

**RFP No: 2009-342-08-21CGV**

**Buyer : CRIS VILLARREAL**

**Tel. No: (956) 318-2626**

**REQUEST FOR PROPOSALS**

**Hidalgo County**  
Edinburg, Texas

**RFP- "Treatment Alternative to Incarceration Program (TAIP)  
Substance Abuse Treatment In-Patient Services for  
Hidalgo County Community Supervision and Corrections Department"**  
August 21, 2009,

Contact Person:

Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
2812 So. Business Hwy 281 - New Administration Building  
Edinburg, Texas 78539

(956) 318-2626

Form HCPD-04

LEGAL NOTICE

**Bid No: 2009-342-08-21CGV**

1. Sealed proposals will be received for "RFP- Treatment Alternative to Incarceration Program (TAIP)-(Substance Abuse Treatment In-Patient Services)- Hidalgo County Community Supervision and Corrections Department", in accordance with the requirements attached hereto as Exhibit "A." Proposals should address all requirements set forth. Proposers may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"). Strong rationale must be presented for any deviation from the requirements. Hidalgo County reserves the right to reject the deviation and its effect on the overall proposal.
  
1. 2. One (1) original and seven (7) copies of all proposals are required, with the proposers name and address clearly typed/printed on upper left hand corner and the proper notation clearly typed/printed on the lower left hand corner of the envelope and/or package, "RFP NO.: 2009-342-08-21CGV - RFP Treatment Alternative to Incarceration Program (TAIP)-Substance Abuse Treatment In-Patient Services-Hidalgo County Community Supervision and Corrections Department " and in County's Purchasing Department, 2802 So. Business Hwy 281, New Administration Building, Edinburg, Texas, **on or before 9:30 a.m., Friday, August 21, 2009. NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY PROPOSAL RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED. OVERNIGHT MAIL MUST ALSO BE PROPERLY LABELED ON THE OUTSIDE OF EXPRESS ENVELOPE OR PACKAGE WITH REFERENCE TO: "RFP-2009-342-08-21CGV -RFP Treatment Alternative to Incarceration Program (TAIP)-(Substance Abuse Treatment In-Patient Services)- Hidalgo County Community Supervision and Corrections Department ". Hidalgo County reserves the right to refuse and reject any/all proposals and to waive any/all formalities or technicalities, or to accept the proposal considered the best and most advantageous to Hidalgo County. **WRITTEN QUESTIONS REGARDING THE SCOPE OF SERVICES WILL BE ACCEPTED VIA FACSIMILE TO (956) 318-2629 OR VIA EMAIL TO [cris.villarreal@co.hidalgo.tx.us](mailto:cris.villarreal@co.hidalgo.tx.us) NO LATER THAN , , 2009 at 5:00 p.m.** Responses will be sent to all applicants via facsimile or via email by **Friday, , 2009. TELEPHONE INQUIRIES WILL NOT BE ACCEPTED.****
  
3. Hidalgo County reserves the right to: A. separate and accept, or eliminate any item(s) listed under this proposal that it deems necessary to accommodate budgetary and/or operational requirements; B. reject any or all proposals submitted and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best proposal for approval. Receipt of any proposal shall under no circumstances obligate County to accept the lowest dollar proposal; and C. award of this contract shall be made to the responsible offeror whose proposal is determined to be the best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors as herein set forth.

4. Failure of the delivered item(s) to perform as specified, or failure to meet the stated delivery schedule shall release Hidalgo County from all obligations to the contracting party with regard to the item(s) in question. In such event, County may elect to award the contract to the next-lowest responsible proposer, or to reject all proposals and re-advertise.
5. For work to be performed at a County owned or operated location, each Proposer shall, in its sole discretion, visit the job site before preparing the proposal and thoroughly familiarize himself/herself with existing conditions. Proposer should take field dimensions and note all circumstances which affect the dollar amount of the proposal.
6. Descriptive specifications are referenced in this document to indicate the general kind and quality of equipment desired by Hidalgo County. Due to various styles and models of equipment, Proposers are required to include illustrations, specifications, explanation of warranties, and service data with their proposal including catalogue numbers and any necessary references.
7. No proposal may be withdrawn within sixty (60) days from the scheduled time to open proposals.
8. Proposed prices are to remain firm for a minimum of ninety (90) days after priced proposal opening.
9. Any interpretations, amendments, corrections or changes to this proposal document must be in a written addendum and signed by the County Judge or his designee. Addenda will be mailed to all who are known to have received a copy of the Request for Proposals. Proposers shall acknowledge receipt of all addenda as a part of their proposal.
10. County reserves the right to accept or reject any or all proposals.
11. Costs are to be net F.O.B., County Prepaid.
12. County is exempt from Federal Excise Tax, State Tax and Local Tax. Do Not include tax in cost figure. If it is determined that tax was included in the cost figures it will not be included in the tabulation of any awards. Tax exemption certificates will be furnished upon request.
13. Funds for this procurement have been provided through the County budget for this fiscal year only. County, on an annual basis, has the right to reconsider a contract during the budget process for ensuing years if financial resources of County are insufficient to meet the liabilities of said contract. The award of a proposal or contract hereunder will not be construed to create a debt of the County which is payable out of funds beyond the current fiscal year.

14. Upon award and prior to execution of a contract, Sole Proprietorships are required to submit a copy of their social security card to the Hidalgo County Auditor's Office in order to establish an account with the County. All awarded vendors must submit a completed W-9 and a copy of their Federal ID Number Certificate.

15. DELIVERY INSTRUCTIONS: (IF APPLICABLE)

- . No deliveries accepted after 3:00 P.M., Monday-Friday.
- . At least seventy two (72) hours prior notice of delivery must be given to Martha L. Salazar, CPPB, Purchasing Agent before delivery will be accepted.
- . If you need additional information call the office listed below:

Hidalgo County Purchasing Department  
Martha L. Salazar, CPPB, Purchasing Agent  
(956) 318-2626

16. BILLING AND PAYMENT INSTRUCTIONS:

- . Invoices must include:
  - a) Name and address of successful proposer
  - b) Name and address of receiving department or official
  - c) Purchase Order Number (if any)
  - d) Notation - **"RFP Treatment Alternative to Incarceration Program (TAIP)-(Substance Abuse Treatment In-Patient Services)- Hidalgo County Community Supervision and Corrections Department"**
  - e) Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.
- . Discount payments will be considered when offered.
- . Contact person for Billing and Payment questions:

Ricardo Guerrero, TAIP Coordinator  
Hidalgo County Community Supervision and Corrections Department  
3100 So. Bus. Hwy 281 Bldg. B  
Edinburg, TX 78539  
(956) 318-2920

17. Schedule of Events

**Proposal Opening, 9:30 A.M.**

**August 21, 2009**

Award of Contract

\_\_\_\_\_, 2009

Commence Work or Deliver Products

\_\_\_\_\_, 2009

18. ~~Bid or Performance Bond and Debarment Certification; Payment Under Contract:~~

- ~~. If the contract proposed is for the construction of public works or is for a contract for goods and services exceeding \$100,000, all bidders shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in Texas.—All participants are required to furnish a certification or acknowledgment stating that the contractor or vendor is free from suspension or debarment pursuant to federal regulation 45CFR76.~~
- ~~. Together with the signing of a contract or issuance of a purchase order following the acceptance of a proposal, and prior to commencement of the actual work, the proposer shall furnish a performance bond to the County for the full amount of the contract, if that contract exceeds \$50,000.~~
- ~~. If the contract is for \$50,000 or less, no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County, and, if applicable, the receipt by County of satisfactory evidence that all subcontractors and material men have been paid.~~
- ~~. If a contract is for the construction, alteration or repair of public buildings or public works, the contractor shall provide a payment bond for a contract in excess of Twenty Five Thousand Dollars (\$25,000.00), as required by Tex. Govt. Code Ch. 2253.~~
- ~~. For requirements contracts, bond requirements are determined by applying the proposed unit price to the estimated quantities included in the specifications.~~

19. Ethical Standards:

- ~~. It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a Program (TAIP) requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any Program (TAIP) requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of the County.~~

- . It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County, or any person associated therewith, as an inducement for the award of a subcontract or order.
- . No public official shall have an interest in a contract awarded hereunder except in accordance with Tex. Loc. Govt. Code Chapter 171.

20. **Disclosure of Conflict of Interest:**

- . Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County (“the County”) to disclose in the Conflict of Interest Questionnaire (the “CIQ”) attached as Exhibit D, the vendor, person consultant or contractor’s affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk’s Office no later than the seventh business day after the date the person becomes aware of facts that require that statement to be filed. The disclosure requirement applies to a person or business who contract or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the successful Proposer fails to comply with Texas Local Government Code Chapter 176. Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encouraged to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please submit complete CIQ forms to the Hidalgo County Clerk’s Office located at 100 No. Clossner, Edinburg, Texas 78539-Hidalgo County Courthouse  
**COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE PROPOSER.**

21. If, during the life of any contract or proposal awarded, the successful proposer's net prices generally available to other customers for items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to County.
22. Proposals, and all goods and services provided thereunder, shall comply with all federal, state and local laws concerning this type(s) of goods and/or services.
23. Minimum Standards for Responsible Prospective Proposers: A prospective proposer must affirmatively demonstrate proposer's responsibility. A prospective proposer, by submitting a proposal, represents to County that it meets the following requirements:

- . Possess or is able to obtain adequate financial resources as required to perform under the proposal;
  - . Be able to comply with the required or proposed delivery schedule;
  - . Have a satisfactory record of performance;
  - . Have a satisfactory record of integrity and ethics;
  - . Be otherwise qualified and eligible to receive an award.
23. Successful proposer will pay or cause to be paid, without cost or expenses to County, all FICA, FUTA/SUTA and Federal Income Withholding Taxes of all employees, and all wages and benefits as required by Federal or State law. Successful proposer's officers, agents and/or employees will not be entitled to any benefits of an employee or elected official of County, including, but not limited to, benefits associated with County's civil service system.
24. **Any contract award to a successful proposer will be in effect until (a) the contract expires, (b) delivery and acceptance of products, and/or performance of services ordered, or (c) terminated by County with thirty (30) day's written notice prior to cancellation.**
25. County reserves the right to enforce performance of any contract awarded hereunder in any manner prescribed by law or deemed to be in the best interest of the County in the event of breach or default by successful proposer; County reserves the right to terminate any contract immediately in the event a successful proposer fails to:
- A. Meet schedules;
  - B. Pay any required fees or taxes; or
  - C. Otherwise perform in accordance with the requirements.
26. Successful proposer shall defend, indemnify and save harmless County and all its elected officials, officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful proposer, or of any agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from proposal award. Successful proposer indemnifies and will indemnify and save harmless County from liability, claim or demand on their part, agents, servants, customers, and/or employees whether such liability, claim or demand arise from event or casualty happening or within the occupied premises themselves or happening upon or in any of the halls, elevators, entrances, stairways or approaches of or to the facilities within which the occupied premises are located. Successful proposer shall pay any judgment with costs which may be obtained against County growing out of such injury or damages, and shall, upon request, provide a defense to County by counsel reasonably acceptable to County. Successful proposer's indemnity hereunder

shall include, but is not limited to, claims relating to patent, copyright or trademark infringement, and the like, arising out of the goods or services provided by successful proposer.

27. Successful proposer shall warrant that all items/services shall conform with the specifications and/or all warranties provided under the Uniform Commercial Code and be free from all defects in material, workmanship and the like. Items supplied under a contract pursuant to this Request for Proposals shall be subject to County's approval. Items found to be defective or not meeting specifications shall be replaced by successful proposer within two business days at no expense to County. Items not picked up within one (1) week after notification shall be deemed a donation to County and may be used or disposed of at County's discretion and without waiver of any other rights of County as to the item's nonconformity.
28. This document and any disputes arising hereunder shall be governed and construed according to the laws of the State of Texas, and will be performable exclusively in Hidalgo County, Texas.
29. The successful proposer shall not assign, sell, transfer or convey its rights under any awarded contract, in whole or in part, without the prior written consent of County.
30. Proposers shall provide with the proposal response, a list of at least three (3) references where like services have been supplied by their firm. Include the name of the business or government, address, telephone number and name of representative or contact person.
31. Proposers must provide **all** documentation requested with this Proposal in their response. Failure to provide this information may result in rejection of the proposal as non conforming.

Proposal  
for  
**RFP “Treatment Alternative to Incarceration Program (TAIP)  
(Substance Abuse Treatment In-Patient Services)  
Hidalgo County Community Supervision and Corrections Department”**  
**RFP No: 2009-342-08-21CGV**  
August 21, 2009

To: Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
2812 So. Business Hwy 281 - New Administration Building  
Edinburg, Texas 78539

In accordance with the Requirements, and subject to all laws and regulations of the United States and state and local laws, the undersigned Proposer proposes and commits to furnish all labor, equipment, material, software and services as set forth in the documents hereinbefore mentioned. The undersigned Proposer further agrees, upon acceptance of its proposal, to execute a contract and/or Purchase Order issued by Hidalgo County for performing and completing the work described in the Requirements within the time stated and for the prices proposed in the documents attached hereto and made a part hereof.

Proposer acknowledges receipt of all of the pages of the documents referenced in the Invitation to Proposal Checklist presented in connection with this procurement. Proposer understands that Hidalgo County reserves the right to reject any or all proposals and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best proposal.

Proposer agrees that this proposal shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving proposals, as contained in the Requirements.

Respectfully submitted,

Proposer: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Request for Proposal**  
(RFP No.: 2009-342-08-21CGV)

For

**Treatment Alternative to Incarceration Program  
Substance Abuse Treatment Services  
(TAIP)**

For

**HIDALGO COUNTY**

**COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT (CSCD)**

**PROPOSALS DUE:**

**Date: August 21, 2009**

**Local Time: 9:30 A.M.**

**\* INSTRUCTION: This form is intended to be a general guideline for CSCDs to consider in preparing their RFP for submission to parties that desire to be considered as potential providers for the TAIP services and treatment at issue. Accordingly, CSCDs should modify and tailor this form so that the actual RFP as issued by the CSCD only addresses the specific TAIP services and treatment activities for which proposals are being solicited.**

# TABLE OF CONTENTS

---

Introduction.....	4
Authority.....	5
Qualifications to Submit a Proposal .....	6
INSTRUCTIONS TO PROPOSERS.....	7
Opening Date and Procedures.....	7
Overview.....	9
Target Populations.....	10
Budgets, Accounting Records, Etc.....	10
Additional Terms.....	11
Subject to Availability of Funds.....	12
Miscellaneous.....	12
MINIMUM REQUIREMENTS FOR TAIP CATEGORIES.....	12
ADDITIONAL PROPOSAL CRITERIA.....	13
Screening.....	13
Assessment.....	13
Proposal Submission Requirements.....	14
Further Proposal Format Requirements.....	15
Required Information.....	16
Program Description.....	17
Objectives.....	19
Program Evaluation Methods.....	19
Additional Information Required of Proposer.....	20
Proposal Evaluation Factors.....	21
Following the CSCDs Selections of Proposer(s).....	22
FORMS	
Appendix I (Cover Page).....	24

Appendix II (Vendor Budget Form Instructions).....	25
Appendix III (Vendor Request for Funding).....	27
Appendix IV (Summary Budget for Purchases of Services).....	30
1. Personnel Salaries	
2. Personnel Fringe Benefits	
3. Personnel Training	
4. Personnel Travel	
5. Equipment	
6. Transportation	
7. Consumable Supplies	
8. Other	
9. Facility Costs	
Appendix V (Substance Abuse Treatment Services Operations Agreement) .....	40
Exhibit A -Vendor Operations Plan and Budget	
Exhibit B – Monthly Invoice Form	
Appendix VI (H.B. No. 776 – Adding Tex. Gov. Code §495.008) .....	42
Appendix VII .....	43
TDCJ-CJAD Standards for CSCDs - Substance Abuse Treatment Standards	
TCADA – Chapter 148 Rules	

## **Treatment Alternative to Incarceration Program Request for Proposals**

**Please read this entire document carefully and follow all instructions. Each Proposer is responsible for fulfilling all the requirements and specifications.**

### **Introduction**

The Hidalgo County Community Supervision and Corrections Department (hereafter called "CSCD") is a political entity of the 5th Judicial District(s) of the State of Texas. CSCD is seeking vendors to provide substance abuse treatment services to defendants under various types of community supervision within their jurisdiction. CSCD is submitting this Request for Proposal ("RFP") with the intent of awarding a contract for the requirement contained in this RFP. However, the CSCD is not obligated to award a contract on this solicitation, and reserves the right to reject any all proposals and award any contracts to best serve its interests.

### **Authority**

In accordance with Section 76.017 of the Texas Government Code, CSCD may establish a Treatment Alternative to Incarceration Program ("TAIP") pursuant to the standards and funding requirements adopted by the Texas Department of Criminal Justice - Community Justice Assistance Division ("TDCJ-CJAD"). CSCD may contract for the provision of TAIP treatment services.

