID: [REDACTED]

Other Valid Driver's License Number/State:

Home Address: [REDACTED]
[REDACTED]

County of Residence: Cook
Citizenship: USA Citizen

Telephone Number(s): [REDACTED]

Date of Birth: [REDACTED] Age: 50

Gender: [REDACTED]

Race(s): [REDACTED]

Hispanic Origin: Not Hispanic

Primary Language: English Interpreter Services: Services not needed

Marital Status: Separated

Education Level: Some college, no degree

Employment Status: Employed full time (unsubsidized)

Occupation: [REDACTED]

Annual Household Income: Not Disclosed Number of Dependents: 1

Physical or Mental Disability: none Religious Affiliation: Unknown

Emergency Contact Person: [REDACTED]

Contact Telephone Number: [REDACTED]

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Substance Use Prevention and Recovery is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

Group
Pet Ex. 1

PART 2. CURRENT DUI ARREST INFORMATION

- 2.1 Referral Source: Court
- 2.2 Beginning Date of Evaluation: 07/18/2018
- 2.3 Completion Date of Evaluation: 07/28/2018
- 2.4 Date of Arrest: 08/16/2015
- 2.5 Time of Arrest: 12:41 AM
- 2.6 County of Arrest: Cook
- 2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: RT
- 2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DUI arrest (in order of most to least).
Alcohol

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DUI arrest.
REPORTS DRINKING 1 BEER AND 1 MIXED DRINK (MULTI-OUNCE, LONG ISLAND ICED-TEA) BETWEEN THE HOURS OF 08:00 P.M. AND 12:00 A.M.

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.
Not Applicable

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

3.1 Prior DUI dispositions including boating and snowmobiling (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
04/19/2015	06/09/2015	RT

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
04/19/2015	06/09/2015	RT

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions).

Zero Tolerance		Illegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1	Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
	Alcohol	20	20	40	2016

Chronological History Narrative:
PLEASE SEE TREATMENT NEEDS ASSESSMENT.

4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

ALLOPURINOL 50MG, LOSARTAN FOR HYPERTENSION 10MG

SEE MEDICAL REPORT

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

"FATHER DRANK A LOT, EVERY DAY"

4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

Not Applicable

4.6 Identify the significant other and summarize the information obtained in the interview.

Not Applicable

4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

COMPLETED 20 HOURS TREATMENT FROM 04/19/2016 TO 05/28/2016
[REDACTED]

4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

Not Applicable

Marriage or significant other relationships

Not Applicable

Legal Status

2 DUI ARRESTS.

Socially

Not Applicable

Vocational/work

Not Applicable

Economic status

Not Applicable

Physically/Health

Not Applicable

PART 5. OBJECTIVE TEST INFORMATION

- 5.1 **Martiner/Filkins -** Score: Category:
- 5.2 **ASUDS-RI Risk Level Guidelines -** Score: 3 Category: Significant
- 5.3 **Driver Risk Inventory (DRI) Scales and Risk Ranges:**
- Validity Scale:
 - Alcohol Scale:
 - Driver Risk Scale:
 - Drugs Scale:
 - Stress Coping Abilities Scale:

PART 6. CRITERIA FOR SUBSTANCE USE DISORDER

6.1 Identify any Substance Use Disorder Criteria occurring within a 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission. One symptom will result in a Moderate Risk Level classification. Two or three symptoms will result in a Significant Risk classification. Four or more symptoms will result in a High Risk classification.

- Alcohol or drugs are taken in larger amounts or over a longer period than intended.
- There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use.
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use.
- Craving, or a strong desire or urge to use alcohol or drugs.
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home.
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs.
- Important, social, occupational, or recreational activities are given up or reduced because of alcohol or drug use.
- Recurrent alcohol or drug use in situations in which it is physically hazardous.
- Alcohol or drug use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol or drugs.
- Tolerance - Either a need for markedly increased amounts of alcohol or drugs to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of alcohol or drugs.
- Withdrawal - As manifested by either the characteristic withdrawal syndrome for alcohol or drugs, or alcohol or drugs are taken to relieve or avoid withdrawals.

6.2 If the offender meets Substance Use Disorder Criteria based on a past episode and is now assessed as being in remission, identify and describe the specifier that reflects the offender's current status.

Current Status: Not Applicable

6.3 Has the offender ever met Substance Use Disorder Criteria by history but and is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria were met and why it is not clinically significant for the purposes of a current risk assessment. The explanation must include the length of time since the last episode, the total duration of the episode, and any need for continued evaluation or monitoring.

No

PART 7. OFFENDER BEHAVIOR

7.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

YES

7.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

NONE INDICATED

7.3 Identify any special assistance provided to the offender in order to complete the evaluation.

NONE NEEDED

7.4 Where was the offender interview conducted?

Licensed Site

PART 8. CLASSIFICATION

8.1 Classification:

SIGNIFICANT RISK: One prior conviction or court ordered supervision for DUI, or one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; AND/OR a BAC of .20 or higher as a result of the most current arrest from DUI; AND/OR two or three symptoms of a Substance Use Disorder.

8.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

INFORMATION CORRELATES.

PART 9. MINIMAL REQUIRED INTERVENTION

9.1 Minimal Intervention:

SIGNIFICANT RISK: Completion of a minimum of 10 hours of DUI Risk Education; and a minimum of 20 hours of substance abuse treatment; and, upon completion of any and all necessary treatment, and, after discharge, active on going participation in all activities specified in the continuing care plan.

9.2 The offender was referred as follows:

[REDACTED]

PART 10. VERIFICATION

Licensed Site Information:

Name: [REDACTED]
 Address: [REDACTED]
 Telephone Number: [REDACTED]
 License Number: [REDACTED]
 Evaluator Name: [REDACTED]
 Evaluator Credentials: [REDACTED]

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature: [REDACTED] Date: 7-29-18

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature: [REDACTED] Date: 8-1-18

PART 11. DISPOSITION

This evaluation may only be released to the Illinois Circuit Court of venue or its court officials as specified by local court rules, to the Office of the Secretary of State, or to the Illinois Department of Human Services, Division of Substance Use Prevention and Recovery. Any other release requires the written consent of the DUI offender.

If this evaluation was prepared for the Circuit Court, send the signed original to the court in accordance with established local court rules or policy.

If this evaluation was prepared for the Secretary of State, give the signed original to the DUI offender so that it may be presented to the hearing officer at the time of the formal or informal hearing.

Get Ex #1

[REDACTED]

JULY 31, 2018

RE: [REDACTED]
DL # [REDACTED]

TREATMENT NEEDS ASSESSMENT

CLIENT HAS SUCCESSFULLY HIS RECOMMENDED COMPLETED 20 HOURS OF OUTPATIENT TREATMENT. PLEASE SEE DOCUMENTATION)

DRINKING/DRUG HISTORY:

CLIENT REPORTS HE FIRST DRANK ALCOHOL AT AGE 20, WITH PEERS, AT A BASKETBALL GAME. HE REPORTS SHARING A QUART OF MD 20/20/ BEER. HE FELT "INTOXICATED" AND BECAME SICK.

AGE 20-40: HE REPORTS HE WAS AN ATHLETE AND CONSUMED NO ALCOHOL AND AFTER BECOMING SICK WITH HIS FIRST EXPERIENCE,

AGE 40-45: REPORTS HE LOST BOTH PARENTS; THEY DIED WITHIN 9 MONTHS OF EACH OTHER. HE BEGAN TO STOP AFTER WORK WITH CO-WORKERS 2 TIMES PER MONTH, SHARING PITCHERS OF BEER, HE WOULD CONSUME 24-36 OZ. OF BEER AND ON SPECIAL OCCASIONS, ABOUT 3-4 TIMES PER YEAR, 2-3 (12oz) FOREIGN BEERS...

AGE 45-47: REPORTS 2-3 FOREIGN BEERS, 1-2 TIMES MONTHLY AND 6-8 TIMES PER YEAR AT SPECIAL OCCASIONS, 5-7 (12 oz.) BEERS. HE WAS ARRESTED FOR DUI: 4-19-2015 AND 8-16-2015, AGE 47.

AGE 47-50: REPORTS CONSUMING 2-3 (12 oz.) BEERS OR 1 GLASS OF WINE, 2 TIMES PER WEEK. HE REPORTS LAST USE SHARING 3 (4 PACK) BOTTLES OF WINE WITH FRIENDS. HE REPORTS ABSTINENCE SINCE BEGINNING TREATMENT APRIL, 2016 TO PRESENT.

Get Ex #1

[REDACTED]

[REDACTED]

DRUG USE

CLIENT REPORTS NO ILLICIT DRUG USE.

SYMPTOMATOLOGY:

RECURRENT USE IN SITUATIONS IN WHICH IT IS PHYSICALLY HAZARDOUS:
2 DUI'S

TOLERANCE: INCREASED THRU YEARS OF USE.

CONCLUSION:

THE CLIENT HAS A GOOD UNDERSTANDING OF HIS PRIOR PATTERNS OF ALCOHOL ABUSE AND HAS CHOSEN TO REMAIN TOTALLY ABSTINENT SINCE APRIL 2015.

CLIENT HAS SUCCESSFULLY COMPLETED THE RECOMMENDED TREATMENT AND EDUCATION FOR HIS DUI CLASSIFICATION.

NO FURTHER TREATMENT IS RECOMMENDED AND IS WAIVED.

CLIENT REPORTS NO USE OF ALCOHOL FOR OVER 2 YEARS

TREATMENT IS WAIVED

[REDACTED]

Pet Ex #1

[REDACTED]

JULY 27, 2018

DEPARTMENT OF ADMINISTRATIVE HEARINGS

RE: [REDACTED]

DL NO: [REDACTED]
FILE NO: [REDACTED]

THE PETITIONER HAS REQUESTED ASSISTANCE FROM THIS FACILITY IN ADDRESSING THE DENIAL ISSUES FROM HIS HEARING OF FEBRUARY 27, 2017

FINDINGS OF FACT

5. Mr. [REDACTED] ADMITS INTOXICATION ON THE OCCASION OF HIS LAST ARREST FOR DUI ON 8-16-2015 AND THAT HE CONSUMED 1 BEER AND 1 MIXED DRINK (LONG ISLAND ICE TEA) A STRONG DRINK EQUIVALENT TO AT LEAST SEVERAL STANDARD DRINKS WITHIN 4 HOURS FROM 08:00 P.M. TO 12:00 A.M.

9. Mr. [REDACTED] REPORTS HE LOST BOTH PARENTS WITHIN 9 MONTHS OF EACH OTHER. THIS HAD A PROFOUND EFFECT ON HIM AND HE BEGAN ABUSING ALCOHOL AT THAT TIME AND ASSOCIATING WITH OTHERS WHO ABUSED ALCOHOL. PRIOR TO THIS TIME HE HAD REMAINED ABSTINENT FOR 20 YEARS. HE WAS AN ATHLETE AND CHOSE NOT TO USE ALCOHOL. PLEASE SEE TREATMENT NEEDS ASSESSMENT. HE REPORTS HE NOW WORKS WITH HIS CHURCH AND IS A SUBSTITUTE SUNDAY SCHOOL TEACHER. HIS TREATMENT HAS BEEN EFFECTIVE. HE HAS MAINTAINED ABSTINENCE SINCE APRIL OF 2016. HE DOES HAVE SYMPTOMS OF PRIOR ALCOHOL ABUSE NOT DEPENDENCY.

9.A) PLEASE SEE TREATMENT NEEDS ASSESSMENT FOR CHRONOLOGICAL USE HISTORY.

9.B) Mr. [REDACTED] REPORTED ON THE OCCASION OF HIS PRESENT EVALUATION THAT SINCE HIS LAST DUI ARREST, HE CONSUMED 2-3 (12oz) BEERS OR 1 GLASS OF WINE, 2 TIMES PER WEEK. HE REPORTS HIS LAST USE OF ALCOHOL WAS SHARING 3 (4 PACK) BOTTLES OF WINE WITH FRIENDS. HE REPORTS ABSTINENCE SINCE BEGINNING TREATMENT APRIL, 2016 TO PRESENT.

[REDACTED]

Pet Ex #1

[REDACTED]

9.C) Mr. [REDACTED] STATES THAT HE HAS EXPERIENCED ONE BLACKOUT HANGOVERS, AND INCREASED TOLERANCE. HIS PATTERN OF USE/ABUSE HAS BEEN FAIRLY CONSISTENT WITH NO INTENT OF A CERTAIN AMOUNT NOR EXCEEDING IT. INSUFFICIENT DSM CRITERIA FOR DIAGNOSIS OF DEPENDENCY. HE IS CLASSIFIED AS SIGNIFICANT RISK - SEE EVALUATION.

9.D) Mr. [REDACTED] IS NOT A CHEMICALLY DEPENDENT PERSON. HE ADMITS TO ALCOHOL ABUSE AND INTOXICATION ON THE OCCASIONS OF BOTH DUIS AND ALSO OTHER TIMES. PLEASE SEE TREATMENT NEEDS ASSESSMENT FOR ALCOHOL USE HISTORY.

9.E) PLEASE SEE ASUDS ON CURRENT EVALUATION.

9.F) PLEASE SEE PRESENT EVALUATION WITH TREATMENT NEEDS ASSESSMENT.

10.A) PLEASE SEE 9., 9.D) AND TREATMENT NEEDS ASSESSMENT ON CURRENT EVALUATION.

10.B) Mr. [REDACTED] DOES NOT DENY A PRIOR SUBSTANCE ABUSE PROBLEM NOR INTOXICATION AT BOTH OF HIS DUI ARRESTS.

11. PLEASE SEE MEDICAL REPORT.

[REDACTED]

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER: [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges is hereby DENIED; however, the petition for issuance of a Restricted Driving Permit ("RDP") for: employment purposes for driving to and from work and/or while performing job related duties for his primary employer, [REDACTED] is hereby GRANTED; days, hours and other conditions of which are to be established by verification.

All driving relief is conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office as to when the report should be submitted.

Any permit issued under this Order shall expire no later than (12) months from the date of the issuance of the first permit under this Order. Additionally, this Order is based upon the Petitioner's driving record at the time of this hearing and it is subject to the subsequent receipt of any report of conviction or other notice that would result in the loss of driving privileges making the Petitioner ineligible for the relief granted.

This Order is not to be construed as an authorization to operate a motor vehicle. Petitioner must meet any and all requirements of the Office of the Secretary as well as all of the terms and conditions of the Breath Alcohol Ignition Interlock Device Program, and be in receipt of said RDP, prior to the operation of any motor vehicle.

FINDINGS AND RECOMMENDATIONS
OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on January 10, 2019, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED], a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears with his attorney [REDACTED]. The Secretary of State ("Secretary") was represented by [REDACTED].

RELIEF REQUESTED:

Petitioner seeks the reinstatement of full driving privileges or in the alternative, the issuance of a Restricted Driving Permit ("RDP") for employment purposes. Petitioner is eligible for full reinstatement and therefore is not required to show an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(i). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Substance Use Prevention and Recovery ("DSUPR") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no

circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective August 20, 2016 pursuant to IVC §6-205(a)2, due to a conviction for operating a motor vehicle while under the influence of alcohol or other drugs.
5. Petitioner has two (2) arrest(s) for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of August 16, 2015 and April 19, 2015 (Indiana - reduced to a reckless driving conviction). (See Secretary of State's Exhibits #3 & 5 and Petitioner's Exhibit #1)

Petitioner's last arrest for DUI occurred on August 16, 2015. Petitioner testified that prior to said arrest he was at a wedding where he consumed 1-2 beers and one Long Island Iced Tea over 4 hours from 8:00 pm - 12:00 am. He was stopped for speeding and crossing the median. Petitioner weighed 200 pounds. He admits being intoxicated. The statutory summary suspension associated with said arrest was rescinded thus no Law Enforcement Sworn Report appears of record. Petitioner refused to take a chemical test.

Petitioner's first arrest for DUI occurred in the state of Indiana on April 19, 2015. Petitioner testified that prior to said arrest he was at his cousin's place where he consumed 5-7 beers and 1 shot of vodka from 4:00 pm - 12:00 am. He was stopped for swerving. Petitioner weighed 200 pounds. He admits being intoxicated. Said arrest was reduced to a reckless driving conviction. (Secretary of State's Exhibit #3).

6. The Hearing Officer took official notice of the prior formal hearing(s) [redacted] and [redacted] pertaining to Petitioner's previous request(s) for driving relief, the evidence admitted and the Findings of Fact and the Order(s) entered therein. In particular, the Hearing Officer takes official notice of the alcohol/drug evaluations and treatment documents admitted into evidence therein.
7. Petitioner is required to participate in the BAIID (Breath Alcohol Ignition Interlock Device) program because the Petitioner has two or more DUI convictions or reckless homicide convictions (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or drugs was an element of the offense), including similar out-of-state convictions, or statutory summary suspensions or revocations pursuant to 11-501.1 or suspensions pursuant to Section 6-203, or any combination thereof arising out of separate occurrences. Petitioner is also required to participate if he has one conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or for reckless homicide (pursuant to Section 9-3 of the Criminal Code of 1961 or 2012 where the use of alcohol or other drugs was recited as an element of the offense), including similar out-of-state convictions or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). Any petitioner whose only open suspension or revocation is not mentioned above is exempt from the BAIID program. He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAIID) Terms and Conditions" (See

Secretary's Exhibit #6) and "BAIID Questionnaire" (See Petitioner's Exhibit #5), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAIID Program.