CSCD implements TAIPs in accordance with the orders of the criminal courts having jurisdiction over its operations, community justice plans, and applicable state and federal laws. TAIPs and related services are utilized to accomplish the mission of the CSCD, which includes:

1. Protect the public interest and safety of the community,
2. Provide services to the courts in the enforcement of their orders,
3. Provide services that meet the needs of offenders placed on community supervision and assist them in becoming law-abiding citizens,
4. Provide programs and activities designed to reduce the impact of crime, and to
5. Provide alternate sanctions and options to the court for sentencing and supervision.

## Qualifications to Submit a Proposal

Proposer must have adequate financial resources, insurance, and legal authority to contract for and furnish the TAIP treatment services at issue. Proposer, and any employed staff, must also have all appropriate and applicable facility, program, and individual licenses and credentials issued by the Texas Commission on Alcohol and Drug Abuse ("TCADA"); and in addition, Proposer and any employed staff must be otherwise legally qualified to perform the subject substance abuse treatment and other services prior to the submission of a proposal.

If Proposer is selected under this RFP, CSCD reserves the right to negotiate with Proposer for other levels of service and treatment during the contract period. The furnishing by Proposer to CSCD of such other levels of service and treatment, however, is expressly conditioned on the requirements that: (1) both parties enter into and execute a written contract amendment or new contract, that address the other levels of service and treatment; (2) Proposer obtains, or has all, appropriate licenses and authority to furnish the subject other services and treatment; and (3) the other levels of service and treatment at issue is in the best interest of the CSCD, as determined in the CSCD's sole discretion and judgment.

Proposer must be able to serve CSCD at any location or satellite offices within the CSCD's judicial districts and counties; and as required and instructed by CSCD.

## INSTRUCTIONS TO PROPOSERS

### Opening Date and Procedures:

**Completed Sealed Proposal  
Original and SEVEN (7) single sided copies  
Must be received at the  
Hidalgo County Purchasing Department  
At the following address, on or before the date and time stated below**

US Postal Mail Address:

Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
New Administration Building  
2812 So. Business Hwy 281  
Edinburg, Texas 78539

Physical Address:

Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
New Administration Building  
2802 So. Business Hwy 281  
Edinburg, Texas 78539

**August 21, 2009**  
**(Date)**

**9:30 A.M.**  
**(Local Time)**

**All proposals must be securely sealed in suitable envelopes/boxes and addressed and labeled as follows: RFP No.: 2009-342-08-21CGV "Treatment for Alternatives to Incarceration (TAIP) Program".** The original proposal must be clearly marked "ORIGINAL", and contain all original signatures.

**Proposed Terms.** The term for the TAIP treatment services set forth in a proposal must be for a contract period of two (2) years, with the option for the CSCD to renew for an additional one (1) year. Proposer's prices set forth in their proposal must be firm for the entire time period. It is anticipated that the effective date for any contract that may be awarded to Proposer related to this RFP will be September 1, 2009.

**Late proposals will be returned to the Proposer unopened.** CSCD will not be responsible for unmarked proposals, improperly marked proposals, or proposals delivered to the wrong location.

**Proposals may be withdrawn at any time prior to the official opening.** After the official opening, proposals will become the property of CSCD. No modifications by Proposer to a proposal will be accepted after the official opening, nor shall Proposer withdraw or cancel or modify their proposal for a period of 90 days after having been notified that such proposal has been conditionally accepted by CSCD. The right is reserved, as the interest CSCD may require, to accept or reject in part or in whole any and all proposals submitted; and to waive any technicalities, informalities, or irregularities in any proposal received.

**Submission of Proposals.** The CSCD is requesting the submission of proposals for the Treatment Alternatives to Incarceration Program ("TAIP") funds for substance abuse treatment services for defendants in Hidalgo County. A Proposer may structure their proposal to address one or more substance abuse treatment service. Selected Proposer(s) will be notified within 10 business days after the official opening of the CSCD's conditional acceptance or rejection of their proposal. If a conditional acceptance is given to a Proposer, CSCD thereafter will furnish to a selected party a formal written contract.

**Proposer's Signature.** Each proposal must give the name and full business address of the Proposer, and be signed by the Proposer with their usual signature. A proposal by a partnership(s) must furnish the names of all partners and must be signed with the partnership name by one of the members of the partnership or by an authorized representative, followed by the name and title of the person signing. A proposal by a corporation must be signed with the legal name of the corporation followed by the name of the state of incorporation and by the signature and title of the president, secretary or other person authorized to bind the corporation in the matter. A proposal by a governmental entity or agency must be signed with the legal name of the agency or entity and by the signature and title of the director, official or other person authorized to bind the entity or agency in the matter. The name of each person signing for a Proposer shall also be typed or printed below their signature. When requested by CSCD, satisfactory evidence of the authority of the officer or person signing in behalf of a corporation, government agency or entity must be furnished.

**Subsequent Formal Written Contract Required.** The award of a formal contract to Proposer for the subject TAIP treatment services must be approved by the Director of the CSCD. No rights, obligations, or contractual relations shall commence until both the Proposer and the CSCD Director have executed a subsequent formal written contract containing terms satisfactory to CSCD Director.—The Texas Department of Criminal Justice, federal government, city, county, or any of their agencies, departments, officials and employees are not parties to this RFP, or as to any resulting contract.

**Proposer's Responsibilities.** Due care and diligence has been used in the preparation of the information set forth in this RFP, and it is believed to be substantially correct. However, the responsibility for determining the full extent of the liabilities, financial and other exposures, and the verification of all information presented herein, shall rest solely with proposer. CSCD, the Judicial District(s), and their representatives, will not be responsible for any errors or omissions in these specifications or for Proposer's failure to determine the full extent of any exposures or liabilities resulting from such errors or omissions. Proposer shall not be allowed to take advantage of any errors or omissions in the specifications in this RFP. Where errors or omissions appear in the specifications, Proposer shall promptly notify CSCD in writing of the error or omission it discovers. Any significant errors, omissions, or inconsistencies in the specifications are to be reported no later than ten (10) days before the date and time of the proposal submission deadline. Proposer is responsible for all costs of proposal preparation. CSCD is not liable for any costs incurred by proposer in response to this RFP.

**Time of Proposal Opening.** Proposals received prior to the time of opening will be kept unopened in a secure place. The CSCD employee whose duty it is to open them will decide when the specified time has arrived, and no proposal subsequently received will be considered, except when the proposal arrives by mail after the time fixed for the opening, but before the time the CSCD to give notification that proposals have been rejected or conditionally accepted, and it is shown to the CSCD's satisfaction that the failure of the delivery of the proposal to arrive on time was due solely to delay in the mails for which

the Proposer was not responsible, such proposal shall be considered. Unless specifically authorized, proposals by telegraph, facsimile, e-mail, Internet, or other means of electronic communication will not be considered, but modification by such electronic communication of a proposal already submitted, will be considered prior to the date and hour set for opening.

Proposals submitted in response to this RFP shall be opened by CSCD so as to avoid disclosure of the contents to competing offers. Details of competing proposals will not be publicly disclosed by CSCD until all ensuing negotiations have been completed and any written contractual agreements and related requirements have been furnished and executed as allowed by law.

The CSCD reserves the right to negotiate and enter into a written a contract with the Proposer that in its opinion, offers the most advantages to CSCD utilizing the best evaluation factors. Subjective (criteria other than price) as well as objective criteria's may be used to evaluate and select vendors for TAIP services for the purpose intended. The CSCD reserves the right to accept the proposal presenting the best offer, or to reject any and all proposals.

## **Overview**

Any contract that is offered and furnished by CSCD to Proposer under this RFP will be a FEE FOR SERVICE type contract with cost justification. Such offered contract will contain terms and conditions similar to those set forth in the *Contract Management Manual for TDCJ Funding of Offender Services* (Sept. 1, 1999) as such provisions therein may be revised by CSCD and Proposer to conform to the circumstances.

If a contract is offered and furnished by CSCD to Proposer, it is anticipated that the proposal, and the related operations and budget information as submitted in response to this RFP, will be attached and incorporated by reference into such contract as entered into and executed by the parties. Under these circumstances, therefore, the Proposer's **Vendor Operations Plan and Budget** as included in the proposal will become legally binding upon the Proposer and CSCD. Such Vendor Operations Plan and related Budget will govern the process, circumstances, and terms under which the Proposer's substance abuse treatment services will be provided. With respect to the Vendor Operations Plan and the related Budget, see also: *Contract Manual for TDCJ-CJAD Funding of Offender Services*, at pp. 27- 34 (Sept. 1, 1999). In the case of any actual or alleged disagreement, discrepancy, or conflict between the contract as entered into between CSCD and Proposer and the Vendor Operations Plan and Budget as incorporated therein, the language and provisions of the contract shall take precedence and prevail.

In all events, Proposer must ensure that only reasonable and allowable costs are used in the cost justification set forth in the **Vendor Operational Plan and Program Budget** and other provisions of their proposal submitted in response to this RFP. If during the term of any contract that may be offered and furnished to Proposer, unallowable or unreasonable costs or monies that are expended by Proposer in contravention of the requirements and specifications contained in this RFP, Proposer may be subject to contractual liabilities, damages, and in addition under certain circumstances to criminal sanctions.

## **Target Populations**

Section 76.017 of the Texas Government Code requires that TAIPs include the following target populations:

- (1) screening, assessment and referral of a person arrested for an offense, other than a Class C misdemeanor, in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance or marijuana;*
- (2) screening and assessment of a person arrested for an offense, other than a Class C misdemeanor, in which the use of alcohol or drugs is suspected to have significantly contributed to the offense for which the individual has been arrested; and*
- (3) A person determined to be in need of treatment.*

The foregoing items (1) through (3) may, and often do, include defendants who have committed violent or sex offenses, or who have mental illnesses or impairments. Any exceptions to these, or any type of defendant, that are to be provided treatment by Proposer should be noted on the cover page of their proposal.

### **Budgets, Accounting Records, Etc.**

Proposers with multiple contracts with state or local governments or other agencies are required to develop budgets, accounting processes and records that allow for the verification of Proposer's rates by CSCD, TDCJ-CJAD, and any government auditors. This obligation for verification of Proposer's rates may include information as to Proposer's indirect cost rates, overhead, and cost pooling practices.

Proposer's budget included in the proposal prepared in response to this RFP should follow all applicable CSCD Substance Abuse Standards, TDCJ-CJAD contract guidelines, TCADA Requirements, and U.S. Office of Management and Budget Circulars. See, e.g., 37 Texas Administrative Code, § 163.40 (2001) (Substance Abuse Treatment Standards); Contract Management Manual for TDCJ –CJAD Funding of Offender Services at pp. 31-34 (Sept. 1, 1999); 40 Texas Administrative Code, Part 3, Ch. 141 – 153 (2001); OMB Circular A-87 (Cost Principals for State, Local and Indian Tribal Governments)(amended August 2, 1997); OMB Circular A-122 (Cost Principals for Non-Profit Organizations) (dated June 1, 1998); OMB Circular A-123 (Management Accountability and Control) (June 25, 1995); and OMB Circular A-127 (Financial Management Systems (revised July 23, 1993). Such OMB circulars are available at the website for the U. S. Office of Management and Budget ("<http://www.whitehouse.gov.omb/circulars.html>").

Any contracts that may be awarded to proposer related to this RFP will be for "Substance Abuse Treatment Services" only. Other educational and/or non-substance abuse services are not eligible for TAIP services. Services such as anger management can be included by a Proposer in treatment to the extent they are inclusive in a substance abuse treatment program, and relate to the specific issue of substance abuse.

Under any contract that may be awarded related to this RPF, Proposer will be obligated to submit two (2) copies each month of an itemized invoice for payment for TAIP services being provided. In addition, government agencies or entities that provide TAIP services may be required to use the forms and procedures specified by the CSCD. Proposers may be required to submit billing electronically to CSCD on software provided by TDCJ-CJAD.

At all times CSCD retains control over the defendants that may be referred by Proposer to government agencies or third parties to provide other or additional substance abuse treatment services. If a defendant is determined by Proposer to be in need of additional or different treatment services, such defendant is to be referred back to the CSCD for a determination as to what, if any, further action or treatment should occur. The policies and procedures that pertain to the circumstances for these additional and other referrals, if any, that may occur shall be addressed in the written Vendor Operational Plan as submitted by Proposer in response to this RFP for consideration to be incorporated into the contract as entered into between CSCD and Proposer. See also in this regard, *Contract Management Manual of TDCJ-CJAD Funding of Offender Services* (Sept. 1, 1999), Section III, Item H at pp. 27-28 (Vendor Operational Plan and Performance Measures); and Section IV at pp. 46-70 (Substance Abuse Treatment Services Operations Agreement for Community Corrections Departments).

The proposal submitted by Proposer, including the above-referenced Vendor Operational Plan submitted shall describe and define Proposers' diagnosis and assessment criteria, performance measures, and coordination activities that relate to the identification of treatment or medical needs beyond the scope of the services to be provided by Proposer.

If required, Proposer at no additional cost to CSCD must agree to provide appropriate testimony, affidavits, and documents for any court proceedings and trials related to its treatment and other services for CSCD and defendants. See, Substance Abuse "Treatment Services" Operations Agreement for Community Supervision and Corrections Departments, *Contract Management Manual for TDCJ-CJAD Funding of Offender Services*, Art. I., §1.11 at p. 55 (Sept. 1, 1999).

Pursuant to Texas Government Code Section 76.017 Section (e), TAIP treatment and services provided to defendants referred under TAIP are billable only if no other public or private funds are available to that patient/client.

The prices quoted by Proposer in a response to this RFP should be the full cost of the subject treatment. If a contract is offered and furnished by CSCD to Proposer related to this RFP any other funds (including client participant fees) available to the Proposer from public or private sources shall be deducted from the total billable amounts submitted to CSCD by Proposer.

Before the award of any contract related to this RFP, Proposer may be required to furnish CSCD with satisfactory evidence as to the pecuniary and financial resources and insurance coverage's that are available to Proposer in order to fulfill the conditions of such contract. CSCD may further require that all financial reports or statements furnished reflect the Proposer's current financial status, and are certified as to accuracy by a certified public accountant.

## **Additional Terms**

1. The department is seeking one vendor to provide only outpatient treatment of defendants who are referred by the department. The vendor selected by the department will be required to submit monthly written statistical reports regarding the number of referrals received, the number of defendants attending groups, and the type of discharge from the group. The vendor must maintain a waiting list of referrals reflecting defendants needing services.

2. The department is seeking one vendor to provide only residential services of defendants who are referred by the department. The vendor selected by the department will be required to submit monthly statistical reports regarding the number of referrals received, the number of defendants committed during a particular time period, and the type of discharge from the facility. The vendor must maintain a waiting list of referrals reflecting defendants needing services.
3. The department reserves the right to accept the proposal which is most advantageous: 1) to the department and, 2) to the defendants requiring the services.

*[Add provisions for any additional terms or conditions that are being required related to the RFP. For example, a requirement that the CSCD at its expense will make available to Proposer meeting rooms or space at a particular location at which the Proposer may provide to defendants the treatment services being contracted for]*

### **Subject to Availability of Funds**

The CSCD's payment and other obligations related to the treatment services provided under any contract that may be awarded to Proposer is subject to the availability of funds appropriated by the State Legislature as made available by the Community Justice Assistance Division of the Texas Department of Criminal Justice. Any contract that may be entered into between CSCD and Proposer related to this RFP does not represent or constitute an obligation on the part of the State of Texas, the Texas Board of Criminal Justice, or the Texas Department of Criminal Justice - Community Justice Assistance Division.

### **Miscellaneous**

Under any contract that may be awarded related to this RFP, Proposer shall provide all necessary personnel, equipment, materials, supplies, facilities, and services (except as may be furnished by the CSCD as specified in writing), and do all things necessary for, or incidental to, the provision of the substance abuse treatment and services listed in this RFP.

## **MINIMUM REQUIREMENTS FOR TAIP CATEGORIES**

Substance abuse facilities and programs that are funded through the Texas Department of Criminal Justice-Community Justice Assistance Division are not required to be licensed or approved by any other state or local agency. See, Texas Government Code §509.003(c). CSCD, however, intends that Proposers responding to this RFP design their services, treatment, and activities so as to fully comply with all TCADA Rules, as well as the applicable TDCJ-CJAD Substance Abuse Treatment Standards. Such Substance Abuse Treatment Standards are published at 37 Texas Administrative Code §163.40. A copy of current TCADA rules chapter 148 and current TDCJ-CJAD Substance Abuse Treatment Standards are included in the appendix.

## ADDITIONAL PROPOSAL CRITERIA

### Screening

Proposer's written policies and procedures for the screening of defendants shall ensure the following:

- a. Screening shall include the administration, scoring, interpretation and referral for assessment of a client to determine the probability the defendant is chemically dependent.
- b. Screening must be conducted by a Licensed Chemical Dependency Counselor or by an otherwise qualified person to conduct such screening who is exempt under TCADA's licensure rules and/or CJAD Standards. Qualified Community Supervision Officers (CSOs) may also conduct the screening.
- c. The screening instruments that are approved for use by Proposer for a TAIP defendant to determine the possible existence of chemical dependency are the following; [i] Substance Abuse Subtle Screening Inventory (SASSI) [ii] Substance Abuse Life Circumstance Evaluation ("SALCE"), or [iii] Texas Christian University Drug Dependency Scale ("TCUDDS")
- d. Defendants meeting the following criteria must bypass the screening process:
  - (1) A defendant with a documented criminal history of two or more prior arrests for offenses which involve the use or possession of alcohol or the use, possession, or sale of illegal substances;
  - (2) A defendant who has submitted positive urine specimens;
  - (3) A defendant who has previously attended an outpatient or inpatient substance abuse program;
  - (4) A defendant with a completed and documented screening or assessment/evaluation from another referral source that determined further assessment/evaluation of the subject defendant's substance abuse history was needed;

### Assessment

Proposer's written policies and procedures for the assessment of defendants shall ensure the following:

- a. The Proposer's assessment must include the use of the Addiction Severity Index (ASI) or the Substance Abuse Evaluation ("SAE") as a structured or semi-structured interview.
- b. The assessor must use the information and scoring to determine and document the nature and extent of a client's chemical dependency.
- c. The assessor must determine and document an appropriate referral or document why a referral is not necessary.
- d. The ASI interview, scoring, referral, and treatment plan shall be performed by a Licensed Chemical Dependency Counselor, appropriately supervised Counselor in Training, or by an otherwise qualified person to conduct such assessments who is exempt under TCADA rules/CJAD Standards. Qualified Community Supervision Officers (CSOs) may conduct the SAE interview, interpret the results, and make appropriate referrals for treatment services.

## Proposal Submission Requirements

A proposal submitted in response to this RFP should be made in accordance with the instructions and other items set forth above, as well as the following:

1. Each proposal must be in the format described in page 7 of this RFP. Proposals must be typed or printed on standard (8 ½" x 11") paper. Pages must be numbered and a "Table of Contents" must be included in the format required by this RFP.
2. Each proposal must respond to all portions of the RFP and include information sufficient to constitute a Vendor Operations Plan and Budget. All Texas Department of Criminal Justice-Community Justice Assistance Division proposal and budget forms must be utilized. (See attached forms.)
3. Once the Proposer's written proposal has been received by CSCD, Proposer may not submit changes, amendments, or modifications to their written proposal prior to the date and time set for opening. Notwithstanding the foregoing, however, that modifications from Proposer by telegraph, facsimile, e-mail, Internet or other electronic means will be considered prior to the date and hour of opening. Proposer may, however, withdraw and resubmit a written proposal anytime prior to the final date and hour set for receipt of proposals. CSCD in its sole discretion, after the time set for receipt of proposals may negotiate a change, amendment, or modifications to its advantage.
4. No modifications by Proposer to a proposal will be accepted after the official opening, nor shall Proposer withdraw or cancel or modify their proposal for a period of 90 days after having been notified that such proposal has been conditionally accepted by CSCD.
5. CSCD reserves the right to reject any or all proposals or portions of proposals submitted in response to this RFP.
6. Any Proposer who submits a written proposal in response to this RFP without attending the scheduled pre-proposal conference does so at their own risk, and waives any right to assert claims due to undiscovered information.
7. After the opening of proposals and prior to the award of a formal contract to Proposer, CSCD reserves the right to make a pre-award site visit of any or all Proposers' facilities to be used in the performance of work and services related to this RFP. Proposer agrees to allow CSCD, its agents and representatives all reasonable requests for inspection of such facilities with two (2) days advance notice. Failure of Proposer to allow such an inspection shall be cause for rejection of a proposal as being non- responsive. CSCD reserves the right to reject the facilities that are the subject of a Proposal as unacceptable for performance under this RFP as a result of such site visit survey by CSCD.
8. The Proposer's past performance under other contracts or dealings with CSCD or for other public entities may also be used for purposes of evaluating Proposer's suitability for award of a contract under this RFP.

9. Products and services not specifically mentioned in this RFP, but which are necessary to provide the service described by this RFP shall be included in the proposal. It is intended that this RFP describe the requirements and response format in sufficient detail to secure comparable proposals.
10. Proposals should not contain or display promotional materials except as they may directly answer questions contained in the RFP. Such exhibits shall be clearly marked with the applicable reference number to the question in the RFP.
11. Any person or entity contemplating the submission of a proposal in response to this RFP that is in doubt as to the meaning or interpretation of the specifications, proposal documents, or any part thereof, may submit a request for clarification to the CSCD Director. Such request must be submitted on or before the fifth calendar day at 5:00 p.m., prior to the scheduled date and time of opening. **All requests and questions from Proposer shall be in writing**, and directed to CSCD at the address included in this RFP.

### Further Proposal Format Requirements

Each section of the proposal must be clearly designated (by using tabs) so as to make the information readily accessible to CSCD. If requested information does not appear in the appropriate section of a proposal, that information may be counted by CSCD as missing or unresponsive during the proposal review process. A proposal shall be submitted in the following format:

- A. Cover Page: - USE COVER PAGE PROVIDED IN APPENDIX I
- B. Summary Sheet(s) - brief summaries (1 page each) of the proposal relating to:
  - 1) Identification of Proposer; and
  - 2) Proposer's statement of understanding of the proposal, program objectives, CSCD objectives, and
  - 3) Reasons or explanations for any exceptions noted on the cover page.
- C. Attachments: Shall include all information required of each Proposer in the following order:
  - 1) Required Information.
  - 2) Proof of insurance coverage(s)
  - 3) Costs:
    - a) Specify a separate price for each type of service provided (i.e., for detoxification services, intensive residential services, residential services, individual counseling services, group counseling services, etc.).
    - b) Specify if unit price will vary based on the number served (i.e., 10 served will cost x, 20 served will cost y).
    - c) Complete budget forms (Attachment "A") to substantiate how unit price was determined by Proposer for each level of substance abuse service or treatment. **The rate proposed multiplied by the number of units proposed must equal the total proposed budget.**
    - d) Specify any additional price for special population defendants, including dual diagnosis, mentally impaired, etc. State why Proposer's cost would be different for serving special population defendants.

- e) All proposed costs of Proposer must be reasonable and necessary for providing services stated in the RFP, and shall not include any of the unallowable costs. No unallowable cost shall be included as justification for the provision of substance abuse treatment services. Unallowable costs include but are not limited to:
- i. Any item deemed unallowable by State or any authorized agency, statute, policy, or procedure
  - ii. Alcoholic beverages
  - iii. Bad debts
  - iv. Building and land purchase, rental purchase, lease purchase, renovation
  - v. Cash payments to intended recipients of services
  - vi. Expenses or reimbursements to or on behalf of related entities for allowable indirect costs
  - vii. Expenses or costs reimbursed by other funds with respect to amounts paid by CSCD for services
  - viii. Fines and penalties
  - ix. Fundraising, marketing, advertising (advertising is allowable only for personnel vacancies or for procurement of goods and services)
  - x. Legislative expenses for payment to any elected official from funds received from CSCD
  - xi. Lobbying
  - xii. Payments to or on behalf of individuals related to principals of any affiliated organization(s) or to their employees, unless as allowable indirect costs or unless specific approval is received from the CSCD
  - xiii. Tobacco products
  - xiv. Firearms, ammunition, or firearm components
- 4) Proposer shall identify its proposed staffing pattern to include the number of full and/or part-time employees in each job classification that will be present for each work shift for each of the seven (7) days of the week per each level of substance abuse treatment and services specified in the proposal.
- 5) Other information required from Proposer by this RFP.
- 6) Proposer shall identify the accounting records, reports, and processes that are applicable to the subject TAIP treatment and services to be provided, including but not limited to the following:
- a) Verification of Proposer's rates
  - b) Proposer's indirect cost rates or cost pooling practices
  - c) Proposer's – current billing processes (including software used)
  - d) All audit and financial reporting requirements that apply to Proposer, and to any parent company or affiliates.

## Required Information

Describe eligibility criteria for persons on community supervision / probationers / pre-trial intervention, including any special client characteristics (i.e. level of intellectual functioning, homeless, indigent, etc.).

Also include which defendants, if any, would be ineligible to be clients of Proposer (i.e., offense categories, criminal history information, etc.). A Proposer must include information on how their activities, services and treatment will be conducted so as to fulfill the requirements of the Americans with Disabilities Act, 42 U.S.C. § 12132, and the regulations promulgated thereunder. The CSCD may consider proposals to provide substance abuse treatment services for Special Needs Offenders at higher rates.

## Program Description

- 1) State whether the proposal for TAIP services being submitted by Proposer is for one of the following:

<b>NEW</b>	did not have existing contract with CSCD
<b>CONTINUED</b>	existing contract with CSCD
<b>MODIFIED</b>	previously contracted with CSCD and some aspect of the program/service is being modified from the previous year.

- 2) Describe all services to be provided by Proposer, and specify if all services are provided to all persons on community supervision, probationers, and pre-trial defendants.
- 3) Describe Proposer's services and treatment goals and objectives, including how an individualized client treatment plan is developed. Describe other types of treatment plans you will use.
- 4) Describe all responsibilities that are to be placed upon persons on community supervision, probation and pre-trial defendants responsibilities that are to participate in Proposer's treatment and services (*i.e.*, homework assignments, practice sessions, etc., include frequency, number and time frame where appropriate).
- 5) Describe the Proposer's experience and history, if any, in working with defendants or clients who are, or were, involved with the criminal justice system in Texas or elsewhere...
- 6) Specific requirements for Residential Treatment Services:
  - a. Describe the procedure used by Proposer, and the information that is necessary, for a defendant to be admitted to their facility for program services and/or treatment.
  - b. Describe any diagnostic assessments and instruments that will precede the provision of program services and/or treatment for a defendant. Describe any post-program service and/or treatment assessment that will be conducted. Describe why these particular assessments or instruments will be utilized.
  - c. Describe how and in what time frame and under what circumstances an individualized client treatment plan is developed by Proposer.
  - d. Describe minimum/maximum length of program participation for a defendant.
  - e. Describe how client progress is measured by Proposer while at their facility. Describe what criteria are used by Proposer to determine when to release a client early, or request an extension.

- f. Describe Proposer's communication process and frequency of communication between its facility staff and the CSCD and/or supervising Community Supervision / Pre-Trial Officers (by telephone, written reports, e-mail, etc.). Specify if the communication process or frequency of the communications with the CSCD will vary during the duration of the services and/or treatment being provided by Proposer.
  - g. Describe Proposer's client discharge/termination procedure (successful/unsuccessful) from the facility. Include if certificates of completion will be provided by Proposer to participants; and if so, the procedure to provide a certificate to the defendant, and the notification procedure to be used by Proposer to the CSCD and/or supervising Community Supervision / Pre-Trial Officer.
  - h. Describe the Proposer's staff-to-client ratio by level / type of service and treatment. Describe other relevant client supervision procedures and criteria that are to be used by Proposer.
  - i. Provide Photostatted copies of all state and local facility licenses / certificates that apply to the services/treatment at issue, and include expiration and renewal dates.
  - j. Describe Proposer's client files, records, format, electronic databases, frequency of entries, etc.
- 7) Specific requirements for Non-Residential Treatment Services:
- a. Describe the procedure used by Proposer, and information that is necessary for a defendant to be admitted to their program/service.
  - b. Describe and specify any diagnostic assessments by Proposer that will precede program services and/or treatment. Describe any post-program services and/or treatment assessments that will be conducted by Proposer. Describe why these particular assessments will be utilized.
  - c. Describe how and in what time frame and under what circumstances an individualized client treatment plan is developed by Proposer.
  - d. If group counseling is provided, describe the type of group process utilized, include goals/objectives of group process, minimum/maximum number of clients in a group, and specify if open or closed groups are utilized.
  - e. If individual counseling is provided, describe counseling/therapeutic approach utilized, specify skill development techniques utilized and goals/objectives of individual counseling.
  - f. Describe minimum/maximum length of program participation. (Specify program length for each level of service, *i.e.* group/individual.) Describe what criteria and processes are used by Proposer to determine when to release a client early or to request a written extension.
  - g. Describe how client progress is measured during program participation. Including the type and frequency of progress reports to be made to the CSCD and/or Supervising Community Supervision / Pre-Trial Officers.
  - h. Describe communication process and frequency of communication between proposer's program staff and CSCD the Department and/or the supervising Community Supervision/Pre-Trial Officers (by telephone, written reports, e-mail, etc.). Specify if communication process of frequency will vary during duration of Proposer's services/treatment.

- i. Describe the Proposer's client discharge / termination procedure (successful/unsuccessful) from the program / service being provided. Include if certificates of completion will be provided by Proposer to participants, and if so, the procedure to provide certificate to a defendant and the notification procedure to be used by Proposer to the CSCD and /or supervising Community Supervision / Pre-Trial officer.
- j. Describe the Proposer's staff-to-client ratio by level / type of service and treatment. Describe other relevant client supervision procedures.
- k. Describe Proposer's client files, records, format, electronic databases, frequency of entries, etc.

## Objectives

Describe, at minimum, Proposer's program performance measures and standards, to include at least the following:

- 1) Outputs
  - a) Total number of defendants / clients served
  - b) Total number of successful program completions
  - c) Total number of counseling hours provided
  - d) Other output measures
- 2) Outcomes. Include immediate and long-term outcomes that are specific to the program / services as set forth in the proposal.
- 3) The following five outcome measures will be required for each substance abuse service that is included in the proposal:
  - a. Reduce recidivism (defined as a re-arrest for a new separate offense that is punishable by incarceration, *i.e.*, Class B Misdemeanors and up)
  - b. Decrease re-incarceration
  - c. Increase Community Supervision Outcomes in areas of
    - (i) Expiration
    - (ii) Early Discharge; and
    - (iii) Revocations.
  - d. Specific Programmatic Outcomes, *i.e.*, completion of program --successful, --violation of program conditions, or inappropriate placement—unsuccessful.
  - e. Reduction of drug or alcohol use by defendants.
- 4) Describe any performance measures and standards that your Proposer's facility or program uses in accomplishing its goals.

## Program Evaluation Methods

- 1) Describe Proposer's plan for determining the degree to which output and outcome objectives are met and methods that are followed.
- 2) Describe Proposer's plan and records for monitoring, determining, and evaluating outputs and outcomes.

- 3) Identify the specific employees of Proposer who are responsible for the monitoring of Proposer's performance measures, outputs, and outcomes.
- 4) Describe how data and records will be gathered by Proposer to determine treatment and program outputs and outcomes.
- 5) Describe test instruments or questionnaires that will be used by Proposer.
- 6) Describe Proposer's process of data analysis (if applicable).
- 7) Describe the evaluation reports to be prepared and produced by Proposer.
- 8) Describe the Proposer's Management Information System (MIS), electronic databases, and records to be used by Proposer for tracking clients in treatment and after discharge.
- 9) If a continued or modified program, please describe results of Proposer's program evaluation data of TAIP clients from the last two years. A program new to TAIP may use data from other client populations.

### **Additional Information Required of Proposer**

Each proposal shall contain the following information:

1. Name, title, telephone and fax number of Proposer's contact person for all inquiries from CSCD. The contact person shall be responsible for fielding all inquiries from the CSCD related to the proposal, and providing the Proposer's response to CSCD's inquiries
2. Business form of Proposer (e.g. corporation, partnership, sole proprietorship, governmental entity, agency, etc.), if applicable.
  - a) If a corporation, include the date and state of incorporation.
  - b) Whether Proposer is for profit business or non-profit corporation, governmental agency or entity
  - c) Names and addresses of Proposer's principal officers, directors, or partners.
  - d) Identify all employees, officers, or staff of Proposer who is actively or previously on community supervision, probation, deferred adjudication parole, or who has been convicted of a felony or Class A or B misdemeanor.
  - e) A copy of Proposer's most recent financial statement (i.e. monthly, quarterly); and most recent audited financial statement--each to include corresponding balance sheet, income statement and statement of cash flow. Proposer must include an affidavit certifying that Proposer is a duly qualified, capable and otherwise bondable business entity that proposer is not in receivership or contemplates same, and has not filed for bankruptcy.
  - f) A brief biography and complete resume of the person or persons who will operate/manage the services provided by proposers.
  - g) The organizational chart showing Proposer's staff and management.

3. The name and address of the Proposer's insurance carrier(s), along with a letter or statement(s) from Proposer's insurance carrier(s) attesting that the insurance coverage(s) as specified in this RFP is/are either in force or available to upon Proposer.
4. Complete reference information for all public and private institutions or agencies to which the Proposer provides or has provided similar services and treatment. Specify dates for such similar service contracts, and current rates being charged by Proposer for these contracted services.
5. A list of all civil lawsuits, administrative proceedings, or investigations filed or pending at any time during the past five years, brought against, or on behalf of, Proposer, its officers, or employees.
6. A list of all criminal cases or proceedings filed or pending at any time during the past five years, brought against, or on behalf of, the Proposer, its officers, or employees.
7. Other organizational, biographical, or financial information deemed relevant by the Proposer or as requested by CSCD.
8. Describe all of the locations where the services and treatment at issue will be provided by Proposer. Detailed information is needed for each physical facility and location where Proposer is to provide services and treatment, including--- contact person, title, physical address, phone and fax numbers, e-mail addresses, types of clients if specific to a particular site (*i.e.*, all male or all female sites), and the levels of treatment and service provided by Proposer at each site. Is the location accessible to public transportation and in a geographic area accessible to defendants? Is the location(s) near schools, day care centers, churches, or other facilities where defendants may be a threat to public safety? Is the location also used to serve any persons who are on parole, the jurisdiction of juvenile authorities, or mental or medical health agencies or providers?
9. Describe when the treatment and services which are the subject of proposal could begin.