8. Petitioner attended and completed an alcohol/drug remedial education course or DUI risk education course on **May 26, 2016**, conducted by [REDACTED] (See Secretary of State's Exhibit #3)
9. Petitioner submitted a current Alcohol and Drug Evaluation Uniform Report dated **July 28, 2018** with Addendum/Reply (Response Letter dated **July 27, 2018** and Treatment Needs Assessment/Waiver dated **July 31, 2018** conducted by [REDACTED] INC. (See Petitioner's Exhibit #1); Petitioner previously submitted an Updated Report with Addendum/Reply (Response Letter, Treatment Needs Assessment/Waiver) dated **February 24, 2017** and Continuing Care Status Report dated **January 14, 2017** conducted by [REDACTED] (See Secretary of State's Exhibit #3) and an Alcohol and Drug Evaluation Uniform Report dated **October 27, 2016** conducted by [REDACTED] (See Secretary of State's Exhibit #3)
10. The Hearing Officer finds that the evidence does support the **Significant Risk** classification contained therein. Petitioner's testimony regarding his alcohol/drug use, his submitted documents, and other evidence establish the following regarding the nature and extent of Petitioner's use/abuse of alcohol and/or drugs:
 - a) Petitioner testified and/or reported that he consumed 2-3 beer 1-2 times per month as many as 5-7 beers 6-8 times per year in the year prior to his last DUI arrest on **August 16, 2015**. Petitioner further testified that he consumed the same amount in the year prior to his first DUI arrest. Petitioner has never used illegal drugs. (See Petitioner's Testimony and Petitioner's Exhibit #1)
 - b) Petitioner testified and/or reported that after since his last DUI arrest on **August 16, 2015**, he reduced his alcohol consumption to 2-3 beers or 1 glass of wine twice a week until **April 2016** when he became abstinent. He has remained abstinent since April 2016. (See Petitioner's Testimony and Petitioner's Exhibit #1) Petitioner intends to maintain abstinence indefinitely and his resolve to remain abstinent appears sincere. Petitioner has provided sufficient evidence attesting to his abstinence. (See Petitioner's Exhibit #2).
 - c) Petitioner testified and/or reported that he has experienced the following indicators of the symptoms/criteria of **The Diagnostic Statistical Manual of Mental Disorders (DSM)**: hangovers, increased tolerance and one blackout.) Petitioner submitted a Written Response Letter dated July 27, 2018 that corroborates his testimony and rules out dependence. (See Petitioner's Testimony and Petitioner's Exhibit #1)
 - d) Petitioner admits he was a problem drinker/user. (See Petitioner's Testimony)

- e) Petitioner was administered the required objective test (Mortimer/Filkins Test, Driver Risk Inventory or ASUDS) as a part of an alcohol and drug evaluation and the results were analyzed therein.
 - f) Petitioner was denied relief at his last hearing because the Hearing Officer questioned the effectiveness of Petitioner's treatment experience given his denial of having abused alcohol or having had an alcohol problem, his minimization of his alcohol drug use history and DSM symptoms and he his employment undue hardship was secondary to the Secretary's duty to protect the public safety. (See Secretary of State's Exhibit #3)
 - g) In an effort to address the prior concerns of the former Hearing Officer, Petitioner submitted the following documents: Uniform Report dated July 28, 2018 with Addendum/Reply (Response Letter dated July 27, 2018 and Treatment Needs Assessment/Waiver dated July 31, 2018 conducted by [REDACTED] INC. (See Petitioner's Exhibit #1); abstinence letters (See Petitioner's Exhibit #2); Medical Report (See Petitioner's Exhibit #3; and an Employment Letter (See Petitioner's Exhibit #4) The Hearing Officer places significant weight on said documents and finds that said documents in the aggregate as well as Petitioner's testimony at the instant hearing adequately addresses and resolves the prior concerns of the former Hearing Officer.
11. Petitioner submitted a Treatment Needs Assessment/Waiver dated July 31, 2018 conducted by [REDACTED] (See Petitioner's Exhibit #1); Petitioner completed twenty (20) hours of outpatient treatment between April 19, 2016 and June 8, 2016 conducted by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Treatment Plan, Continuing Care Plan, Continuing Care Status and Treatment Waiver. (See Secretary of State's Exhibit #3)
- a) Petitioner admits he abused alcohol other than the times of his DUI arrests. During treatment he learned alcoholism is the dependence on alcohol and alcohol abuse is drinking to excess and/or to the point of intoxication. He is not an alcoholic because he is not dependent on alcohol. He learned alcohol damages the organs and ages the body. He attributes his alcohol abuse to peers socialization - drinking with coworkers and stress relief driving. He also attributes his excess drinking in 2015 to the death of his parents in 2015. He made significant changes to his life-style. He no longer associates with his former drinking peers. He has remained abstinent since 2016. He enjoys coaching children ages 8-12 and attending church. (See Petitioner's Testimony)
 - b) The Treatment Needs Assessment/Waiver of July 31, 2018 was based upon his successful completion of treatment, a review of his alcohol/drug use history and DSM symptoms/indicators, his abstinence since April 2016 and other lifestyle changes. (See Petitioner's Exhibit #1)

12. In the course of the hearing, it was discovered that Petitioner suffers from the following mental/physical conditions which may affect his ability to safely operate a motor vehicle: high blood pressure. Petitioner currently takes prescribed medication to address the above condition(s), which may affect his ability to safely drive a motor vehicle. As a result, all driving relief should be conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit which addresses this problem. Petitioner submitted a Medical Report completed by his personal physician. (See Petitioner's Exhibit #4) The Petitioner may receive a Medical Report Form and post hearing instructions by the Secretary of State's Office as to when the report should be submitted.
13. Petitioner is employed by [REDACTED] (See Petitioner's Testimony and Petitioner's Exhibit #4) His regular days and hours of employment are Wednesday - Sunday from 12:00 pm - 12:00 am. He lives 12 miles from his place of employment. Petitioner is required to drive as far as 50 miles from his place of employment in the course of employment related duties.
14. At the conclusion of the hearing, the Petitioner acknowledged that he understood the questions asked of him and stated that his responses were complete and accurate. Petitioner declined the opportunity to add to his testimony.
15. For the foregoing reasons, Petitioner has carried his burden of proving that he has satisfactorily addressed his alcohol problem and that he would be a safe and responsible driver if granted driving relief. Because of the extent of his drinking and/or driving history, the Hearing Officer recommends that Petitioner be granted an RDP as a probationary device in lieu of reinstatement of his driving privileges.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

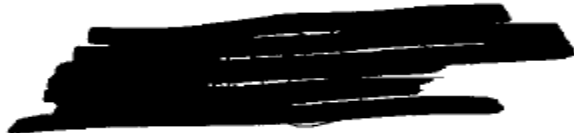
CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner used alcohol/drugs irresponsibly in the past, but that he has responsibly addressed this past abusive behavior.
2. The Petitioner provided evidence sufficient to carry his burden of proving that his alcohol/drug problem has been resolved. See 92 Ill. Adm. Code Sec. 1001.440(b)(3), as amended, as amended.
3. The evidence indicates that the Petitioner will be a safe and responsible driver and that to issue him a Restricted Driving Permit will not endanger the public safety and welfare. See Ill. Adm. Code Sec. 1001.430, as amended.

4. The evidence indicates that a Restricted Driving Permit for employment purposes should be issued as a probationary device. See 92 Ill. Adm. Code Sec. 1001.420(i), as amended.
5. The Petitioner is eligible for the "breath alcohol ignition interlock device" (BAIID) program and must, therefore, comply with all of the provisions of the program. 92 IAC, §1001.410(definitions).

RECOMMENDATION:

The petition for the reinstatement of full driving privileges should be hereby **DENIED**; however, the petition for the issuance of an RDP for employment purposes should be **GRANTED**, after Petitioner meets any and all requirements of the Secretary's Office including the terms and conditions of the **Breath Alcohol Ignition Interlock Device (BAIID) Program**. All driving relief should be conditioned upon receipt and acceptance of a Medical Report Form by the Medical Review Unit. The Petitioner will receive a Medical Report Form and post hearing instructions by the Secretary of State's Office as to when the report should be submitted.



FINDINGS AND RECOMMENDATIONS

OF THE HEARING OFFICER

JURISDICTION:

This cause comes on for hearing at the request of Petitioner on February 7, 2018, pursuant to §5/2-118 of the Illinois Vehicle Code ("IVC") at 625 ILCS, *et seq.*, as amended and 92 Illinois Administrative Code, ("IAC") at Chapter II, §1001, *et seq.*, as amended, before [REDACTED] a duly appointed Hearing Officer. Petitioner [REDACTED] ("Petitioner") appears *pro se*, having knowingly waived his right to legal counsel. His interpreter, [REDACTED] translated the proceedings. The Secretary of State ("Secretary") was represented by [REDACTED]

RELIEF REQUESTED:

Petitioner seeks the issuance of Restricted Driving Permits ("RDP's") for employment purposes, for support/recovery purposes and for family educational purposes. Petitioner is not eligible for full reinstatement until November 24, 2019 and therefore must demonstrate an undue hardship in order to be issued an RDP. 92 IAC, §1001.420(d). The general burden of proof is upon the petitioner for any driving relief, 92 IAC, §1001.100(s) and the standard of proof for all burdens of proof at the instant hearing is by clear and convincing evidence. 92 IAC, §1001.420(d) and 440(b).

FINDINGS OF FACT:

The Hearing Officer, being fully advised in the premises, finds as follows:

1. The Secretary has jurisdiction over the parties herein and the subject matter hereof, due and proper notice having been previously given as is by statute in such case made and provided.
2. The evidence, exhibits, and testimony have been offered and received from all parties, and a proper record of all proceedings has been made and preserved as required. The Hearing Officer has ruled on all motions and objections timely made and submitted. Documents offered into evidence comply with all standards specified in of 92 IAC, Part 1001, Subpart D, and where required, clinical services were provided by facilities licensed by the Illinois Division of Alcoholism and Substance Abuse ("DASA") unless specified otherwise.
3. Petitioner's request for hearing and the Secretary's notice of hearing were entered into evidence as Secretary's Exhibits #1 and #2, respectively. Petitioner's driving record (including, but not limited to, related documents) was read into the record and admitted into evidence as Secretary's Group Exhibit #3. The Petitioner's application for driving relief was entered into evidence as Secretary's Exhibit #4 in which the Petitioner reported no

circumstances which otherwise would have precluded the Petitioner from proceeding with the hearing. It also reflects the Petitioner's Non-Visa Status [NVS] and/or Visa Status [VS] at the time of the Hearing. Finally, Secretary's Exhibit #5 is the PDPS History/Status Response, obtained at the time of the scheduling of the hearing, the results of which are identified below in Finding of Fact #5.

4. An Order revoking Petitioner's driver's license and driving privileges was entered effective October 22, 2017 pursuant to IVC §6-205(a)2, due to a conviction for operating a motor vehicle while under the influence of alcohol or other drugs.

An Order summarily suspending Petitioner's driver's license and driving privileges was entered effective November 24, 2016 pursuant to IVC §11-501.1, after he failed or refused a chemical test.

5. Petitioner has two arrests for driving under the influence ("DUI"). The certified record, the PDPS and/or alcohol and drug evaluations contained in the file disclose the arrest(s) of October 8, 2016 and June 4, 2015 (BAC.26). (Secretary of State's Exhibits #3, & 5 and Petitioner's Exhibit #1). Petitioner admits being intoxicated at the time of both DUI arrests.

Petitioner's last arrest for DUI occurred on October 9, 2016. Petitioner testified that prior to said arrest he consumed 2 large Craft beers, one Ice House beer (with a higher alcohol content) and a shot of distilled alcohol in 2 hours. Petitioner weighed 115 pounds. He admits being intoxicated. The arresting officer's Law Enforcement Sworn Report indicates that Petitioner was involved in a one-car collision with a glass window. (Secretary of State's Exhibit #3). Petitioner refused to take a chemical test.

Petitioner testified that his two DUI arrests were the only time that he drove a motor vehicle while intoxicated. Based on the unlikelihood of this testimony, the Hearing Officer calls the Petitioner's credibility into question.

6. Petitioner is required to participate in the BAID (Breath Alcohol Ignition Interlock Device) program because the Petitioner: has two or more DUI convictions or reckless homicide convictions where the use of alcohol or drugs was an element of the offense, including similar out-of-state convictions or any combination thereof, resulting in the current loss of driving privileges or has been convicted of driving while revoked if the underlying revocation currently in effect is due to a conviction for reckless homicide where alcohol or drugs is recited as an element of the offense or similar out-of-state offense or has a statutory summary suspension pursuant to 11-501.1 or a suspension pursuant to Section 6-203 or any combination thereof, Petitioner has a single conviction pursuant to Section 11-501(d)(1)(c) or 11-501(d)(1)(f) or has invalidated his MDDP by having his driving privileges suspended, revoked, cancelled or invalidated under any provision of the IVC. 92 IAC, §1001.410(definitions). He has read the documents entitled "Breath Alcohol Ignition Interlock Device (BAID) Terms and Conditions" (see Secretary's Exhibit #6) and "BAID Questionnaire" (see Petitioner's Exhibit #6), and he has signed the affidavit at the end of the Terms and Conditions document indicating that he understands and accepts his participation in the BAID Program.

7. Petitioner submitted the following evaluation: an Alcohol and Drug Evaluation Uniform Report dated January 25, 2018 conducted by [REDACTED] (Petitioner's Ex. #1).
8. The Hearing Officer fully considered the alcohol/drug evaluation presented by Petitioner. The Hearing Officer finds that Petitioner is currently classified as **High Risk Dependent**. Chemical dependency is a progressive, incurable disease (See J. Kinney, Loosening the Grip: A Handbook of Alcohol Information, (6th ed. 2000) and Encyclopedic Handbook of Alcoholism, (Pattison and Kaufman, ed. 1982). Petitioners classified chemically dependent must completely disclose and accept their dependency, successfully complete treatment for their dependency, document their abstinence consisting of a sufficient period of time, and document their involvement in an active, ongoing support program to maintain their sobriety. They must demonstrate at the time of the hearing that they have met each of these requirements in order to demonstrate that they are a low or minimal risk to avoid relapse. (See 92 IAC, §1001.440(b)).
 - a) Petitioner testified that he consumed 2 beers 2 to 3 times per week and a maximum of 3 beers twice per week in the year prior to his last DUI arrest on October 8, 2016. It should be strongly noted that the evaluator indicates that in the year prior to the last DUI arrest the Petitioner typically drank two beers twice per week and an 8-ounce cup of "red liquor" from Malaysia on special occasions. The Hearing Officer finds that the Petitioner's testimony is not only inconsistent with what he told his evaluator, but is even more inconsistent with Petitioner's current level of classification and with a reported BAC score of .26, that in and of itself, indicates a far greater pattern of consumption than alleged by the Petitioner. Based on these inconsistencies, the Hearing Officer finds that the Petitioner appears to be attempting to seriously minimize his prior drinking history thereby calling into question the effectiveness of the Petitioner's treatment experience. The BAC of .26 suggests a greater tolerance to alcohol than would normally be expected given the Petitioner's reported drinking history. See Encyclopedic Handbook of Alcoholism, pp. 65-66 and pp. 359-360 (Pattison and Kaufman ed. 1982). Petitioner needs to provide another chronological use history at his next formal hearing addressing the discrepancies in his substance use history.
 - b) He has remained abstinent since his last DUI arrest on October 8, 2016. Petitioner intends to maintain abstinence indefinitely and his resolve to remain abstinent appears sincere. (Petitioner's Testimony). Petitioner has provided sufficient evidence attesting to his abstinence (Petitioner's Exhibit #4). Petitioner testified that he can guarantee that he will never drink again and that he is cured of alcoholism since he does not drink anymore. Given Petitioner's testimony, the Hearing Officer questions what benefit, if any, Petitioner obtained from his treatment experience. Reviewing courts have held that the degree of self-acceptance of chemical dependency is a proper consideration in determining whether he has met his burden that he would not endanger the public safety and welfare. Berner v. Edgar, No. 4-89-278 (Rule 23, Dec. 21, 1989). This testimony is not characteristic of an individual who has honestly assessed his problematic relationship with alcohol/drugs and accepts the negative impact said

use produces, nor is it representative of an individual who has come to grips with and effectively addressed and/or resolved his chemical dependence.

- c) Petitioner testified that he has experienced the following indicators of the symptoms/criteria of The Diagnostic Statistical Manual of Mental Disorders (DSM): hangovers, drinking more than intended, family concerns expressed about his drinking, drank in the morning, prior unsuccessful attempts at abstinence and an increased tolerance to alcohol.
- d) Petitioner admits being a chemically dependent person. (Petitioner's Testimony).
- e) Petitioner was administered the required objective test (Mortimer/Filkins Test, Driver Risk Inventory or ASUDS) as a part of an alcohol and drug evaluation and the results were analyzed therein.

9. Petitioner submitted a Treatment Needs Assessment dated January 25, 2018 by [REDACTED] which waives the need for further treatment based on the completion of treatment, based on his abstinence since October 2016, based on his lifestyle changes and based on his non-traditional support program. (Petitioner's Ex #3). Petitioner had previously completed 75 hours of outpatient treatment between March 31, 2017 and June 23, 2017 by [REDACTED] which provided documents including Treatment Verification, Discharge Summary, Continuing Care Plan and Continuing Care Status. Petitioner is currently involved in continuing care. (Petitioner Ex #2). Petitioner's drinking was caused by using alcohol to socialize with friends. He made significant changes to his life-style by going to church more, watching television and spending time with his children. Petitioner identified the following as his relapse triggers: old drinking friends. Given the aforementioned issue of minimization and given that the Petitioner believes that he is cured and can guarantee that he will never drink again, the Hearing Officer questions the adequacy of said treatment waiver.

Petitioner's minimization of his drinking history indicates that the Petitioner has been less than successful in identifying and addressing his chemical dependency, notwithstanding the treatment provider's positive prognosis and waiver of further treatment. Petitioner should return to his treatment provider for the purpose of addressing these issues and/or assessing the need for additional treatment. The provider's response must be submitted in writing at the next formal hearing.