## **Proposal Evaluation Factors**

CSCD will consider many evaluation factors (of which cost is only one factor), and will receive proposals from all responsible applicants. The ultimate objective of CSCD is to enter into a contract that is most favorable and cost effective under the circumstances. A weighted evaluation criteria, utilizing a numeric score, will be used by CSCD to review the proposals.

Subject to the reservations previously stated, and based on TDCJ-CJAD notification of funding allocations, CSCD believes funding will be awarded, and that in August, 2009 CSCD may negotiate a formal contract or contracts as to the subject TAIP treatment and services related to this RFP.

CSCD anticipates that the criteria to be used for reviewing the proposals that are submitted in response to this RFP, among other things, will include the following items:

- A. The proposed price per unit of service.
- B. The manner in which the minimum requirements are met and the extent to which these requirements are exceeded.
- C. Completion of all aspects and information asked for in this RFP and the attachments thereto.
- D. Proposer's qualifications (e.g., Experience/Licenses/Certifications of management and staff).
- E. Evidence of Proposer's previous accomplishments in providing substance abuse services and treatment within the last five (5) years.
- F. Proposer's experience in working with the target population being addressed in the proposal.
- G. In considering the proposals, the CSCD reserves the right to select the acceptable applicant who offers contractual terms and conditions that are most advantageous, including price per day/hour.
- H. Proposer's services and treatment activation plan and time frames and dates.
- I. Proposer's program performance measures, evaluation, and monitoring procedures.
- J. The adequacy, and extent of proposer's financial resources and insurance coverage(s).
- K. Other factors such as the availability of multiple locations, convenience of hours or location to target population, and Proposer's ability to accept some referrals under other funding pools.

As previously stated, CSCD's proposal review process may include pre-award site visits to any and all of Proposer's facilities. In addition, as a part of the proposal review process, CSCD reserves the right to afford to Proposer's representatives the opportunity to make a brief oral presentation before the CSCD Review Committee. If CSCD determines that such oral presentation is necessary or appropriate, any such oral presentations will be scheduled by CSCD at its discretion and convenience.

### **Following the CSCD's Selections of Proposer(s)**

If any contract is awarded to Proposer, it is anticipated that the Proposal submitted in response to this RFP will be attached and incorporated into such contract as the **Vendor Operations Plan and Budget**. Such Vendor Operations Plan and Budget will be used by CSCD in determining and evaluating the adequacy of Proposer's provision of TAIP services and contract compliance.

If a formal written contract is negotiated and entered into between proposer with CSCD, it is anticipated that the format, terms and provisions, of such contract will be substantially as set forth at pp. 49–70 of the

*Contract Management Manual for TDCJ-CJAD Funding of Offender Services* (September 1, 1999). Such contract format, suggested terms and provisions therein, are incorporated in this RFP by reference; and for Proposer's convenience these pages from this referenced Contract Manual are also reproduced in this RFP, prior to its furnishing of a formal contract to Proposer, CSCD reserves the right to revise or modify such contract format, terms and conditions as may be deemed appropriate under the circumstances and to accommodate any changes or revisions that may occur to the applicable TCADA rules, legislation, or other requirements.

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## Appendix I COVER PAGE

*All proposals must include this cover page as the first page*

### Proposal to Perform Substance Abuse Treatment Services

PROPOSALS DUE: <hr/>	HIDALGO COUNTY CSCD	Treatment Alternatives to Incarceration Program
Subject of Proposal		
Proposer's Legal Name	Headquarters' Address	Taxpayer ID
Address (for <b>each</b> TAIP Service / Treatment location) (Use separate pages if needed)	<i>Submit <b>both</b> the billing address and the physical addresses for <b>each</b> location where services will be delivered.</i>	
Telephone Numbers, Fax <i>and</i> <b>E-mail Address</b>	phone	fax e-mail
<b>Service Type</b>	<b>Rate</b>	<b>Exceptions</b>
Detoxification		
Day Treatment		
Intensive Residential		
<i>Residential</i>		
<i>Intensive Outpatient</i>		
<i>Transitional Outpatient</i>		
<i>Transitional Residential</i>		
<i>Other</i>		
Printed Name of Authorized Agent or official authorized to submit proposal or execute contracts.	Name	Title
<b>SIGNATURE</b>		

**Appendix II**  
**Vendor Budget Form Instructions**  
**FY 2010-2011**  
**TAIP SUBSTANCE ABUSE TREATMENT SERVICES**

TDCJ-CJAD will review requests for residential and outpatient substance abuse treatment programs and services to be funded from the CSCD's TAIP funds. As a part of TDCJ-CJAD's funding process, vendor budgets will be reviewed to establish an allowable funding rate (e.g., bed-days, client hours) for programs, facility operations, and contracted placements. The TDCJ-CJAD approved vendor budget will become a part of the contract (as a binding attachment) between the CSCD and the Vendor. Proper completion of the attached budget forms is imperative to establish a rate per unit and, thus, to receive funding. Please follow the instructions to facilitate the assignment of rates.

**General Information:**

1. Vendors must comply with the Residential Substance Abuse Treatment Standards as established by TDCJ-CJAD and with TCADA guidelines where applicable.
2. SATF vendors must comply with the TDCJ-CJAD SATF guidelines.
3. For SATFs and CRTCs, vendors must comply with TDCJ Substance Abuse Standards.
4. A separate vendor budget must be submitted for each facility operated by the vendor where applicable.
5. The cost justification must be established and rates set separately for each facility operated by the vendor.
6. Any costs paid directly by the CSCD facility should not be included in the vendor budget. Billings from the vendor to the CSCD for contract placements must be based on **actual bed use**, not on a lump sum amount each month. Vendors may charge for the day a defendant/resident is admitted to the facility, but may not charge for the day of release from the facility.
7. Establishment of a daily rate is the main purpose of the vendor budget. Items included in the vendor budget must be reasonable, allowable, and necessary for program operations.
8. Vendor must comply with the attached list of unallowable expenditure items.
9. Depreciation schedules **must be attached** to the vendor budget for any equipment items budgeted for this program.
10. Requirement for indirect and/or overhead allocation **attachment, either:**
  - Indirect and/or overhead cost allocation plan, including explanation of allocation method, expenditure items included, total indirect and/or overhead amount to be allocated to all vendor programs, number of programs to which allocated, and percentage allocated to the CSCD's program;

**OR,**

- A certified statement (or copy of approval letter) that the vendor's allocation plan has been approved by another state or federal agency.
11. The vendor must maintain a separate accounting system for the CSCD's program, and submit

financial information to the CSCD and/or TDCJ-CJAD upon request regarding requested financial reports, fund balance information at the end of the fiscal year, etc.

12. All records on vendor expenditures must be maintained for auditing purposes, and any expenditure not properly documented may be disallowed.
13. The rate is to be based on projected outputs. **The outputs should be expressed as Total Costs divided by Residential Bed-Days** (residential bed-days is calculated as number of beds x 365).

### Expenditure Lines

#### **1) Personnel Salaries:**

Please use the most logical and concise manner to convey the personnel cost of each program. Each person participating in the provision of services should be listed with the annual salary and the percent of time allocated to the program. Example:

<u>Position Title</u>	<u>Staff Name</u>	<u>Annual Salary</u>	<u>% Time</u>	<u>Total</u>
Supervisor	Jones, Bill	\$30,000	80%	\$24,000

#### **2) Personnel Fringe Benefits:**

FICA, SUTA, Medicare, medical, dental, retirement, workers compensation, and unemployment tax are considered fringe benefits. There may be others specific to your agency. Please list as appropriate. Some items may be carried as indirect costs under the Otherexpenditure line.

#### **3) Personnel Training:**

These costs are those associated with maintaining credentials and licenses, including registration fees and in-service training. In agencies that receive funding from multiple sources, please do not assign all training to this budget. Instead, use an assignment based on the percentage of time employees receiving training are dedicated to the CSCD's residential facility.

#### **4) Personnel Travel:**

This expenditure line item should include only travel by personnel in the performance of CSCD residential program related business and include staff mileage reimbursement (at no more than the IRS rate per mile), per diem meals, lodging, and public transportation costs. Travel costs for residents or personal travel is not allowable in this category. Travel to training should also be included. (Expenses for agency vehicles used to transport staff and residents should be listed under the Transportationexpenditure line.)

#### **5) Equipment:**

This expenditure line item may include leased equipment, insurance, and annual depreciation of equipment used in this program. For any vendor-owned equipment associated with the program, appropriate percentages may be depreciated and charged as an indirect cost in the Otherexpenditure line. Appropriate depreciation schedules must be attached with indication of total indirect costs and the percentage charged to the CSCD program.

#### **6) Transportation:**

Transportation costs, such as gasoline, parking, etc., of transporting residents to and from facilities or related program activities are to be placed in this line item. Mileage logs will be required for audit purposes. Transportation costs associated with CSCD-owned vehicles will be paid from the CSCD facility budget.

**7) Consumable Supplies:**

This expenditure line includes office supplies, tests, educational supplies, posters, food for residents, housekeeping costs, postage, linens, resident medical supplies, urinalysis testing supplies, etc.

**8) Other:**

Included in this expenditure line are profits, professional services (specify type of service), insurance, pest control service, janitorial, and miscellaneous indirect costs (please specify and attach an explanation of the allocation method and expenditure items included for indirect costs, along with the percentage applicable to the CSCD program).

**9) Facility:**

This line item includes items such as building rental, maintenance, insurance (content and liability), and utilities, building depreciation or use allowance (attach schedule). Purchase or lease-purchase payments for facilities are not allowable expenditures from State funds.

**All expenditures must be reasonable and allowable and related to the program. All records on vendor expenditures must be maintained for auditing purposes, and any expenditure not properly documented may be disallowed. Vendors must maintain an accounting system in accordance with the line item categorization as outlined in the Vendor Program Budget (Request for Funding) for the CSCD-funded program.**

**REQUIRED ATTACHMENTS:**

1. Depreciation schedule for any equipment items or building that are budgeted in this program budget.
2. "Use allowance" documentation applicable for equipment or buildings if included in this budget.
3. **Either:**
  - Indirect and/or overhead cost allocation plan, including explanation of allocation method, expenditure items included, total indirect and/or overhead amount to be allocated to all of vendor's programs, number of vendor programs to which allocated, and percentage allocated to the CSCD's program;
  - OR,**
  - A certified statement (or copy of approval letter) that the vendor's allocation plan that has been approved by another state or federal agency.

## UNALLOWABLE COSTS

The following items are not to be included in the vendor's budget for rate justification and are not to be paid from funds received from the CSCD:

- Any item unallowable by State or any authorized agency, statute, policy, or procedure including, but not limited to, CSCD Substance Abuse Standards, TDCJ-CJAD Contract Guidelines, TCADA Requirements, U. S. Office of Management and Budget Circulars and other federal guidelines for the operation of for-profit and not-for-profit entities;
- Alcoholic beverages;
- Bad debts;
- Building or Land purchase, rental-purchase, lease-purchase, renovation;
- Cash payments to intended recipients of services;
- Equipment items exceeding \$1,000 (CPU, Monitor and Keyboard are one unit) counted as a direct expense toward the program. Such items may be charged to the program only through an approved depreciation methodology;
- Expenses or reimbursements to or on behalf of vendor-related entities for allowable indirect costs;
- Expenses or costs reimbursed to vendor by other funds with respect to amounts paid by CSCD for vendor services;
- Fines and Penalties;
- Firearms, Firearm components, and Ammunition;
- Fundraising; Marketing; and Advertising (Advertising is allowable only for personnel vacancies or procurement of goods and services only);
- Legislative expenses or payment to any elected official from funds received from the CSCD;
- Lobbying;
- Payments to or on behalf of individuals related to principals of any vendor-affiliated organization(s) or to their employees, unless as allowable indirect costs or unless specific approval is received from the CSCD; and
  - Tobacco Products.

# Appendix III Vendor Request for Funding

FISCAL YEARS 2010-2011

VENDOR NAME (Name as Incorporated)

STREET ADDRESS

CITY

STATE

ZIP

List any D.B.A. or A.K.A.'S

E-MAIL ADDRESS

CONTACT PERSON

TITLE

TELEPHONE

FAX

BUSINESS FORM of Vendor (Check applicable):

For Profit Corporation \_\_\_\_\_ Non-Profit Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Other \_\_\_\_\_

State where incorporated or formed: \_\_\_\_\_ Date of Incorporation or formation: \_\_\_\_\_

TYPE OF RESIDENTIAL FACILITY:

INDICATE ALL THAT ARE APPLICABLE: Total Number of Beds: \_\_\_\_\_ Male: \_\_\_\_\_ Female: \_\_\_\_\_

SPECIFIC NAME, PHYSICAL LOCATION, PHONE NUMBER AND NUMBER OF BEDS BY GENDER FOR **EACH FACILITY OPERATED BY VENDOR**:

Facility Name: \_\_\_\_\_ Location: \_\_\_\_\_ Male Beds: \_\_\_\_\_ Female Beds: \_\_\_\_\_

INSURANCE PROVIDER(S): \_\_\_\_\_

I certify that all information contained in this application, including all attachments and supporting materials, is true and correct to the best of my knowledge.

Signature of Authorized Official

Title

Date

**Appendix IV**  
**Summary Budget for Purchase of Services**  
**FISCAL YEAR 2010-2011**

Vendor: \_\_\_\_\_

City: \_\_\_\_\_

Contract Period: \_\_\_\_\_

<b>COST CATEGORY</b>	<b>COST</b>
Personnel – Salaries	\$
Personnel – Fringe Benefits	\$
Personnel – Training	\$
Personnel – Travel	\$
Equipment	\$
Transportation	\$
Consumable Supplies	\$
Other	\$
Facility	\$
<b>TOTAL</b>	\$

Total Units Service per Year (example: Bed days per year):

Cost Per Unit:

Show Computation:



**BUDGET JUSTIFICATION**

**2. Personnel Fringe Benefits**

Vendor: \_\_\_\_\_

Fringe Benefits Based on Salaries Paid:	Total
FICA	\$
SUTA	
WORKMAN'S COMP.	
MEDICAL BENEFITS	
OTHER: (Describe)	
TOTAL FRINGE BENEFITS	\$















**Appendix V  
(Substance Abuse Treatment Services Operations Agreement)**

**EXHIBIT A**

**Vendor Operational Plan**  
(Required for Contracts with Each Vendor over \$100,000)

DRAFT

**EXHIBIT B**

**Monthly Invoice Form**

**DRAFT**

## APPENDIX VI

H.B. 776 – Adding Texas Government Code §495.008

25 SECTION 5. Subchapter A, Chapter 495, Government Code, is  
7-26 amended by adding Section 495.008 to read as follows:  
7-27 Sec. 495.008. AUDITING AND MONITORING CONTRACTS. (a) The  
8-1 department shall develop a comprehensive methodology for enhanced  
8-2 auditing and monitoring of all facilities operated under contract  
8-3 with the department that house inmates of the department and  
8-4 releases under the supervision of the department. To achieve this  
8-5 objective, the department shall first review existing auditing,  
8-6 monitoring, and oversight capabilities of the department to  
8-7 determine what further procedures and resources are necessary to  
8-8 achieve this goal.  
8-9 (b) the department shall ensure that all new and renewed  
8-10 contracts described by Subsection (a) include:  
8-11 (1) a provision that the department or a designee of  
8-12 the department may conduct periodic contract compliance reviews,  
8-13 without advance notice, to monitor vendor performance;  
8-14 (2) minimum acceptable standards of performance  
8-15 prescribed by the department that include provisions regarding the  
8-16 health, safety, and welfare of inmates and releases;  
8-17 (3) a provision that if a review determines that a  
8-18 vendor is not in compliance with the contract, the department may  
8-19 require that the vendor's per Diem compensation be withheld until  
8-20 the vendor meets contract requirements or the vendor is replaced;  
8-21 (4) a provision requiring a vendor not in compliance  
8-22 with the contract to implement a plan of corrective action approved  
8-23 by the department; and  
8-24 (5) a provision under which the state is indemnified  
8-25 for costs of litigation and for any damages in lawsuits alleging  
8-26 that the health, safety, or welfare of an inmate or release in a  
8-27 contract facility is not protected.  
9-1 (c) The department shall complete at least one enhanced  
9-2 audit for each facility described by Subsection (a), without regard  
9-3 to whether the facility is operated by a public or private vendor.  
9-4 The enhanced audit must include enhanced contract compliance  
9-5 review of any vendors hired by a community supervision and  
9-6 corrections department to operate a facility.  
9-7 (d) The department, in conjunction with an advisory  
9-8 committee composed of state officials and private officials from  
9-9 within the industry, shall adopt rules to implement the  
9-10 requirements of this section.  
9-11 (e) The department shall develop an appeals process,  
9-12 incorporated by reference into all new and renewed contracts, under  
9-13 which a vendor may appeal any imposed sanction under the contract,  
9-14 with the appeals process including the right to a formal hearing  
9-15 and a right to a final determination by the board.  
9-16 (f) the department shall submit a report to the governor and  
9-17 the Legislative Budget Board not later than January 1, 2003,  
9-18 describing its efforts to implement the requirements of this  
9-19 section. The report must include a summary of contracts and  
9-20 vendors, compliance reviews conducted, incidents of contract  
9-21 noncompliance, sanctions imposed, corrective actions taken, and  
9-22 current contract status. This subsection expires February 1, 2003.