10. The Hearing Officer finds that the Petitioner has failed to establish a sufficient support program. Petitioner testified that he has attended Bible Study meetings regularly since December 2016. He stated that he currently attends Bible Study meetings every Saturday with approximately 10 other people. Petitioner testified that the meetings have other members that used to drink and that he has told his story at these meetings. Petitioner's attendance helps him remain abstinent because the other members talk to him about how his reputation will go down if he drinks again and because they encourage abstinence. (Petitioner's Testimony). Petitioner has provided sufficient evidence attesting to his current involvement in a church based support/recovery system. (Petitioner's Exhibit #5). Petitioner also submitted a cover letter about his support program and how it works for him. Given that the Petitioner believes that he has been cured and believes that he will never drink again, the Hearing Officer questions the adequacy of said support program.

11. Petitioner is employed by [REDACTED] (Petitioner's Testimony).
- a) Petitioner's regular hours and days of employment are Sunday to Thursday from 6:00 p.m. to 6:00 a.m.
 - b) Petitioner lives 30 miles from his place of employment.
 - c) Petitioner currently gets rides to and from work from co-workers. Petitioner stated that they are supposed to be transferring locations at some point in the future (date uncertain at this time). Petitioner stated that he missed work on occasion due to his friends not working on those days. Petitioner stated that he has already been assessed 5 points due to his attendance and that he will be terminated when he receives 7 points. Since Petitioner can still continue to get rides to and from work, the Hearing Officer finds that there is an undue hardship as it pertains to employment. In order to demonstrate an undue hardship, there must be clear and convincing evidence that all other reasonable means of transportation are unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.
12. There is a need for Petitioner (and/or all persons living within his household and/or non-custodial immediate family members when permitted by rule) to attend support/recovery group Bible Study meetings and for family educational courses to take his children, [REDACTED] (See Petitioner's Ex. #7). The Hearing Officer finds that there not is an undue hardship due to his current transportation arrangements because Petitioner gets rides to his Bible Study class and because he either walks his children to school or they get a ride from a neighbor. Since alternative arrangements are available, the Hearing Officer finds there is no undue hardship as it pertains to attending support/recovery meetings or for family educational purposes. In order to demonstrate an undue hardship, there must be clear and convincing evidence that all other reasonable means of transportation are unavailable to the petitioner. The impact on the family unit is a valid consideration. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.
13. For the foregoing reasons (See Findings of Fact #5, #8, #8a-b, #9 and #10), Petitioner has failed to carry his burden of proving that he has satisfactorily addressed his chemical dependency and that he would be a safe and responsible driver if granted driving relief. As a result, the Hearing Officer finds that the Petitioner should be denied all driving relief at this time. Petitioner also failed to prove that he suffers an undue hardship as it pertains to employment, to attending support/recovery meetings and to taking his children to school.

STATUTES AND RULES APPLICABLE:

The authority sections of the IVC (625 ILCS, Act 5) relied upon herein are: 2-101, 2-103, 2-104, 6-205(a)2, 6-205(c), 6-206(c)3, 6-208(b) and/or 11-501.1. The authority sections of the Rules and Regulations promulgated by the Secretary are: Chapter II, 92 IAC, §1001.10 *et seq.*

CONCLUSIONS OF LAW:

1. The evidence established that the Petitioner is an alcoholic/chemically dependent person.
2. The Petitioner failed to carry his burden of proving that he has established an adequate support system in order to ensure continuous recovery from his alcoholism/chemical dependency. See 92 Ill. Adm. Code Sec. 1001.440(b)(4) and (g), as amended.
3. The Petitioner failed to demonstrate that the denial of the privilege to drive would impose an undue hardship on his capacity (and/or all persons living within his household and/or non-custodial immediate family members when permitted by rule) to attend support/recovery meetings and to take his children to school for educational courses.
4. The Petitioner demonstrated that the denial of the privilege to drive would impose an undue hardship on his capacity to maintain employment. See 92 Ill. Adm. Code Sec. 1001.420, as amended.
5. The Petitioner's undue hardship with regard to maintaining employment is secondary to the Secretary of State's obligation and duty to protect the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.420(d) and 1001.430(f), as amended.
6. Given the unresolved issues raised herein (See Finding of Fact #13), the Petitioner failed to carry his burden of proving that he would be a safe and responsible driver and that he would not endanger the public safety and welfare. See 92 Ill. Adm. Code Secs. 1001.100(q), 1001.420, 1001.430 and 1001.440, as amended.

RECOMMENDATION:

The petition for the issuance of RDP's for employment purposes, for support/recovery purposes and for family educational purposes should be **DENIED.**


HEARING OFFICER

State of Illinois
Department of Human Services

Prisoners Ex #1
Group 5/23/19
PMC
ORIGINAL

**Alcohol and Drug Evaluation
Uniform Report**

PART I. OFFENDER INFORMATION

Offender Name: [REDACTED]

IL Driver's License Number or State ID: [REDACTED]

Other Valid Driver's License Number/State: [REDACTED]

Home Address: [REDACTED]

County of Residence: DuPage

Citizenship: non-USA Citizen

Telephone Number(s): [REDACTED]

Date of Birth: 08/02/1982 Age: 36

Gender: Male

Race(s): [REDACTED]

Hispanic Origin: [REDACTED]

Primary Language: Other Interpreter Services: Foreign Language

Marital Status: Married

Education Level: Under 7 years

Employment Status: Employed full time (unsubsidized)

Occupation: [REDACTED]

Annual Household Income: [REDACTED] Number of Dependents: 4

Physical or Mental Disability: Not Applicable Religious Affiliation: Christian

Emergency Contact Person: [REDACTED]

Contact Telephone Number: [REDACTED]

IMPORTANT NOTICE: The Illinois Department of Human Services, Division of Substance Use Prevention and Recovery is requesting disclosure of information that is necessary to accomplish purposes outlined in the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). Failure to provide this information may result in the suspension or revocation of your license to provide DUI services in Illinois.

PART 2. CURRENT DUI/ARREST INFORMATION

- 2.1 Referral Source: Court
- 2.2 Beginning Date of Evaluation: 03/23/2019
- 2.3 Completion Date of Evaluation: 03/23/2019
- 2.4 Date of Arrest: 10/08/2016
- 2.5 Time of Arrest: 08:30 PM
- 2.6 County of Arrest: DuPage
- 2.7 Blood-Alcohol Concentration (BAC) at Time of Arrest: RT
- 2.8 Results of Blood and/or Urine Testing:
Not Applicable

2.9 Specify up to five mood altering substances (alcohol/drugs) consumed which led to this DUI arrest (in order of most to least).
Alcohol

2.10 Specify the amount and time frame in which the alcohol and/or drugs were consumed which led to this DUI arrest.
[REDACTED] reported that he started drinking at around 8 am that morning and over the day until 8 pm, he went on to report that he consumed 7-8 beers and a pint of Hennessy, weighed 115 lbs., felt intoxicated and refused chemical testing.

2.11 Does the Blood-Alcohol Concentration (BAC) for the current arrest correlate with the offender's reported consumption? If no, please explain.
Mr. Mang refused chemical testing.

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY

3.1 Prior DUI dispositions including boating and snowmobiling (list chronologically, from first arrest to most recent, and include out-of-state arrests):

Date of Arrest	Date of Conviction or Court Supervision	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.2 Prior statutory summary or implied consent suspension (may have same arrest date of DUIs listed above):

Date of Arrest	Effective Date of Suspension	BAC
06/04/2015	07/20/2015	.26

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.3 Prior reckless driving convictions reduced from DUI (may have same arrest date of summary of suspension listed above):

Date of Arrest	Date of Conviction	BAC
Not Applicable		

(Additional dispositions should be listed in an addendum to the Uniform Report)

3.4 Other alcohol and/or drug related driving dispositions by type and date of arrest as reported by the offender and/or indicated on the driving record (including out-of-state dispositions).

Zero Tolerance		Illegal Transportation	
Date of Arrest	Effective Date of Suspension	Date of Arrest	Date of Conviction
Not Applicable		Not Applicable	

PART 3. ALCOHOL AND DRUG RELATED LEGAL & DRIVING HISTORY (continued)

3.5 Describe any discrepancies between information reported by the offender and information on the driving record.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.1	Alcohol/Drug	Age of First Use	Age of First Intoxication	Age of Regular Use	Year of Last Use
	Alcohol	20	20	20	2016

Chronological History Narrative:

Please see Alcohol and Drug Addendum and Treatment Needs Assessment and Waiver both dated March 23, 2019 for further details.

4.2 Review any prescription or over-the-counter medication the offender is currently taking that has the potential for abuse. List the medication, what it is used for, and how long it has been taken. Report whether the offender has ever abused medications and whether he/she has ever illegally obtained prescription medication.

Not Applicable

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.3 Specify any immediate family member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the family member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

4.4 Specify any immediate peer group member(s) with a history of alcoholism, alcohol abuse, drug addiction/abuse, or any other problems related to any substance abuse. State whether the peer group member is in frequent contact with the offender and whether he/she is still using any substance.

Not Applicable

4.5 List all dates, locations, and charges for which the offender has been arrested where substance use, possession, or delivery was a primary or contributing factor (including out-of-state dispositions).

[REDACTED] denied any further substance abuse related arrests, outside of his DUI arrests.

4.6 Identify the significant other and summarize the information obtained in the interview.

[REDACTED] (pastor/known since 2013) corroborated all information provided by [REDACTED] to be true and accurate. He went on to report that [REDACTED] appears to have taken his addiction seriously and that he has made many positive strides to stay sober, such as: attending church weekly, meeting with him to discuss daily stress, spending more time with his family and managing his finances.

4.7 Provide the names, locations, and dates of any treatment programs reported by the offender.

[REDACTED] provided documentation that he successfully completed 75 hours of substance abuse counseling at [REDACTED]. Please see Treatment Needs Assessment and Waiver dated March 23, 2019 for further details.

4.8 Provide the names of any self help or sobriety based support group participation reported by the offender and the dates of involvement.

[REDACTED] self-reported that he developed a non-traditional support system through his church, since he was unable to find an AA group that speaks his language (Burmese). [REDACTED] reiterated that his church has continued to be a stable support system for him and his family (please see Treatment Needs Assessment and Waiver dated March 23, 2019 for further details).

PART 4. SIGNIFICANT ALCOHOL/DRUG USE HISTORY

4.9 Has substance use/abuse negatively impacted the client's major life areas?

Impairments

Family

[REDACTED] reported complaints from family members about his drinking behavior in the past.

Marriage or significant other relationships

[REDACTED] reported that his wife complained about his drinking behavior in the past.

Legal Status

[REDACTED] reported that his license is revoked as a direct result of his DUI arrests.

Socially

[REDACTED] reported past associations who abused alcohol.

Vocational/work

Not Applicable

Economic status

[REDACTED] reported that he was financially irresponsible as a direct result of his excessive drinking habits in the past.

Physically/Health

[REDACTED] reported past hangovers, past blackouts and past episodes of passing out.

PART 5. OBJECTIVE TEST INFORMATION

- 5.1 Mortimer/Filkins - Score: Category:
- 5.2 ASUDS-RI Risk Level Guidelines - Score: 4 Category: High
- 5.3 Driver Risk Inventory (DRI) Scales and Risk Ranges:
 - Validity Scale:
 - Alcohol Scale:
 - Driver Risk Scale:
 - Drugs Scale:
 - Stress Coping Abilities Scale:

PART 6. CRITERIA FOR SUBSTANCE USE DISORDER

6.1 Identify any Substance Use Disorder Criteria occurring within a 12 month period. This may be done using the offender's current presentation or a past episode for which the offender is currently assessed as being in remission. One symptom will result in a Moderate Risk Level classification. Two or three symptoms will result in a Significant Risk classification. Four or more symptoms will result in a High Risk classification.

- Alcohol or drugs are taken in larger amounts or over a longer period than intended.
- There is a persistent desire or unsuccessful efforts to cut down or control alcohol or drug use.
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use.
- Craving, or a strong desire or urge to use alcohol or drugs.
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school, or home.
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs.
- Important, social, occupational, or recreational activities are given up or reduced because of alcohol or drug use.
- Recurrent alcohol or drug use in situations in which it is physically hazardous.
- Alcohol or drug use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol or drugs.
- Tolerance - Either a need for markedly increased amounts of alcohol or drugs to achieve intoxication or the desired effect, or a markedly diminished effect with continued use of the same amount of alcohol or drugs.
- Withdrawal - As manifested by either the characteristic withdrawal syndrome for alcohol or drugs, or alcohol or drugs are taken to relieve or avoid withdrawals.

6.2 If the offender meets Substance Use Disorder Criteria based on a past episode and is now assessed as being in remission, identify and describe the specifier that reflects the offender's current status.

Current Status: Sustained Remission

[REDACTED] self-reported being sober since October 9, 2016, through the support of his church. He successfully completed substance abuse counseling and sufficiently demonstrated how his non-traditional support system works for him (please see Treatment Needs Assessment and Waiver dated March 23, 2019 for further details).

6.3 Has the offender ever met Substance Use Disorder Criteria by history but and is now considered recovered (no current Substance Use Disorders)? If yes, please explain when the criteria were met and why it is not clinically significant for the purposes of a current risk assessment. The explanation must include the length of time since the last episode, the total duration of the episode, and any need for continued evaluation or monitoring.

Please see Treatment Needs Assessment and Waiver dated March 23, 2019 for further details.

PART 7. OFFENDER BEHAVIOR

7.1 Were the offender's behavior and responses consistent, reliable, and non-evasive?

Yes

7.2 Identify indications of any significant physical, emotional/mental health, or psychiatric disorders.

Not Applicable

7.3 Identify any special assistance provided to the offender in order to complete the evaluation.

[REDACTED] speaks Burmese and brought his pastor [REDACTED] to translate for him. [REDACTED] is also an intricate part of [REDACTED] non-traditional support system.

7.4 Where was the offender interview conducted?

Licensed Site

PART 8. CLASSIFICATION

8.1 Classification:

HIGH RISK: Four or more symptoms of a Substance Use Disorder (regardless of driving record); AND/OR within the ten year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents.

8.2 Discuss how corroborative information from both the interview and the objective test either correlates or does not correlate with the information obtained from the DUI alcohol/drug offender.

[REDACTED] corroborated all information provided by [REDACTED] to be true and accurate. In addition, his ASUDS-RI score was "4" which is consistent with his High Risk (dependent) classification and his current diagnosis of Alcohol Use Disorder, Severe (F10.20).

PART 9. MINIMAL REQUIRED INTERVENTION

9.1 Minimal Intervention:

HIGH RISK: Completion of a minimum of 75 hours of substance abuse treatment; and upon completion of any and all necessary treatment, and, after discharge, active on going participation in all activities specified in the continuing care plan.

9.2 The offender was referred as follows:

There are no further treatment recommendations at this time (please see Treatment Needs Assessment and Waiver dated March 23, 2019 for further details).

PART 10. VERIFICATION

Licensed Site Information:

Name:

[REDACTED]

Address:

[REDACTED]

Telephone Number:

[REDACTED]

License Number:

[REDACTED]

Evaluator Name:

[REDACTED]

Evaluator Credentials:

[REDACTED]

Evaluator Verification:

Under penalty of perjury, I affirm that I have accurately summarized the data collected and required in order to complete this evaluation.

Signature:

[REDACTED]

Date:

3/23/19

Offender Verification:

The information I have provided for this evaluation is true and correct. I have read the information contained in this Alcohol and Drug Evaluation and its recommendations have been explained.

Signature:

[REDACTED]

Date:

3/23/19

ORIGINAL



ALCOHOL AND DRUG ADDENDUM TO UNIFORM REPORT

March 23, 2019

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: [REDACTED]
DOB: [REDACTED]
D.L.: [REDACTED]

DUI ARREST INFORMATION:

10/08/2016 (age: 34):

[REDACTED] reported that he started drinking at around 8 am that morning and over the day until 8 pm, consuming approximately 7-8 beers and a pint of Hennessy (the equivalent of 16 standard drinks). He went on to report that he weighed 115 lbs., felt intoxicated and refused chemical testing. [REDACTED] further shared that he left home with his children (ages: 3 and 4) to go to the store, when he was involved in an accident and drove through a store window (no physical injuries reported).

NOTE: Although [REDACTED] refused chemical testing, based on what he reported consuming, if he had submitted to chemical testing, his BAC would have been approximately .21. This information appears to be consistent with a person who admits to drinking to intoxication and no minimization is indicated.

06/04/2015 (age: 32):

[REDACTED] reported consuming approximately one pint of Hennessy and 2 beers (the equivalent of 10 standard drinks), over 3-4 hours, weighed

OTHER SUBSTANCE ABUSE RELATED ARRESTS:

NONE REPORTED

ALCOHOL USE HISTORY:

2002 (age: 20): [REDACTED] reported his first consumption of alcohol.

2002 – 2012 (ages: 20 – 30): [REDACTED] reported consuming approximately one pint of whiskey and 1-2 beers twice a week.

2013 – 10/08/16 (ages: 30-34): [REDACTED] reported drinking daily, ½ pint of whiskey after work (4 days a week) and consuming a pint of whiskey and 1-2 beers on his days off (3 days a week).

10/09/16 – PRESENT: [REDACTED] reports abstinence.

NOTE: [REDACTED] denied any use of illicit drugs past and/or present. He also reported abstinence from alcohol during his treatment experiences.

Respectfully submitted,

[REDACTED]

ORIGINAL



TREATMENT NEEDS ASSESSMENT AND TREATMENT WAIVER

March 23, 2019

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: [REDACTED]
DOB: [REDACTED] (year only [REDACTED])
D.L.: [REDACTED]

Mr. [REDACTED] is a 36-year-old, married (10 years), Asian (Burmese) male, with two children (ages: 5 and 7), who presented himself to this agency on March 23, 2019 to be assessed for driving relief at his last hearing held on February 7, 2018. He reported working as [REDACTED] and explained that he needs a license to travel for work and to care for his young children, where public transportation is scarce. [REDACTED] was on time for his appointment, his appearance was neat, and he maintained good eye contact, appropriate demeanor, good posture and speech. In addition, [REDACTED] agreed to participate in a complete review of his arrest history, lifestyle (both past and present), and changes in his lifestyle and attitude since his last substance abuse related arrest. Finally, [REDACTED] appeared to be open to the process and appeared to accept responsibility for his actions without frustration or blame.