**Appendix VII**

**DRAFT**

## TDCJ-CJAD Standards for CSCD

### §163.40 SUBSTANCE ABUSE TREATMENT STANDARDS

**(a) Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

**(1) Admission** - The administrative process and procedure performed to accept an offender into a treatment program or facility.

**(2) Assessment** - a process using a structured or semi-structured interview to determine the nature and extent of a client's chemical dependency.

**(3) Chemical Dependency Counselor** - A qualified, credentialed counselor or counselor intern working under direct supervision.

**(4) Continuum of Care** - A system which provides for the uninterrupted provision of essential services to offenders entering, exiting, and within the system.

**(5) Counseling** - Face-to-face interactions between offenders and counselors to help offenders identify, understand, and resolve their personal issues and problems related to their substance abuse or chemical dependency. Counseling may take place in groups or in individual meetings.

**(6) Counselor Intern** - A person pursuing a course of training in chemical dependency counseling at a regionally accredited institution of higher education or a registered clinical training institution who has been designated as a counselor. The activities of a counselor intern shall be performed under the direct supervision of a qualified, credentialed counselor in accordance with rules adopted by the Texas Commission on Alcohol and Drug Abuse.

**(7) Detoxification** - Chemical dependency treatment designed to systematically reduce the amount of alcohol and other toxic chemicals in an offender's body, manage withdrawal symptoms, and encourage the offender to continue ongoing treatment for chemical dependency.

**(8) Direct Care Staff** - The staff responsible for providing treatment, care, supervision, or other offender services that involve a significant amount of direct contact. (Clerical support staffs are not considered direct care staff.)

**(9) Discharge** - The time when an offender leaves a program or facility and will no longer be receiving chemical dependency treatment from that program or facility.

**(10) Discharge Summary** - A recapitulation of the offender's progress and participation while in either primary, residential, or outpatient treatment.

**(11) Education** - Educational instruction; a planned, structured presentation of information which is related to substance abuse or chemical dependency.

**(11) Emergency** - A situation requiring immediate attention and action to treat or prevent physical, emotional, or mental threat, harm, injury, or illness.

**(13) Facility** - The physical location of the treatment program operated by, for, or with funding from the TDCJ-CJAD. Some locations may be locked facilities for in-patient treatment; other programs may be offered at locations as outpatient treatment.

**(14) Grievance** - A formal complaint limited to matters affecting the complaining offender personally and limited to matters for which the facility/program has the authority to remedy through the grievance process.

**(15) Primary Counselor** - An individual working directly with and being responsible for the treatment of the

## TDCJ-CJAD Standards for CSCD

offender.

**(16) Qualified, Credentialed Counselor (QCC)** - A licensed chemical dependency counselor (LCDC) or one of the following professionals:

- (A)** Licensed professional counselor (LPC);
- (B)** Licensed master social worker (LMSW);
- (C)** licensed marriage and family therapist (LMFT);
- (D)** licensed psychologist;
- (E)** Licensed physician (MD or DO);
- (F)** Certified addictions registered nurse (CARN);
- (G)** Licensed psychological associate; and
- (H)** Advance practice nurse recognized by the Board of Nurse Examiners as a clinical nurse specialist or nurse practitioner with specialty in psyche-mental health (APN-P/MH).

**(17) Screening Instrument** - a written device administered to an offender to determine the possible existence of chemical dependency.

**(18) Senior Counselor/Unit Manager/Unit Supervisor** - A supervisory staff member who directs, monitors, and oversees the work performance of subordinate staff members.

**(19) Special Needs Populations** - Offenders who have significant problems in the areas of mental health, diminished intellectual capacity, or medical needs.

**(20) Treatment** - A planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs. It includes, but is not limited to, the application of planned procedures to identify and change patterns of behavior related to or resulting from chemical dependency that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning lost due to chemical dependency.

**(21) Use of Force** - Graduated levels of use of physical strength or weapons necessary to gain physical compliance and control of an offender whose actions otherwise pose a danger to self or others.

**(b) Compliance.** Compliance with TDCJ-CJAD substance abuse treatment standards is required of all programs that provide substance abuse treatment and are funded or managed by TDCJ-CJAD. Programs and facilities providing only substance abuse education are not subject to these standards.

**(C) Personnel & Staff Development/Accreditation.** The employer shall ensure that employees acquire any credentials, licensing, certifications, or continuing education required to perform their duties. Personnel files for employees shall be maintained to display copies of required documents. Staff will be required to have criminal background checks performed annually. Programs that are not clinical training institutions as defined by the Texas Commission on Alcohol and Drug Abuse must inform all non-credentialed staff of this fact

**(d) Admissions.** There shall be documentation of specific admission criteria and procedures. Offenders are eligible for substance abuse treatment programs:

**(1)** If the offender's needs are met by the treatment services provided by the program,

**(2)** If a court orders the offender into the program and the subsequent assessment indicates the need for

## TDCJ-CJAD Standards for CSCD

treatment services; or

**(3)** If the program allows readmissions and the offender meets the admission criteria. For offenders who are placed in treatment programs who do not meet admission criteria, a mechanism or procedure shall be developed for offender removal. A review and justification explaining the reason the offender does not meet admission criteria shall be required.

**(e) Intake.** There shall be written policies and procedures establishing an intake process for offenders entering a substance abuse treatment program.

**(f) Initial Assessment Procedures.** Acceptable and recognized assessment tools (tests and measurements) shall be used in all substance abuse treatment programs within ten (10) working days from date of admission. Assessment policies and procedures shall require the use of approved clinical measurements and screening tests. If the screening identifies a potential mental health problem, the facility shall obtain a mental health assessment and seek appropriate mental health services when resources for mental health assessments and services are available internally or through referral at no additional cost to the program. Assessment procedures shall include the following:

**(1)** Identification of strengths, abilities, needs and substance preferences of the offenders served;

**(2)** Summarization and evaluation of each offender to develop individual treatment plans;

**(3)** Assessments completed by a Qualified Credentialed Counselor (QCC), or if the assessor is a Counselor Intern, then the documentation must be reviewed and signed by a QCC.

**(g) Assessments.** The assessment shall include:

**(1)** a summary of the offender's alcohol or drug abuse history including substances used, date of last use, date of first use, patterns and consequences of use, types of and responses to previous treatment, and periods of sobriety;

**(2)** Family information, including substance use and abuse by family members and supportive or dysfunctional relationships;

**(3)** Vocational and employment status, including skills or trades learned, work record, and current vocational plans;

**(4)** Health information, including medical conditions that present a problem or that might interfere with treatment;

**(5)** Emotional or behavioral problems, including a history of psychiatric treatment;

**(6)** Educational achievement level;

**(7)** Intellectual functioning level; and

**(8)** A diagnostic summary signed and dated by a Qualified Credentialed Counselor (QCC).

**(h) Orientation.** Each program shall establish written policies and procedures for the orientation process. Orientation shall be provided at the onset of treatment and in accordance with the level of treatment to be provided. The orientation shall relay information concerning program rules, the grievance procedure, and the steps necessary for offenders to complete treatment successfully.

**(i) Offender Rights.** The offender's basic rights shall be respected and protected, free from abuse, neglect, exploitation, and discrimination. Each provider shall have written policy and procedure to ensure protection of the offender's rights according to federal and state guidelines.

## **TDCJ-CJAD Standards for CSCD**

**(j) Release of Information.** There shall be written policies and procedures for protecting and releasing offender information that conforms to federal and state confidentiality laws. The staff shall follow written policies and procedures for responding to oral and written requests for offender-identifying information.

**(k) Offender Records.** There shall be written policies and procedures regarding the content of offender treatment records. Residential programs shall maintain separate individual treatment records for defendants. Case records, whether residential or outpatient shall include the following information at a minimum:

- (1) Initial intake information form;
- (2) Referral documentation;
- (3) Case information from referral source, if applicable;
- (4) release of information forms;
- (5) Relevant medical information;
- (6) Case history and assessment including risk and needs assessment and Strategies for Case Supervision if required;
- (7) Individual treatment plan;
- (8) Evaluation and progress reports;
- (9) Discharge summary; and
- (10) Court order placing the offender into the program.

**(l) Offender Records Review Policy.** There shall be written policy and procedures to govern the access of offenders to their own substance abuse treatment records in accordance with Texas Health & Safety Code and 42 CFR parts 2. This access does not apply to criminal justice records. Restrictions to access to treatment records shall be specified and explained to offenders upon request. Exceptions must involve the potential for harm to the offender or others.

**(m) Treatment Planning and Review.** Initial individual Treatment Plans will be completed within ten (10) working days from the date of an offender's admission to a CCF, CCC or any other substance abuse treatment program or through a similar process approved by the CSCD. Substance abuse treatment shall be based on needs identified through assessments and revised according to the offender's success or lack of progress. Treatment plans shall be reviewed at timely intervals at a minimum of once each month or when major changes occur (e.g., change in phase) and shall ensure:

- (1) That the primary counselor meets with the offender as needed to review the treatment plan, evaluating goal progress and revisions; and
- (2) That all revised treatment plans be signed and dated by the counselor and the offender.

**(n) Treatment Progress Notes.** There shall be written policies and procedures to require all programs to record and maintain progress notes on all offender case records, to document counseling sessions, and to summarize significant events that occur throughout the treatment process. Progress notes shall be documented at a minimum of once each week.

**(o) Changes in Treatment Levels.** Each treatment program shall develop written criteria for an offender to advance or regress from a level of treatment. An offender must meet the criteria for a change in the level of treatment before such a change or a discharge is implemented. Justification for level changes must be documented.

## **TDCJ-CJAD Standards for CSCD**

**(p) Discharges from Treatment.** Discharge from a program shall be based on the following criteria:

- (1) The offender has made sufficient progress towards meeting the objectives of the supervision plan and program requirements;
- (2) The offender has satisfied a period of placement as a condition of community supervision;
- (3) The offender has demonstrated non-compliance with the program criteria or court order;
- (4) The offender manifests a medical problem that prohibits participation or completion of the program requirements;
- (5) The offender displays symptoms of a psychological disorder that prohibits participation or completion of the program requirements; or
- (6) The offender is identified as inappropriate or ineligible for participation in the program as defined by facility eligibility criteria, statute, or standard.

**(q) Discharge Summary.** A discharge summary shall be prepared by the primary counselor for each offender prior to leaving any substance abuse program. The discharge summary shall be sent to the defendant's supervision officer within seven (7) days of discharge and provide a summation of:

- (1) Clinical problems at the onset of treatment and original diagnosis;
- (2) The problems or needs and strengths or weaknesses identified on the master treatment plan;
- (3) The goals and objectives established;
- (4) The course of treatment;
- (5) The outcomes achieved; and
- (6) A continuum of care plan/aftercare treatment plan, which must be prepared with the offender prior to discharge.

**(r) General Program Services Provisions.** Specific services shall be required of all substance abuse treatment programs. Written policy and procedures shall ensure the following:

- (1) All substance abuse services shall be delivered according to a written treatment plan;
- (2) All programs shall employ a Qualified Credentialed Counselor as the Program Director, Clinical Director, Senior Counselor, or the counselor in a similar supervisory position;
- (3) The program shall include culturally diverse curriculum applicable to the population served and shall be accomplished through demonstrated, appropriate counseling and instructional materials;
- (4) Members of the offender treatment team shall demonstrate effective communications and coordination, as evidenced in staffing, treatment planning and case-management documentation;
- (5) There shall be written policies and procedures regarding the delivery and administration of prescription and nonprescription medication which provide for:
  - (A) Conformity with state regulations; and
  - (B) Documentation of the administration of medications, medication errors, and drug reactions.

## **TDCJ-CJAD Standards for CSCD**

**(6)** Chemical dependency education shall follow a course outline that identifies lecture topics and major points to be discussed;

**(7)** The program shall provide education about the health risks of tobacco products and nicotine addiction;

**(8)** The program shall provide HIV, Hepatitis B and C and Tuberculosis education based on the Model Workplace Guidelines for Direct Service Providers developed by the Texas Department of Health;

**(9)** Offenders shall have access to HIV counseling and testing services directly or through referral;

**(A)** HIV services shall be voluntary, anonymous, and not limited by ability to pay.

**(B)** Counseling shall be based on the model protocol developed by the Texas Department of Health.

**(C)** In all TDCJ-CJAD funded facilities, testing, as well as pre- and post-test counseling, is to be provided by the medical department or contracted medical provider. In all facilities, service shall be provided either directly or through referral.

**(10)** The program shall make testing and information, for tuberculosis and sexually transmitted diseases available to all offenders, unless the program has access to test results obtained during the past year;

**(A)** Services may be made available directly or through referral.

**(B)** If an offender tests positive for tuberculosis or a sexually transmitted disease, the program shall refer the offender to an appropriate health care provider and take appropriate steps to protect offenders and staff.

**(C)** A community corrections facility shall report to the local health department the release of an offender who is receiving treatment for tuberculosis.

**(11)** The program shall:

**(A)** Refer pregnant offenders who are not receiving prenatal care to an appropriate health care provider and monitor follow-through; and

**(B)** Refer offenders to ancillary services necessary to meet treatment goals.

**(s) Levels of Treatment.** All CCFs providing substance abuse treatment shall designate in the current facility's Community Justice Plan (CJP) program proposal levels of treatment to be provided as described in sections (t) through (x) below. Beginning in fiscal year 2004, level II and level III treatment programs must include a cognitive-behavioral component for medium and high-risk offenders.

**(t) Level I (Detoxification).** Written policies and procedures shall ensure the following:

**(1)** All offenders admitted to Level I (Detoxification) programs shall need detoxification.

**(2)** Every offender shall have a completed medical history and physical.

**(A)** Residential offenders shall have a completed physical and medical history and a physical within 24 hours of admission. If the facility cannot meet this deadline because of exceptional circumstances, the circumstances shall be documented in the offender record. Until an offender's medical history and physical is complete, staff shall observe offenders closely (no less than every 15 minutes) and monitor vital signs (no less than once each hour).

**(B)** Outpatient offenders shall have the medical history and physical completed before admission.

## **TDCJ-CJAD Standards for CSCD**

**(3)** The program shall provide continuous supervision for offenders.

**(A)** In residential programs, direct care staff shall be awake and on site 24 hours a day.

**(i)** During day and evening hours, at least two awake staff shall be on duty for the first 12 offenders, with one more person on duty for each additional one to 16 offenders.

**(ii)** At night, at least one awake staff member shall be on duty for the first 12 offenders, with one more persons on duty for each additional one to 16 offenders.

**(B)** In outpatient programs, direct care staff shall be awake and on site whenever an offender is on site. Offenders shall have access to on-call staff 24 hours a day.

**(4)** If the program accepts offenders with acute detoxification symptoms or a history of acute detoxification symptoms, the program shall have:

**(A)** A licensed vocational nurse or registered nurse on duty during all hours of operation;

**(B)** A physician on-call 24 hours a day.

**(5)** Level of observation shall be based on medical recommendations and program design, or not less than that described in (2) (A) above.

**(6)** A physician shall approve all medical policies, procedures, guidelines, tools, and forms, which shall include:

**(A)** Screening instruments (including a medical risk assessment) and procedures;

**(B)** treatment protocol or standing orders for each chemical the program is prepared to address in detoxification; and

**(C)** Emergency procedures.

**(7)** The clinical supervisor shall be a physician, physician assistant, advanced practice nurse, or registered nurse.

**(8)** The program shall:

**(A)** Ensure continuous access to emergency medical care;

**(B)** Provide offenders access to mental health evaluation and linkage with mental health services when indicated;

**(C)** Use written procedures to encourage offenders to seek appropriate treatment after detoxification.

**(9)** Direct care staff shall complete detoxification training provided by a physician, physician assistant, advanced practice nurse, or registered nurse that includes instruction in the following areas:

**(A)** Signs of withdrawal;

**(B)** pregnancy-related complications (if the program admits females of child-bearing age);

**(C)** Observation and monitoring procedures;

**(D)** Appropriate intervention; and

## TDCJ-CJAD Standards for CSCD

(E) Complications requiring transfer.

(10) Staff shall assist each offender in developing an individualized post-detoxification plan that includes appropriate referrals.

**(u) Level II (Relapse/Intensive Residential Treatment).** Written policies and procedures shall ensure the following:

(1) All offenders admitted to Level II (Relapse/Intensive Residential Treatment) shall be medically stable, and able to participate in treatment.

(2) The program shall provide adequate staff for close supervision and individualized treatment with counselor caseloads not to exceed ten (10) offenders.