[REDACTED] has a history of two DUI arrests, with the most recent DUI occurring on October 8, 2016, in the State of Illinois. [REDACTED] denied any out-of-state DUI arrests and/or any other alcohol/drug related arrests in any state. [REDACTED] is a self-admitted alcoholic who provided documentation that he completed 75 hours of substance abuse counseling at [REDACTED] (06/23/17), where he received a favorable prognosis at discharge. The purpose of this assessment is to:

- To determine if his treatment experience was successful since it was completed at another agency
- To determine if he fully understands the nature of his alcohol problem
- To determine the strength of his current non-traditional support system
- To determine what significant lifestyle changes he has made since becoming sober
- To determine his current recidivism risk

SUBSTANCE USE BACKGROUND:

[REDACTED] reported being born in Myanmar, a country in Southeast Asia. He reported being raised by his parents as an only child, both of whom died when he was young. [REDACTED]



on to share that his mother died when he was 8 years old and his father died when he was 15 years old, following which he reported being raised by his uncle.

As a young child, [REDACTED] explained how his country was a pariah state and under the rule of military leaders who exercised forced labor on its citizens. He went on to explain how this military rule, prohibited him from going to school after the fourth grade and involuntarily pushed him into forced labor. [REDACTED] reported how he was forced to heavy carry bags for the military for miles, one village to the next, until fleeing his country to Malaysia at the age of 20.

Upon [REDACTED] arrival in Malaysia, he reported his first consumption of alcohol, to alleviate stress and as a way of socializing with others. He went on to report that his drinking was not frequent, because he needed to work to make money to flee next to the United States.

While living in Malaysia, [REDACTED] reported meeting his wife. Prior to arriving in the United States, he reported the onset of marital problems related to his drinking (i.e. staying out too late, coming home intoxicated, etc.). [REDACTED] shared how he dismissed his wife's feelings for many years and continued to live the way he wanted to in a selfish manner.

In 2013, [REDACTED] reported the opportunity to come to the United States for refuge. Upon his arrival, he reported finding work to support his family that required little knowledge of the English language. He further explained that as he began working and meeting other refugees, his drinking escalated as he continued to use alcohol as a social lubricant and to alleviate daily life stressors. [REDACTED] shared that it was not long before he was drinking daily. This drinking behavior, he reported, caused a great amount of discord between him and his wife; however, he continued drinking and justifying his behavior because he never missed work.

Following [REDACTED] first DUI arrest (2015), he reported that his wife raised concerns again about his drinking, but that he ignored them. Instead, he explained how he continued to drink, despite the problems his use of alcohol was causing in his life, until he was arrested for his second DUI (2016). It was not until that arrest that [REDACTED] reported feeling ashamed of his actions and disappointed about his drinking behavior. As a result, he reported that he immediately began attending church with his family and met with the pastor for assistance. Since that time, [REDACTED] reported that he came to terms with the fact that he was indeed an alcoholic who could not drink successfully.

DIAGNOSIS/CLASSIFICATION:

Alcohol Use Disorder, Severe (F10.20) High Risk (dependent)

DSM 5 CLINICAL CRITERIA:

After speaking with [REDACTED] each of the clinical criteria outlined in the DSM 5 was reviewed, with regards to his past alcohol use and the negative effects he experienced, and he admitted to the following:

- Alcohol or drugs are taken in larger amounts or over a longer period than intended

- There is persistent desire or unsuccessful efforts to cut down or control alcohol or drug use
- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use
- Cravings, or a strong desire or urge to use alcohol or drugs
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school or home
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs
- Important social, occupational, or recreational activities are given up or reduced because of alcohol or drug use
- Recurrent alcohol or drug use in situations which it is physically hazardous
- Increased tolerance
- Withdrawal

In addition to these clinical symptoms, Mr. Mang also reported a history of the following indicators of substance abuse:

- Hangovers
- Episodes of blacking out
- Episodes of passing out

This information did appear to be consistent with [REDACTED] reported alcohol use pattern, his current diagnosis of Alcohol Use Disorder, Severe (F10.20) and his current High Risk (dependent) classification as well.

TREATMENT EXPERIENCE:

Previously [REDACTED] successfully completed 75 hours of substance abuse counseling at [REDACTED] (06/23/17) with a favorable prognosis, where he reported learning the following information through his treatment experience:

- The disease of addiction being cunning, baffling and powerful
- The importance of having a relapse prevention plan
- Being honest about his triggers
- What it means to have an addiction

Further discussion with [REDACTED] revealed that he realized during treatment that the following are his triggers for relapse:

- Socializing
- Stress

During treatment, [REDACTED] reported that he learned the most important way to combat his triggers would be to stay closely connected with others who support his sobriety. As a result, he reported that he is not ashamed to talk to others about his triggers.

While engaged in treatment, [REDACTED] reported that 12 step programming was required; however, because he could not find an Alcoholics Anonymous (AA), where his language was spoken (Burmese), he developed a non-traditional support system through his church. [REDACTED] provided several letters attesting to his abstinence from alcohol, as well as those involved in his support system. Each letter provided adequate information corroborating [REDACTED] claims that he has been abstinent since October 9, 2016 and that he is actively involved in church to enhance his continued sobriety.

SIGNIFICANT LIFESTYLE CHANGES:

With regards to [REDACTED] classification level and diagnosis, it was important for this writer to examine what (if any) significant lifestyle changes he made since his last alcohol-related arrest and most recent treatment experience up until this point. Since that time, he reported making significant lifestyle changes, which include:

- Developed a relapse prevention plan
- Has remained abstinent from alcohol since October 9, 2016
- Has developed a non-traditional support system through his church
- No longer associates with his old drinking friends
- Spends more time with his family engaging in non-alcohol related activities
- Attends church twice a week
- Makes better decisions/choices

Today, [REDACTED] reports no continued problems with alcohol. He went on to explain that he spends most of his free-time engaging in non-alcohol related activities and now understands how his past drinking behavior could have taken a much more serious turn for the worst if he had seriously injured or killed someone. [REDACTED] reported being thankful for the opportunity to grow and mature. Because [REDACTED] has been able to avoid any further alcohol-related problems and remain abstinent from alcohol, through the assistance of his non-traditional support system (church), it does not appear that he would benefit from any further treatment at this time. He appears to have taken his arrests seriously and made appropriate lifestyle changes.

WAIVER EXPLANATION:

In conclusion, it appears that [REDACTED] has continued to implement the necessary changes to avoid recidivism and appears to be appropriately classified as High Risk (dependent) and properly diagnosed with Alcohol Use Disorder, Severe (F10.20). Furthermore, it does not appear that [REDACTED] would benefit from any further treatment at this time due to the following reasons:

- He has provided adequate documentation attesting to his abstinence
- He has provided adequate documentation attesting to his non-traditional support system
- He has been able to abstain from alcohol, utilizing his non-traditional support system
- He was able to articulate significant information he learned through his treatment experience
- He has been able to live a non-problematic lifestyle for the last 2+ years

- He has not had any further substance abuse related arrests/problems for the last 2+ years

Therefore, it does appear that [REDACTED] has reduced his risk of recidivism and it is recommended that he continues to surround himself with others who are conducive to his new lifestyle and recovery. In conclusion, it is the opinion of this evaluator that based on the evidence provided by [REDACTED] that no further treatment is necessary at this time and further treatment is hereby waived.

Respectfully submitted,

[REDACTED]



ORIGINAL

RESPONSE TO DENIAL

March 23, 2019

Illinois Secretary of State
Department of Administrative Hearings
Howlett Building
Springfield, IL 62756

Re: [REDACTED]
DOB: [REDACTED]
D.L.: [REDACTED]

Mr. [REDACTED] is a 36-year-old, married (10 years), Asian (Burmese) male, with two children (ages: 5 and 7), who presented himself to this agency on March 23, 2019 to be assessed following formal hearing he attended on February 7, 2018, where he was denied driving relief. As a result, a new Uniform Report and Treatment Needs Assessment and Waiver were completed all dated March 23, 2019, including this Response to Denial Order to address the Hearing Officer's concerns. The following are [REDACTED] responses:

S: After speaking with [REDACTED] regarding his testimony about what he consumed the night of his DUI arrests, he reported minimizing his usage as a result of a cultural barrier. With the assistance of his translator (his pastor who runs a refugee church), he explained that within his Burmese culture, it is "impolite/insulting" to abusively consume alcohol and his pastor confirmed this information. Culturally, his pastor shared that it would be more of an insult to admit to abusing alcohol vs. minimizing his drinking behavior when asked. As a result, [REDACTED] reported being dishonest to avoid being "rude/insulting."

After meeting with this writer, he was informed that in the United States (U.S.) being dishonest for any reason, especially in this capacity, would be considered "rude/inappropriate." In addition, this writer also explained to him that being dishonest with the Hearing Officer, also called his credibility, the strength of his continued sobriety and support system all into question, due to the American belief that if a person cannot be honest, then he/she cannot work an "honest and sustaining" program of recovery, traditional or not. [REDACTED] appeared sincerely apologetic for his actions, reiterating that he did not want to "insult" the Hearing Officer and did not understand American cultural beliefs regarding



the connection of honesty (in this capacity) and sustained sobriety. He appeared remorseful for his actions.

Further discussion with [REDACTED] revealed that following his second DUI arrest, he was aware that he was an alcoholic who could not consume alcohol in moderation and that this within itself was "rude/insulting" to his family, his church and his value and belief systems. At the time of that arrest in 2016, [REDACTED] explained that he was so intoxicated that he put his car in the wrong gear and drove through a storefront window with his children in the car. He appeared very remorseful for his actions, sharing that following that incident, he vowed to never drink again and took it as a sign from God that his children and no one else was injured. Since that time, he reported turning to his family and his church congregation for help with his alcoholism. [REDACTED] went on to report confessing to his addiction and through their support he reported being able to remain abstinent from alcohol. [REDACTED] explained that he is no longer embarrassed about being an alcoholic and feels relieved that his family and his church are aware that he has an addiction, because they now know how to support him and encourage his continued abstinence.

With regards to what [REDACTED] consumed the night of his DUI arrests, he reported the following information to be a more accurate depiction of what he consumed on both occasions now that he realizes the importance of being fully forthright:

10/08/2016 (age: 34): [REDACTED] reported that he started drinking at around 8 am that morning and over the day until 8 pm, consuming approximately 7-8 beers and a pint of Hennessy (the equivalent of 16 standard drinks). He went on to report that he weighed 115 lbs., felt intoxicated and refused chemical testing. [REDACTED] further shared that he left home with his children (ages: 3 and 4) to go to the store, when he was involved in an accident and drove through a store window (no physical injuries reported).

06/04/2015 (age: 32): [REDACTED] reported consuming approximately one pint of Hennessy and 2 beers (the equivalent of 10 standard drinks), over 3-4 hours, weighed 115 lbs., felt intoxicated and had a BAC registering at .26. He reported drinking at home and was headed to pick up a friend when he was stopped for swerving.

In addition, [REDACTED] also admits to being intoxicated on numerous occasions prior to both DUI arrests, as well as driving under the influence on many occasions prior to both DUI arrests.

8A: Again, [REDACTED] reported that his minimization was an attempt of him to not be "rude/insulting" based upon his own cultural/value belief system. Since

being denied, he appeared to now understand how his dishonesty was inappropriate and made him appear less credible. As a result, a new Alcohol and Drug Addendum was completed (dated March 23, 2019), which he reported to be a much more accurate depiction of his past abuse of alcohol. In the year prior to both DUI arrests, he reported the following drinking pattern:

- daily drinking: ½ pint of whiskey after work (4 days a week) and consuming a pint of whiskey and 1-2 beers on his days off (3 days a week)

██████████ is a very small sized man (averaging weight: 115 lbs.), making his reported daily consumption of alcohol consistent with a person who admits to abusing alcohol and who admits to daily intoxication. Despite the cultural barrier, ██████████ is also aware that he was dishonest and how that behavior is unsettling within any culture, including his own. He appeared very remorseful for his past testimony at his last hearing.

8B: ██████████ attributes his statement that he could "guarantee" his continued sobriety, the fault of his continued cultural barrier. Culturally, it would be shameful for him to not state with certainty that he will never drink again; however, he now realizes that within American culture, a person cannot "guarantee" his or her own sobriety; moreover, that an individual can only recover one day at a time.

██████████ appeared to make that connection very easily, because he explained how attending church and Bible study weekly has become the most intricate part of his day to day recovery. He went on to explain how attending church, meeting with his pastor regularly, sharing openly in Bible study, talking openly about his daily life stressors with his close friends has been a constant reminder how unproductive his drinking behavior was and how it went against his own cultural, value and belief systems that "one should not abuse/over-indulge in alcohol." ██████████ appeared clear that there is no "cure" for alcoholism; however, he appeared fully aware that if he stays closely connected to his support system, his chances for continued sobriety are enhanced.

8C: ██████████ reported that he was somewhat confused when being asked about his past symptoms of alcohol abuse due to his language barrier (speaks Burmese). Since then, this writer and ██████████ carefully reviewed the DSM 5 symptoms of Alcohol Substance Use Disorders, as well as indicators of substance abuse through the assistance of his translator (his pastor). As a result, he admitted to experiencing the following symptoms prior to his last DUI arrest:

- Alcohol or drugs are taken in larger amounts or over a longer period than intended
- There is persistent desire or unsuccessful efforts to cut down or control alcohol or drug use

- A great deal of time is spent in activities necessary to obtain, use, or recover from the effects of alcohol or drug use
- Cravings, or a strong desire or urge to use alcohol or drugs
- Recurrent alcohol or drug use resulting in a failure to fulfill major role obligations at work, school or home
- Continued alcohol or drug use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol or drugs
- Important social, occupational, or recreational activities are given up or reduced because of alcohol or drug use
- Recurrent alcohol or drug use in situations which it is physically hazardous
- Increased tolerance
- Withdrawal

In addition to these *clinical symptoms*, [REDACTED] also reported a history of the following *indicators* of substance abuse:

- Many hangovers
- Episodes of blacking out
- Episodes of passing out

This information appears to be consistent with someone who admits to having a serious problem with alcohol and one who cannot consume alcohol in moderation. [REDACTED] reported that he learned during treatment the reasons why he abused alcohol and learned what he needed to do to avoid consuming alcohol. As a result, he developed a non-traditional support system of recovery through his church, Biblical beliefs, family members and close friends.

9/10: Again, [REDACTED] minimization throughout his last hearing was based on his cultural belief/value system and how his intent was to avoid being "rude" to the Hearing Officer. Since being denied, he reported that he is clear how his dishonesty and minimization was unproductive and not consistent with a person who reports to have addressed his abusive drinking nor a person who realizes that he cannot consume alcohol successfully (please see Uniform Report, Treatment Needs Assessment and Waiver and Alcohol and Drug Addendum – all dated March 23, 2019 for further details).

11C: [REDACTED] is a refugee from Myanmar, who does not speak the English language (speaks Burmese) and who migrated to the United States in 2013. He works currently as a [REDACTED] where his lack English skills are not needed for his current position. [REDACTED] reported that there is a threat to his current employment, due to being late to work depending on rides from others. If he were to lose his job, [REDACTED] reported that it would be a hardship for him and his family due to the lack of transportation available in the suburbs where he resides [REDACTED]. As a result, he reported that it is necessary for him to

maintain his employment so that he can support his wife and two small children.

CONCLUSION/RATIONALE:

It appears that [REDACTED] has appropriately addressed all necessary issues with the Secretary of State. This evaluator has extensively reviewed all documents presented by him and his self-report to address these specific issues/concerns and it appears that [REDACTED] understands the importance of being honest and clear with his responses so that the Hearing Officer can make an appropriate assessment of his current risk to public safety. He appeared to be open and forthright with disclosing all information regarding his past alcohol use and behavioral changes he has made. Furthermore, [REDACTED] appears to be at a low risk to re-offend currently due to his ability to successfully abstain from alcohol since his last DUI arrest through the support of his church, family and friends who know him well. If you should have any further questions, please do not hesitate to contact me at (312) 263-1131.

Respectfully submitted,

[REDACTED SIGNATURE]

JESSE WHITE
SECRETARY OF STATE
STATE OF ILLINOIS

IN THE MATTER OF THE REVOCATION OF THE
DRIVER'S LICENSE AND DRIVING PRIVILEGES
OF [REDACTED]
DRIVER'S LICENSE NUMBER [REDACTED]

FILE NO. [REDACTED]

ORDER

WHEREAS, the Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer, [REDACTED] in the above captioned case have been read and examined; and,

WHEREAS, the record has been reviewed; and,

WHEREAS, the Findings of Fact and Conclusions of Law are correct and are hereby adopted as the Findings of Fact and Conclusions of Law of the Secretary of State ("Secretary"); and,

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions were correct and are hereby concurred in by the Secretary; and,

WHEREAS, the Secretary adopts the recommendations of the Hearing Officer;

NOW THEREFORE, IT IS HEREBY ORDERED: That pursuant to the Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the petition for the reinstatement of full driving privileges is hereby **DENIED**; however, the petition for issuance of a Restricted Driving Permit ("RDP") for: employment purposes for driving to and from work and/or while performing job related duties for his primary employer, [REDACTED] 60007, and for support/recovery services for attending no more than five (5) meetings per week is hereby **GRANTED**; days, hours and other conditions of which are to be established by verification.

Any permit issued under this Order shall expire no later than (12) months from the date of the issuance of the first permit under this Order. Additionally, this Order is based upon the Petitioner's driving record at the time of this hearing and it is subject to the subsequent receipt of any report of conviction or other notice that would result in the loss of driving privileges making the Petitioner ineligible for the relief granted.

This Order is not to be construed as an authorization to operate a motor vehicle. Petitioner must meet any and all requirements of the Office of the Secretary as well as all of the terms and conditions of the **Breath Alcohol Ignition Interlock Device Program**, and be in receipt of said RDP, prior to the operation of any motor vehicle.