(3) There shall be direct care staff alert and on site during all hours of operation. There shall be an appropriate number of direct care staff to provide all required program services, maintain an environment that is conducive to treatment, and ensure the safety and security of the offenders, according to the design of the facility and with the approval of the funding source.

(4) For programs 90 days or less counselors shall complete a comprehensive offender assessment and individual treatment plan within five (5) working days of admission. All other programs shall complete a comprehensive offender assessment and individual treatment plan within ten (10) working days.

(5) The facility shall deliver not less than twenty (20) hours of structured activities per week for each offender, including:

(A) ten (10) hours of chemical dependency counseling with a cognitive-behavioral approach with no less than one hour of individual counseling;

(B) seven (7) hours additional education, counseling, life skills, or rehabilitation activities; and

(C) three (3) hours of structured social or recreational activities.

(6) Counseling and education schedules shall be submitted to the funding entity for approval.

(7) Each offender shall have an opportunity to participate in physical recreation at least weekly.

(8) Program staff shall offer chemical dependency education or services to identified significant others.

(9) The program shall provide each offender with opportunities to apply knowledge and practice skills in a structured, supportive environment. Cognitive-Behavioral Programs shall have a published curriculum identified by the authors to contain cognitive, social and behavioral elements. Anyone facilitating a cognitive curriculum must be trained in that specific curriculum. All staff must receive training on the principles of a cognitive behavioral model as it relates to their job duties. This curriculum shall be approved by TDCJ-CJAD and implemented as designed. Components of the cognitive program shall at minimum include:

(A) Ways to identify thinking patterns; and

(B) Social skills training component.

**(v) Level III (Community Residential Treatment).** Written policies and procedures shall ensure the following:

(1) All offenders admitted to level III (Community Residential Treatment) shall be medically stable, able to function with limited supervision and support, and be able to participate in work release or community

## TDCJ-CJAD Standards for CSCD

service/restitution programs.

(2) The program shall have adequate staff to meet treatment needs within the context of the program description, with counselor caseloads not to exceed sixteen (16) offenders.

(3) There shall be direct care staff alert and on site during all hours of operation. There shall be an appropriate number of direct care staff to provide for the safety and security of the offenders, according to the design of the facility and with the approval of the funding.

(4) Counselors shall complete a comprehensive offender assessment and individualized treatment plan within ten (10) working days of admission for all offenders.

(5) The facility shall deliver no less than ten (10) hours of structured activities per week for each offender, including at least five (5) hours of chemical dependency counseling with a cognitive-behavioral approach.

(6) Counseling and education schedules shall be submitted to the funding entity for approval.

(7) The program design and application shall include increasing levels of responsibility for offenders and frequent opportunities for offenders to apply knowledge and practice skills in structured and unstructured settings. Cognitive-Behavioral Programs shall have a published curriculum identified by the authors to contain cognitive, social and behavioral elements. This curriculum shall be approved by TDCJ-CJAD and implemented as designed. Anyone facilitating a cognitive curriculum must be trained in that specific curriculum. All staff must receive training on the principles of a cognitive behavioral model as it relates to their job duties. Components of the cognitive program shall at minimum include:

(A) Ways to identify thinking patterns; and

(B) Social skills training component.

(w) **Level IV (Outpatient Treatment).** Written policies and procedures shall ensure the following:

(1) All offenders admitted to Level IV (Outpatient) programs shall be medically stable, and have appropriate support systems in the community to live independently with minimal structure.

(2) The program shall have adequate staff to provide offenders support and guidance to ensure effective service delivery, safety, and security. Staffing patterns shall be submitted to the funding entity.

(3) The program shall set limits on counselor caseload size to ensure effective, individualized treatment and rehabilitation. Criteria used to set the caseload size shall be documented and approved by the funding entity.

(4) Didactic groups shall not exceed 35 offenders in a group.

(5) Therapeutic groups shall not exceed 16 offenders in a group.

(6) For offenders in supportive outpatient programs, counselors shall complete a comprehensive offender assessment within thirty (30) calendar days of admission for all offenders.

(7) For offenders in intensive outpatient programs, counselors shall complete a comprehensive offender assessment within ten (10) calendar days of admission for all offenders.

(8) Intensive outpatient programs shall deliver no less than ten (10) hours of structured activities per week for each offender, including at least five (5) hours of chemical dependency counseling.

(9) Supportive outpatient programs shall deliver no less than two (2) hours of structured activities per week for each offender, including at least one (1) hour of chemical dependency counseling.

## TDCJ-CJAD Standards for CSCD

(10) Counseling and education schedules shall be submitted to the funding entity for approval.

(11) The program design and application shall include increasing levels of responsibility for offenders and frequent opportunities for offenders to apply knowledge and practice skills in structured and unstructured settings.

(12) The outpatient treatment levels may be utilized for residents in the work release phase of any residential substance abuse treatment program.

**(x) Special Populations.** Written policies and procedures shall ensure the following:

(1) Programs that address the special mental health, intellectual capacity, or medical needs of offenders must provide appropriate treatment either by program staff or through contracted services.

(2) Admission to a special needs program must be based on a documented mental health, intellectual capacity, or medical need.

(3) When the assessment process indicates that the offender has coexisting disabilities/disorders, the Treatment Plan shall specifically address those issues that might impact treatment, recovery, relapse, and/or recidivism.

(4) Personnel shall be available who are qualified in the treatment of coexisting disabilities/disorders.

(5) Within ninety-six (96) hours of admission to a special needs residential program, offenders shall be administered a medical and psychological evaluation.

(6) Within ten (10) days of admission to a residential program for special needs offenders, the program administrator or designee shall contact the Texas Council on Offenders with Mental Impairments (TCOMI) regarding the offender's status. As soon as discharge date is projected, TCOMI shall be notified in writing of plans for a continuum of care after discharge, regardless of whether or not the discharge is for successful completion of the program.

(7) Residential facilities providing services for special needs populations shall have procedures to provide access to health care services, including medical, dental, and mental health services, under the control of a designated health authority. When this authority is other than a physician, final medical judgments must rest with a single designated responsible physician licensed by the state.

(A) Services/treatment shall be directed toward maximizing the functioning and reducing the symptoms of offenders.

(B) There shall be written policies and procedures regarding the delivery and administration of prescription and nonprescription medication which provide for:

(i) Conformity with state regulations;

(ii) Documentation of the rationale for use and goals of service/treatment consistent with the individual plan of treatment;

(iii) Documentation of the administration of medications, medication errors, and drug reactions; and

(iv) Procedures to follow in case of emergencies.

(8) There shall be procedures for documenting that the offender has been informed of medication management procedures.

## **TDCJ-CJAD Standards for CSCD**

**(9)** Offenders shall be actively involved in decisions related to their medications.

**(10)** Programs for special needs offenders must follow the same staffing for treatment levels as the levels for other offenders, except all residential programs shall maintain caseloads of no greater than sixteen (16) offenders for each counselor.

**(11)** Programs operating in residential facilities shall ensure that offenders will have no less than ten (10) days of appropriate medication for use after discharge.

DRAFT

## A. Definitions

### §148.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) **Abuse** – An intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility that causes or may cause death, emotional harm or physical injury to a client. Client abuse includes:

- (A) any sexual activity between facility personnel and a client;
- (B) corporal punishment;
- (C) nutritional or sleep deprivation;
- (D) efforts to cause fear;
- (E) the use of any form of communication to threaten, curse, shame, or degrade a client;
- (F) restraint that does not conform with these rules;
- (G) coercive or restrictive actions taken in response to the client's request for discharge or refusal of medication or treatment that are illegal or not justified by the client's condition; and
- (H) any other act or omission classified as abuse by the Texas Family Code, §261.001.

(2) **Adolescent** – An individual 13 through 17 years of age whose disabilities of minority have not been removed by marriage or judicial decree.

(3) **Adult** – An individual 18 years of age or older, or an individual under the age of 18 whose disabilities of minority have been removed by marriage or judicial decree.

(4) **Advanced practice nurse** – A registered nurse currently licensed in Texas who is prepared for advanced practice and approved by the Texas State Board of Nurse Examiners.

(5) **Aftercare** – Structured services provided after a client completes treatment that are designed to strengthen and support the client's recovery and prevent relapse.

(6) **Assessment** – An ongoing process through which the counselor collaborates with the client and others to gather and interpret information necessary for developing and revising a treatment plan and evaluating client progress toward achievement of goals identified in the treatment plan, including identification of the client's strengths, weaknesses, and problems/needs.

(7) **Brief interventions** – Short-term practices designed to investigate a potential problem and motivate an individual to begin to do something about his or her substance abuse, either by natural, client-directed means or by seeking additional treatment. Brief interventions are described in "Brief Interventions and Brief Therapies for Substance Abuse" (Treatment

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

Improvement Protocol 34), published by the Center for Substance Abuse Treatment.

(8) **Brief therapy** – A systematic, focused process that relies on assessment, client engagement, and rapid implementation of change strategies. Brief therapies are described in "Brief Interventions and Brief Therapies for Substance Abuse" (Treatment Improvement Protocol 34), published by the Center for Substance Abuse Treatment.

(9) **Chemical dependency** – Substance abuse and substance dependence as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(10) **Chemical dependency counseling** – A collaborative process conducted face-to-face that facilitates the client's progress toward mutually determined treatment goals and objectives as described in "Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice," published by the Center for Substance Abuse Treatment.

(11) **Chemical dependency education** – A planned, structured presentation of information, provided by qualified staff, which is related to chemical dependency and includes a discussion of the material presented.

(12) **Chemical dependency treatment** – A planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs. It includes, but is not limited to, the application of planned procedures to identify and change patterns of behavior related to or resulting from chemical dependency that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning lost due to chemical dependency.

(13) **Child abuse and neglect** – Any act or omission that constitutes abuse or neglect of a child by a person responsible for a child's care, custody, or welfare as defined in the Texas Family Code §261.001.

(14) **Client** – An individual who has been admitted to a chemical dependency treatment program and is currently receiving services.

(15) **Commission** – The Texas Commission on Alcohol and Drug Abuse.

(16) **Consenter** – The individual legally responsible for giving informed consent for a client. Unless otherwise provided by law, a legally competent adult is his or her own consenter, and the consenter for an adolescent is the adolescent's parent, guardian, or conservator. State law allows a person 16 or 17 years of age to consent to his or her own treatment.

(17) **Counselor** – A qualified credentialed counselor, graduate or counselor intern.

(18) **Counselor intern (CI)** – A person registered with the commission who is pursuing a course of training in chemical dependency counseling at an approved clinical training institution or a person enrolled at an accredited institution of higher education completing an internship at a

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

treatment program as part of a degree or certificate program in chemical dependency counseling.

(19) **Direct care staff** – Staff responsible for providing treatment, care, supervision, or other direct client services that involve a significant amount of face-to-face contact.

(20) **Discharge** – Formal, documented termination from a treatment facility. Discharge occurs when a client successfully completes treatment goals, is transferred to another facility, leaves against professional advice, or is terminated for other reasons.

(21) **DSM-IV**– The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition-Text Revision, published by the American Psychiatric Association. Any reference to DSM-IV is understood to mean the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

(22) **Ensure** – Take all reasonable and necessary steps to achieve results.

(23) **Exploitation** – The illegal or improper use of a client or a client’s resources for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility.

(24) **Facility** – A legal entity with a single governing body, a single administration, and a single staff that provides chemical dependency treatment.

(25) **Graduate** – An individual who has successfully completed the 270 hours of education, 300 hour practicum, and 4,000 hours of supervised work experience required to become a licensed chemical dependency counselor in the state of Texas but has neither received a license nor failed the examination the maximum number of times allowed by law.

(26) **HIV** – Human Immunodeficiency Virus infection.

(27) **Individual service day** – A day on which a specific client receives services.

(28) **Intake** – The administrative process for gathering information about a prospective client and giving prospective client information about the facility and its treatment and services.

(29) **Licensed chemical dependency counselor** – A counselor licensed by the Texas Commission on Alcohol and Drug Abuse.

(30) **Licensed health professional** – A physician, physician assistant, advanced practice nurse, registered nurse, or licensed vocational nurse authorized to practice in the state of Texas.

(31) **Life skills training** – A formalized program of training, based upon a written curriculum and provided by qualified staff, designed to help clients with communication and social interaction, stress management, problem solving, decision making, and management of daily

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

responsibilities.

(32) **Mechanical restraint** – Use of a physical device to control or restrict a person's physical movement or actions.

(33) **Medical emergency** – A medical condition with acute symptoms of sufficient severity that a prudent layperson could reasonably expect the absence of immediate medical attention to result in death or serious harm.

(34) **Medication error** – Medication not given according to the written order by the prescribing professional or as recommended on the medication label. Medication errors include duplicate doses, missed doses, and doses of the wrong amount or drug.

(35) **Motivational interviewing** – A therapeutic style intended to help counselors work with clients to address their ambivalence and enhance motivation for positive change. Motivational interviewing is described in "Enhancing Motivation for Change in Substance Abuse Treatment" (Treatment Improvement Protocol 35), published by the Center for Substance Abuse Treatment.

(36) **Neglect** – A negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility that causes or may cause death or substantial emotional harm or physical injury to a client. Examples of neglect include, but are not limited to:

- (A) failure to provide adequate nutrition, clothing, or health care;
- (B) failure to provide a safe environment free from abuse;
- (C) failure to maintain adequate numbers of appropriately trained staff;
- (D) failure to establish or carry out an appropriate individualized treatment plan; and
- (E) Any other act or omission classified as neglect by the Texas Family Code, §261.001.

(37) **On duty** – Present on the site to perform job duties.

(38) **Person** – An individual, firm, partnership, corporation, association, or other business or professional entity.

(39) **Personal restraint** – Physical contact to control or restrict a person's physical movement or actions.

(40) **Personnel** – Members of the governing body, employees, contract providers, consultants, agents, representatives, volunteers, and other individuals working on behalf of the facility through a formal or informal agreement.

(41) **Private practice** – Unless otherwise defined by a licensing board, an individual's professional counseling practice in which the individual:

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (A) provides all treatment services personally;
- (B) does not report to a supervisor or utilize subordinate counseling staff; and
- (C) Is a licensed chemical dependency counselor or exempt from licensure?

(42) **Program** – A specific level of chemical dependency treatment delivered to a specific client population at a specific location.

(43) **Psychiatric emergency** – A condition that requires immediate intervention and/or medical attention to prevent an individual from presenting an immediate danger to self or others, or which causes the individual to be incapable of controlling, knowing, or understanding the consequences of his or her actions.

(44) **Qualified credentialed counselor (QCC)** – A licensed chemical dependency counselor or one of the professionals listed below who is licensed and in good standing in the state of Texas and has at least 1,000 hours of documented experience working with people who have substance use disorders:

- (A) licensed professional counselor (LPC);
- (B) licensed master social worker (LMSW);
- (C) licensed marriage and family therapist (LMFT);
- (D) licensed psychologist;
- (E) licensed physician;
- (F) registered nurse (RN) holding the credential of certified addictions registered nurse (CARN); and
- (G) Advanced practice nurse recognized by the Board of Nurse Examiners as a clinical nurse specialist or nurse practitioner with a specialty in psyche-mental health (APN-P/MH).

(45) **Qualified mental health professional** – A qualified mental health professional as defined in the Texas Administrative Code, Part 2, Chapter 401, Subchapter J.

(46) **Refer** – Identify appropriate services and provide information and assistance needed to access them.

(47) **Residential site** – A site owned, leased, or operated by the facility where clients who are receiving chemical dependency treatment or aftercare stay in a supervised 24-hour living environment.

(48) **Retaliate** – Adverse actions taken to punish or discourage a person who reports a violation

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

or cooperates with an investigation, inspection, or proceeding. Such actions include, but are not limited to, suspension or termination of employment, demotion, discharge, transfer, discipline, restriction of privileges, harassment, and discrimination.

(49) **Screening** – The process by which a client is determined appropriate and eligible for admission to a particular program and through which the counselor, client, and available significant others determine the most appropriate initial course of action, given the client's needs and characteristics and the available resources within the community.

(50) **Seclusion** – Isolating a client in a room from which exit is prevented.

(51) **Sexual exploitation** – A pattern, practice, or scheme of conduct that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

(52) **Signature** – Authentication of a record that meets the criteria established in §148.11 of this title (relating to General Documentation Requirements).

(53) **Staff** – Individuals working for the facility in exchange for money or other compensation.

(54) **Unethical conduct** – Conduct prohibited by the ethical standards adopted by state or national professional organizations or by rules established by a profession's state licensing agency.

(55) **Unprofessional conduct** – An act or omission that violates commonly accepted standards of behavior for individuals or organizations.

## **B. Licensure Information**

### **§148.11. Purpose.**

The purpose of these rules is to protect the health, safety, and welfare of chemically dependent **clients** and to ensure they receive adequate and appropriate treatment.

### **§148.21. License Required.**

- (a) A **facility** providing **chemical dependency treatment** in Texas shall have a license issued by the **commission** unless it is:
- (1) a facility maintained or operated by the federal government or its agencies;
  - (2) a facility directly operated by the state of Texas;
  - (3) a chemical dependency treatment program approved by the Texas Department of Health

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

within a licensed general hospital, specialty hospital or private psychiatric facility;

- (4) a pharmacotherapy program licensed by the Texas Department of Health;
  - (5) an educational program for intoxicated drivers;
  - (6) an individual who personally provides support services to chemically dependent persons but does not offer or purport to offer a chemical dependency treatment program;
  - (7) the private practice of a licensed health care practitioner or licensed chemical dependency counselor who personally renders individual or group services within the scope of the practitioner's license and in the practitioner's individual office;
  - (8) a religious organization registered under Chapter 145 of this title (relating to Faith-Based Chemical Dependency Treatment Programs); or
  - (9) a 12-step or similar self-help chemical dependency recovery program:
    - (A) that does not offer or purport to offer a chemical dependency treatment program;
    - (B) that does not charge program participants; and
    - (C) In which program participants may maintain anonymity.
- (b) Facilities providing chemical dependency treatment for **clients** who are diagnosed with both a substance use disorder and a mental health disorder shall be licensed by the commission unless exempt under paragraph (a) of this section.
- (c) The facility shall have written approval for each **residential site** it operates.
- (d) A license is not transferable to a separate legal entity.

**§148.22. Variances.**

- (a) The **commission's** executive director or designee may grant a temporary variance to a **facility** or group of facilities.
- (b) To be eligible for a variance, a facility shall show:
  - (1) an alternative method is used to meet the intent of the rule; and
  - (2) The variance will not jeopardize the health, safety, or welfare of clients or compromise client treatment.
- (c) The commission's executive director or designee will determine if an alternative is equivalent to the written rule and when it will be accepted during licensure reviews.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

(d) A variance cannot be granted for a statutory requirement.

**§148.23. New Licensure Application.**

- (a) An applicant for initial licensure shall submit a complete licensure application with an application fee.
- (b) Within 45 days of receipt of the application, the **commission** shall notify the applicant that the application is complete or specify the additional information required.
- (c) The applicant shall submit all requested materials and correct any deficiencies identified by the commission within the specified time frames.
- (d) If an on-site inspection is necessary, the commission will conduct the inspection within 45 days of receiving a satisfactory version of requested materials. The commission will notify the provider of any deficiencies identified during an on-site inspection within 30 days, and the provider shall provide evidence of sufficient corrective action within the timeframe specified in the inspection report.
- (e) The commission will issue the license within 45 days of receiving all required evidence of compliance and all required fees.
- (f) If an applicant fails to provide evidence of compliance within six months from the date the application is received, the application will be denied. Six months after the date of denial, the applicant may reapply by submitting a new application and application fee.
- (g) The applicant shall not provide **chemical dependency treatment** services before receiving written notice of licensure approval.
- (h) The facility shall display the licensure certificate prominently at the headquarters location and each approved **residential site**.

**§148.24. Licensure Renewal.**

- (a) A license issued by the **commission** expires at the end of two years.
- (b) The licensee shall file an application update and pay the renewal fee before the license expires. Notice of less than 60 days may delay approval.
- (c) The **facility** shall not provide services after the license expiration date unless it has submitted the application update and fee by the date of expiration.

**§148.25. Changes in Status.**

- (a) A **facility** shall submit the appropriate application and fees and receive written approval before adding a new Level I service, adding a new **residential site**, moving to a new

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

residential location, or increasing the number of beds in a residential program.

- (b) If the facility fails to provide evidence of compliance within six months from the date the application for a change in status is received, the application will be denied. Six months after the date of denial, the facility may reapply by submitting a new application and application fee.
- (c) The facility shall notify the **commission** in writing of each location where outpatient services will be provided and shall not provide services at a new outpatient location until it has received written acknowledgement that the commission has received the notice.
- (d) The provider shall also notify the commission's licensure department in writing before:
  - (1) adding a new Level II, III, or IV service;
  - (2) providing services to a new age group or gender;
  - (3) changing the organization's name; or
  - (4) Increasing the number of outpatient slots.
- (e) The provider shall notify the commission in writing within 30 days if it:
  - (1) closes a residential site or outpatient location;
  - (2) decreases the number of residential beds or outpatient slots; or
  - (3) Discontinues a level of service.

**§148.26. Closure.**

The **facility** shall notify the **commission's** licensure department in writing within 30 days when it closes a **chemical dependency treatment program**. The facility shall ensure that all clients are appropriately **discharged** or transferred before the program closes and make appropriate arrangements for properly maintaining client records in compliance with confidentiality regulations.

**§148.27. Licensure Review.**

The **commission** may conduct a scheduled or unannounced inspection or request materials for review at any time. The **facility** shall allow commission staff to access the facility's grounds, buildings, and records and to interview or survey members of the governing body, **staff**, and **clients**. The facility shall make all property, records, and documents related to the licensure application available for examination, copy, or reproduction during normal business hours, on or off premises.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

**§148.28. Licensure Fees.**

- (a) A **facility** shall pay the full licensure fee for any licensure period during which it provides **chemical dependency treatment**. Failure to notify the **commission's** licensure department of closure does not excuse a licensee from paying fees.
- (b) Fees shall be paid in full by commercial or agency check, cashier's check, or money order.
- (c) The schedule for licensure fees is:
  - (1) application fee - \$100;
  - (2) base fee - \$1000;
  - (3) fee per **residential site** - \$100;
  - (4) fee per bed - \$30;
  - (5) Maximum fee per facility (excluding application fees) - \$4,000.
- (d) A \$25 fee is charged for a printed list of licensed facilities, a set of mailing labels for licensed facilities, or a replacement certificate.
- (e) Licensure fees are not refundable.

**§148.31. Action Against a License.**

- (a) The **commission** shall take action against a **facility** if an applicant, licensee, owner, member of the governing body, administrator, or clinical **staff** member of the facility:
  - (1) has a documented history of client **abuse** or **neglect**;
  - (2) violates any provision of the Texas Health and Safety Code, Chapter 464, or any other applicable statute, or a commission rule; or
  - (3) Owes the commission money.
- (b) Action taken may include:
  - (1) suspending or revoking a license;
  - (2) refusing to renew a license;
  - (3) placing a facility on probation when the facility's license has been suspended;
  - (4) imposing an administrative penalty; and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (5) Issuing a reprimand.
- (c) The commission will determine the length of probation or suspension. The commission may hold a hearing at any time and revoke probation or suspension.
- (d) Surrender or expiration of a license does not interrupt an investigation or action taken against a license. The facility is not eligible to regain the license until all outstanding investigations, disciplinary proceedings, or hearings are resolved.
- (e) A facility whose license has been revoked is not eligible to apply for licensure until two years have passed since the date of revocation.
- (f) A facility whose license has been revoked or a facility who surrendered its license after an administrative hearing to revoke the license has been noticed is not eligible to receive a faith-based exemption under Chapter 145 of this title (relating to Faith-Based Chemical Dependency Treatment Programs) until two years have passed since the date of revocation or surrender.

## **C. Facility Management**

### **§148.101. Facility Organization**

- (a) Governing body. The **facility** shall have a governing body with legal authority to operate in the state of Texas. If the organization is governed by a board of directors, the board shall meet at least quarterly and maintain minutes for each meeting.
- (b) Organizational structure. The facility shall maintain current documentation of the organization's staffing structure, including lines of supervision and the number of full time equivalent **staff** members for each position.
- (c) Job descriptions. The facility shall have a current job description for each position that specifies job duties and minimum qualifications.

### **§148.102. Policies, Procedures, and Licensure Rules.**

- (a) The **facility** shall adopt and implement written policies and procedures specified in this section. The policies and procedures shall contain sufficient detail to ensure compliance with the referenced **commission** rules.
- (b) All **programs** shall have policies and/or procedures related to the following rules:
- (1) §148.103 of this title (relating to Standards of Conduct);
  - (2) §148.112 of this title (relating to Client Records);

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (3) §148.113 of this title (relating to Significant Incident Reports);
  - (4) §148.115 of this title (relating to Client Transportation);
  - (5) §148.302 of this title (relating to Client Grievances);
  - (6) §148.303 of this title (relating to Client Abuse, Neglect, and Exploitation); and
  - (7) §148.313 of this title (relating to Restraint and Seclusion).
- (c) Residential programs shall also have procedures related to the following rules:
- (1) §148.315 of this title (relating to Responding to Emergencies);
  - (2) §148.316 of this title (relating to Searches);
  - (3) §148.411 of this title (relating to Additional Requirements for Adolescent Programs), subsection (k), if applicable;
  - (4) §148.501 through 148.504 of this title (relating to Medication); and
  - (5) §148.603 of this title (relating to Emergency Evacuation).
- (d) The policy and procedure manual shall be current, in compliance with current licensure rules, individualized to the program, and easily accessible to all **staff** at all times.

**§148.103. Standards of Conduct.**

- (a) The **facility** and all of its **personnel** shall protect **clients'** rights and provide adequate and appropriate treatment.
- (b) Neither the facility nor any of its personnel shall:
- (1) provide services while under the influence of alcohol or illegal drugs;
  - (2) commit an illegal, **unprofessional or unethical act** (including client **abuse, neglect, or exploitation**);
  - (3) assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;
  - (4) knowingly provide false or misleading information;
  - (5) falsify, alter, destroy or omit significant information from required reports and records or interfere with their preservation;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

(6) **retaliate** against anyone who reports a violation or cooperates during a review, inspection, investigation, hearing, or other related activity; or

(7) Interfere with **commission** reviews, inspections, investigations, hearings, or related activities. This includes taking action to discourage or prevent someone else from cooperating with the activity.

(c) Any person associated with the facility that receives an allegation or has reason to suspect that a person associated with the facility has been, is, or will be engaged in illegal, unethical or unprofessional conduct shall immediately inform the commission's investigations division and the facility's chief executive officer or designee. If the allegation involves the chief executive officer, it shall be reported to the commission and the facility's governing body.

(d) Neither the facility nor any of its personnel shall enter into a personal or business relationship with a person who receives services from the facility until at least two years after the service recipient's **discharge**.

(e) The facility and its personnel shall comply with Chapter 164 of the Texas Health and Safety Code (relating to Treatment Facilities Marketing and Admission Practices).

(f) The facility shall have written policies on staff conducts that comply with this section.

**§148.105. General Environment.**

(a) The **facility** shall comply with the Americans with Disabilities Act. The facility shall maintain documentation that it has conducted a self-inspection to evaluate compliance and implemented a corrective action plan within reasonable time frames to address identified deficiencies.

(b) The facility shall provide a safe, clean, and well-maintained environment.

(c) The facility shall have adequate space, furniture, and supplies.

(d) The facility shall have private space for confidential interactions.

(e) The facility shall prohibit smoking inside facility buildings and vehicles and during structured program activities. Staff shall not provide or facilitate client access to tobacco products.

(f) The facility shall prohibit firearms and other weapons, alcohol, illegal drugs, illegal activities, and violence on the program site.

**§148.106. Required Postings.**

(a) The **facility** shall post a legible copy of the following documents in a prominent public location that is readily available to **clients**, visitors, and **staff**:

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (1) the Client Bill of Rights;
  - (2) the **commission's** current poster on reporting complaints and violations; and
  - (3) The client grievance procedure.
- (b) These documents shall be displayed in English and in a second language at every location where services are provided.

**§148.111. General Documentation Requirements.**

- (a) The **facility** shall keep complete, current documentation.
- (b) All documents shall be factual and accurate.
- (c) All documents and entries shall be dated and authenticated by the person responsible for the content.
  - (1) Authentication of paper records shall be an original signature that includes at least the first initial, last name and required credentials. Initials may be used if the client record includes a document that identifies all individuals initialing entries, including the full printed name, signature, credentials, and initials.
  - (2) Authentication of electronic records shall be a cryptography-based digital signature.
- (d) Documentation shall be permanent and legible.
- (e) When it is necessary to correct a client record, incident report, or other legal document, the error shall be marked through with a single line, dated, and initialed by the writer.
- (f) Records shall contain only those abbreviations included on the facility's list of approved abbreviations.

**§148.112. Client Records**

- (a) The **facility** shall establish and maintain a single record for every **client** at the time of **admission**. The content of client records shall be complete, current, and well organized.
- (b) The facility shall protect all client records and other client-identifying information from destruction, loss, tampering, and unauthorized access, use or disclosure.
  - (1) All active client records shall be stored at the facility and inactive records in off-site storage shall be fully protected.
  - (2) Information that identifies applicants shall be protected to the same degree as information

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

that identifies clients.

- (3) Electronic client information shall be protected to the same degree as paper records and shall have a reliable backup system.
- (c) The facility shall limit access to the records to **staff** with job duties requiring their use.
- (d) Staff shall keep records locked at all times unless an authorized person is continuously present in the immediate area.
- (e) The facility shall ensure that all client records can be located and retrieved promptly at all times.
- (f) The facility shall comply with federal and state confidentiality laws and regulations, including 42 CFR Part 2 (the federal regulations on the Confidentiality of Alcohol and Drug Abuse Client Records) and Texas Health and Safety Code, Chapter 611 (relating to Mental Health Records). The facility shall also protect the confidentiality of HIV information as required in Texas Health and Safety Code §81.103 (relating to Confidentiality; Criminal Penalty).
- (g) The facility shall not deny clients access to the content of their records except as provided by the Texas Health and Safety Code, §611.0045.
- (h) Client records shall be kept for at least five years. Records of **adolescent** clients shall be kept for at least five years after the client turns 18.
- (i) If client records are microfilmed, scanned, or destroyed, the facility shall take steps to protect confidentiality. The facility shall maintain a record of all client records destroyed on or after September 1, 1999, including the client's name, record number, birth date, and dates of admission and discharge.

**§148.113. Significant Incident Reports.**

- (a) **Staff** shall complete an incident report for all significant client incidents, including:
- (1) incidents of actual or suspected **abuse, neglect, exploitation**, or other violation of client rights;
  - (2) accidents and injuries;
  - (3) **medical emergencies**;
  - (4) **psychiatric emergencies**;
  - (5) **medication errors**;
  - (6) illegal or violent behavior;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (7) loss of a client record;
  - (8) **personal or mechanical restraint or seclusion**;
  - (9) release of confidential information without client consent;
  - (10) fire or significant disruption of **program** operation (including disruption due to insufficient staffing);
  - (11) death of an active outpatient or residential **client** (on or off the program site); and
  - (12) Clients absent without permission from a residential program.
- (b) The incident report shall be completed within 24 hours and shall provide a detailed description of the event, including the date, time, location, individuals involved, and action taken.
- (c) The person writing the report shall sign it and record the date and time it was completed.
- (d) Incident reports shall be stored in a central file.
- (e) The facility shall have a designated individual responsible for reviewing incident reports. When indicated, the facility shall implement corrective action to prevent similar incidents from occurring.
- (f) Alleged client abuse, neglect, and exploitation shall be reported to the **commission's** investigations division as described in §148.303 of this title (relating to Client Abuse, Neglect, and Exploitation).
- (g) Incidents within the following categories that do not meet the definition of abuse, neglect, or exploitation shall be reported to the commission's investigations division within 72 hours:
- (1) all fires;
  - (2) substantial disruption of program operation;
  - (3) death of an active client (on or off the program site);
  - (4) suicide attempt by an active client (on or off the program site);
  - (5) medical and psychiatric emergencies that result in admission to an inpatient unit of a medical or psychiatric facility;
  - (6) illegal behavior on the program site;
  - (7) violent behavior on the program site that results in injury or a police report; and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (8) Use of personal or mechanical restraint or seclusion.
- (h) The facility shall report all illegal drugs and other contraband found on the facility site to law enforcement authorities.

**§148.115. Client Transportation.**

The **facility** shall have a written policy on the use of facility vehicles and/or **staff** to transport **clients** and shall ensure that vehicles used to transport clients are maintained and operated safely.

**D. Personnel and Staff Development**

**§148.201. Hiring Practices.**

- (a) A **facility** using **counselor interns** shall be registered with the **commission** as a clinical training institution and comply with all applicable requirements.
- (b) The facility shall verify the current status of all required credentials with the credentialing authority by phone or letter.
- (c) The facility shall comply with all applicable laws, including the Texas Civil Practice and Remedies Code §81.003, which relates to employment reference checks.
- (d) The facility shall obtain and assess the results of a statewide criminal background check from the Department of Public Safety on all **staff** within six weeks of the date of hire. The facility shall use the criteria listed in the Texas Occupations Code §53.022 and §53.023, to evaluate criminal history reports and make related employment decisions.
- (e) The facility shall not hire an individual who has not passed a pre-employment drug test that meets criteria established by the commission.
- (f) The facility shall maintain a personnel file for each staff member with documentation demonstrating compliance with this section.

**§148.202. Students and Other Volunteers.**

- (a) The **facility** shall ensure that students and other volunteers comply with standards of performance and conduct.
- (b) Volunteers shall be appropriate and qualified to perform assigned duties.
- (c) Volunteers shall receive orientation and training appropriate to their qualifications and responsibilities and shall be appropriately supervised by **staff**.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

**§148.203. Staff Training.**

- (a) Each **staff** person shall complete initial training during the first 30 calendar days of employment. The initial training shall include discussion of licensure rules relating to:
- (1) **client** rights;
  - (2) client grievance procedures;
  - (3) confidentiality of client-identifying information;
  - (4) client **abuse, neglect, and exploitation**;
  - (5) requirements for reporting abuse, neglect, and other serious incidents;
  - (6) standards of conduct; and
  - (7) Emergency and evacuation procedures.
- (b) The **facility** shall provide training in issues relating to abuse, neglect, and exploitation and illegal, **unprofessional, and unethical conduct** to all staff that have any client contact.
- (1) This training shall comply with the interagency memorandum of understanding on abuse training (see §148.205 of this title relating to Training Requirements Relating to Abuse, Neglect, and Unprofessional or Unethical Conduct).
  - (2) Full time staff in residential programs shall receive at least eight hours every year, and full time staff in outpatient programs shall receive at least two hours every year. Hours of training for part time staff may be determined by the facility based on the number of hours worked and the amount of direct client contact.
- (c) All **direct care staff** shall complete four hours of training related to tuberculosis, **HIV**, Hepatitis B and C, and sexually transmitted diseases during the first 90 days of employment.
- (1) The training shall be based on the Texas Commission on Alcohol and Drug Abuse Workplace and Education Guidelines for HIV and Other Communicable Diseases.
  - (2) The facility shall provide all staff with updated information about these diseases every two years.
- (d) All direct care staff in residential programs shall have current certification in CPR within 90 days of hire. **Licensed health professionals** are exempt, and personnel in licensed medical facilities are exempt if emergency resuscitation equipment and trained response teams are available 24 hours a day.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (e) All direct care staff in residential programs and in Level I, II and III outpatient programs shall have at least four hours of face-to-face training in nonviolent crisis intervention during the first 90 days of employment.
  - (1) The instructor shall have successfully completed a course for crisis intervention instructors or have equivalent training and experience.
  - (2) The training shall teach staff how to use verbal and other non-physical methods for prevention, early intervention, and crisis management.
- (f) All direct care staff working in programs that use restraint or **seclusion** shall have face-to-face training and competency in the safe methods of the specific procedures used within 90 days of hire. This includes all direct care staff working in **adolescent** residential programs, ~~detoxification programs~~, and programs that accept emergency detentions. The training shall last approximately four hours and shall include hands-on practice under the supervision of a qualified instructor.
- (g) Each staff member who conducts **intakes** or screens applicants for admission shall complete eight hours of training in the program's intake and **screening** procedures annually.
  - (1) The first eight hours shall be completed during the first 90 days of employment and before a staff member conducts intakes or screens applicants for admission.
  - (2) The training shall cover the **DSM-IV** diagnostic criteria for substance-related disorders, and shall also include at least two hours annually on other mental health diagnoses.
- (h) All staff members responsible for supervising clients in self-administration of medication who are not credentialed to administer medication shall complete at least two hours of documented training from a physician, pharmacist, physician assistant, or registered nurse before performing this task. The training is required one time and shall be completed during the first 90 days of employment. It shall include:
  - (1) prescription labels;
  - (2) medical abbreviations;
  - (3) routes of administration;
  - (4) use of drug reference materials;
  - (5) storage, maintenance, handling, and destruction of medication;
  - (6) documentation requirements; and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (7) Procedures for **medication errors**, adverse reactions, and side effects.
- (i) All counselors this includes supervisors working in adolescent programs shall have or receive at least eight hours of specialized education or training in emotional, mental health and **chemical dependency** problems specific to **adolescents** and appropriate adolescent treatment strategies. This training shall be completed within the first 90 days of employment.
- (j) All direct care staff working in detoxification programs shall complete detoxification training during the first 90 days of employment. The training is required one time only and shall be provided by a physician, physician assistant, **advanced practice nurse**, or registered nurse with at least one year of documented experience in detoxification. It shall include:
- (1) signs of withdrawal;
  - (2) observation and monitoring procedures;
  - (3) pregnancy-related complications (if the program admits women);
  - (4) complications requiring transfer;
  - (5) appropriate interventions; and
  - (6) frequently-used medications, including purpose, precautions, and side effects.
- (k) The amount and type of training for contract personnel shall be based on the amount of time spent at the facility, degree of client contact, and individual qualifications and responsibilities.
- (l) Unless otherwise specified, video, manual, or computer-based training is acceptable if the supervisor discusses the material with the staff person in a face-to-face session to highlight key issues and answer questions.
- (m) The facility may accept documented training from another organization completed during the year prior to employment if it meets commission requirements.
- (n) The facility shall maintain documentation of all required training for each staff person.

**§148.205. Training Requirements Relating to Abuse, Neglect, and Unprofessional or Unethical Conduct.**

- (a) Introduction. The **commission** is a party to a joint memorandum of understanding (MOU) with the Texas Department of Health and the Texas Department of Mental Health and Mental Retardation concerning training requirements for identifying **abuse**, **neglect**, and **unprofessional** or **unethical conduct** in health care facilities.
- (b) Memorandum of understanding. The purpose of the MOU is to implement certain

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

requirements enacted by Acts 1993, 73rd Legislature, Regular Session, Chapter 573 (Senate Bill 210), which amends Health and Safety Code, Chapter 161, by adding Subchapter K, relating to, "abuse, neglect, and unprofessional or unethical conduct in health care facilities." Section 161.133 requires the Texas Board of Mental Health and Mental Retardation (TXMHMR), the Texas Board of Health (TDH) and the Texas Commission on Alcohol and Drug Abuse (TCADA) to adopt by rule a joint MOU, as set out below, detailing the health facility in service training requirement for identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct by or in the health care facility. In accordance with the referenced legislation, each health care facility is required to annually provide, as a condition of continued licensure, a minimum of eight hours of in service training designed to assist employees and health care professionals associated with the facility in identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct by or in the facility, as such terms are defined in Health and Safety Code, Subchapter K, Chapter 161. Accordingly, TXMHMR, TDH, and TCADA agree as follows.

- (c) Application. If a health care facility provides inpatient mental health, **chemical dependency**, or comprehensive medical rehabilitation services in a separate and distinct unit of the hospital, the requirements of this MOU shall apply to all employees and associated health care professionals who are assigned to, or who provide services on such units.
- (d) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) Health care facility – An inpatient mental health facility, inpatient treatment facility, or hospital that provides comprehensive medical rehabilitation services.
  - (2) Hospital that provides comprehensive medical rehabilitation services – Includes a general hospital and a special hospital.
  - (3) Illegal conduct – Conduct prohibited by law.
  - (4) Inpatient mental health facility – As defined in Texas Health and Safety Code Chapter §571.003, a mental health facility that can provide 24-hour residential and psychiatric services and that is:
    - (A) a facility operated by the TXMHMR;
    - (B) a private mental hospital licensed by the TDH;
    - (C) a community center;
    - (D) a facility operated by a community center or other entity designated by the TXMHMR to provide mental health services;
    - (E) an identifiable part of a general hospital in which diagnosis, treatment, and care for

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

persons with mental illness is provided and that is licensed by the TDH; or

(F) A hospital operated by a federal agency.

(5) Inpatient treatment facility – A treatment facility that can provide 24-hour residential and chemical dependency services and that is:

(A) a public or private hospital;

(B) a detoxification facility;

(C) a primary care facility;

(D) an intensive care facility;

(E) a long-term care facility;

(F) a community mental health center;

(G) a recovery center;

(H) a halfway house;

(I) an ambulatory care facility; or

(J) Any other facility that offers or purports to offer **chemical dependency treatment**.

(6) Unethical conduct – Conduct prohibited by the ethical standards adopted by state or national professional organizations for their respective professions or by rules established by the state licensing agency for the respective profession.

(7) Unprofessional conduct – Conduct prohibited under rules adopted by the state licensing agency for the respective profession.

(e) Minimum standards of training program.

(1) The in service training program shall address, at a minimum, the following elements:

(A) Applicable laws and regulations governing patient abuse and neglect, as well as policies and procedures adopted by the governing board of the facility with regard to patient abuse and neglect.

(B) Applicable laws and regulations governing illegal, unprofessional, and unethical conduct, as well as policies and procedures adopted by the governing board of the facility with regard to illegal, unprofessional, and unethical conduct.

(C) Applicable laws and regulations governing patient rights, as well as policies and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

procedures adopted by the governing board of the facility with respect to patient rights.

- (D) Specific types of patient abuse and neglect and how to identify when abuse or neglect is occurring or has occurred.
  - (E) Specific types of illegal, unprofessional, and unethical conduct and how to identify when illegal, unprofessional, or unethical conduct is occurring or has occurred.
  - (F) Requirements and procedures for reporting an incident of patient abuse and neglect, together with the applicable penalties for non-reporting.
  - (G) Requirements and procedures for reporting illegal, unprofessional, and unethical conduct, together with the applicable penalties for non-reporting.
  - (H) The legal protection afforded to employees and associated health care professionals who report patient abuse and neglect and illegal, unprofessional, and unethical conduct.
- (2) In addition, the training program may include training designed to improve patient care or to prevent abuse or neglect and illegal, unprofessional, and unethical conduct from occurring. This additional training may be customized according to the type of tasks performed by the various employees and health care professionals, their amount of direct patient contact, and the likelihood of their being exposed to patient abuse or neglect and illegal, unprofessional, or unethical conduct. Courses related to improving patient care may include things such as the "Prevention and Management of Aggressive Behavior" (PMAB) or other programs designed to deal with aggressive behavior and crisis intervention, some aspects of existing employee orientation courses, and continuing education courses (continuing medical education, continuing nursing education, continuing education unit) related to improving patient care.
- (3) Each full-time employee or associated health care professional shall receive a minimum of eight hours in service training on identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct. The in service training program shall include the topics outlined in paragraph 1 of this section; in addition, the training may include other topics as outlined in paragraph 2 of this section.
- (4) Although each part-time employee or associated health care professional must receive training as outlined in paragraphs 1 and 2 above, the amount and type of training provided to each part-time employee or associated health care professional may be determined based on a number of factors, including, but not limited to:
- (A) the amount of direct contact the employee or associated health care professional has with patients;
  - (B) the amount of time the employee or associated health care professional spends at

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

the health care facility (for example, a consultant who is at the hospital 20 hours a week versus a consultant who works at the health care facility once a month).

- (5) An interim training program that does not meet the minimum requirements set forth in subsection (e), paragraph 1, above, is acceptable until June 1, 1994, to allow for development of a training program that meets the minimum standards of this MOU.

(f) Means of reporting compliance with requirements.

- (1) Each facility subject to the in service training requirement shall keep a record of the exact content of training provided.
- (2) Each facility subject to the in service training requirement shall furnish documentation to show that each employee has completed the required training. Documentation shall include:
  - (A) course title;
  - (B) instructor's name;
  - (C) date(s) of course(s);
  - (D) employee or associate health professional's social security number;
  - (E) signature block for employee or associated health care professional to verify that training was received and that he/she is aware of the training objectives; and
  - (F) Length of program presented.
- (3) The health care facility shall keep the records required in paragraphs (1) and (2) above for five years.
- (4) A health care facility that utilized an independent contracting agency that supplies health care professionals and/or contract personnel to serve on a full or part time basis in a health care facility may rely on written representations by the independent contracting agency that such health care professionals and/or contract personnel have received in service training on identifying patient abuse or neglect and illegal, unprofessional or unethical conduct. An independent contracting agency shall meet all other requirements of this MOU and shall supply evidence documenting each healthcare professional's and/or contract personnel's compliance with such requirements.
- (5) Employees and associated health care professionals may fulfill all or some of the training requirement by attending a continuing education program on patient abuse or neglect or illegal, unprofessional, or unethical conduct, provided such program meets the minimum requirements set forth in subsection (e) paragraph (1), above. In addition, briefings regarding the Code of Ethics for the appropriate discipline provided by the discipline head

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

or other individual may be used to fulfill a portion of the requirement.

- (6) Each health care facility shall be in compliance with the annual requirement if it can demonstrate that each employee or associated health care professional received the required training over a twelve month period, and that the health care facility provided the required eight hours of in service training over the 12-month period.

(g) Miscellaneous provisions.

- (1) This memorandum of understanding shall be jointly adopted as a rule by the Texas Board of Mental Health and Mental Retardation, the Texas Board of Health, and the Texas Commission on Alcohol and Drug Abuse and shall be effective upon final joint adoption of the rules by the signatory agencies.
- (2) This memorandum may be amended at any time upon the mutual agreement of the agencies and such amendments shall also be made to the jointly adopted rules.

Each agency shall review and modify the memorandum as necessary not later than the last month of each state fiscal year.

## **E. Client Rights**

### **§148.301. Client Bill of Rights.**

(a) The **facility** shall respect and protect **clients'** rights. The Bill of Rights shall include:

- (1) You have the right to a humane environment that provides reasonable protection from harm and appropriate privacy for your personal needs.
- (2) You have the right to be free from **abuse, neglect, and exploitation.**
- (3) You have the right to be treated with dignity and respect.
- (4) You have the right to appropriate treatment in the least restrictive setting available that meets your needs.
- (5) You have the right to be told about the **program's** rules and regulations before you are admitted.
- (6) You have the right to be told before admission:
  - (A) the condition to be treated;
  - (B) the proposed treatment;
  - (C) the risks, benefits, and side effects of all proposed treatment and medication;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (D) the probable health and mental health consequences of refusing treatment; and
  - (E) Other treatments that are available and which ones, if any, might be appropriate for you.
- (7) You have the right to accept or refuse treatment after receiving this explanation.
  - (8) If you agree to treatment or medication, you have the right to change your mind at any time (unless specifically restricted by law).
  - (9) You have the right to a treatment plan designed to meet your needs, and you have the right to take part in developing that plan.
  - (10) You have the right to meet with **staff** to review and update the plan on a regular basis.
  - (11) You have the right to refuse to take part in research without affecting your regular care.
  - (12) You have the right not to receive unnecessary or excessive medication.
  - (13) You have the right not to be restrained or placed in a locked room by yourself unless you are a danger to yourself or others.
  - (14) You have the right to have information about you kept private and to be told about the times when the information can be released without your permission.
  - (15) You have the right to communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be restricted on an individual basis by your doctor or the person in charge of the program if it is necessary for your treatment or for security, but even then you may contact an attorney or the Texas Commission on Alcohol and Drug Abuse at any reasonable time.
  - (16) You have the right to be told in advance of all estimated charges and any limitations on the length of services that the facility is aware of.
  - (17) You have the right to receive an explanation of your treatment or your rights if you have questions while you are in treatment.
  - (18) If you consented to treatment, you have the right to leave the facility within four hours of requesting release unless a physician determines that you pose a threat of harm to yourself and others.
  - (19) You have the right to make a complaint and receive a fair response from the facility within a reasonable amount of time.
  - (20) You have the right to complain directly to the Texas Commission on Alcohol and Drug

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

Abuse at any reasonable time.

(21) You have the right to get a copy of these rights before you are admitted, including the address and phone number of the Texas Commission on Alcohol and Drug Abuse.

(22) You have the right to have your rights explained to you in simple terms, in a way you can understand, within 24 hours of being admitted.

(b) If a client's right to free communication is restricted under the provisions of paragraph (15) of this section, the physician or program director shall document the clinical reasons for the restriction and the duration of the restriction in the client record. The physician or program director shall also inform the client, and, if appropriate, the client's **consenter** of the clinical reasons for the restriction and the duration of the restriction.

**§148.302. Client Grievances.**

(a) The **facility** shall have a written **client** grievance procedure.

(b) Staff shall give each client and **consenter** a copy of the grievance procedure within 24 hours of admission and explain it in clear, simple terms that the client understands.

(c) The grievance procedure shall tell clients that they can:

(1) file a grievance about any violation of client rights or **commission** rules;

(2) submit a grievance in writing and get help writing it if they are unable to read or write;

(3) Request writing materials, postage, and access to a telephone for the purpose of filing a grievance.

(d) The procedure shall also inform clients that they can submit a complaint directly to the commission at any time and include the current mailing address and toll-free telephone number of the commission's investigations division.

(e) The facility shall have a written procedure for **staff** to follow when responding to client grievances. The facility shall:

(1) evaluate the grievance thoroughly and objectively, obtaining additional information as needed;

(2) provide a written response to the client within seven calendar days of receiving the grievance;

(3) take action to resolve all grievances promptly and fairly; and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

(4) Document all grievances, including the final disposition, and keep the documentation in a central file.

(f) The facility shall not:

(1) discourage, intimidate, harass, or seek retribution against clients who try to exercise their rights or file a grievance; or

(2) Restrict, discourage, or interfere with client communication with an attorney or with the commission for the purposes of filing a grievance.

**§148.303. Client Abuse, Neglect, and Exploitation.**

(a) Any person who receives an allegation or has reason to suspect that a **client** has been, is, or will be **abused, neglected, or exploited** by any person shall immediately inform the **commission's** investigations division and the **facility's** chief executive officer or designee. If the allegation involves the chief executive officer, it shall be reported to the commission's investigations division and the facility's governing body.

(1) The person shall also report allegations of **child abuse or neglect** to the Texas Department of Protective and Regulatory Services as required by the Texas Family Code §261.101.

(2) The person shall also report allegations of abuse or neglect of an elderly or disabled individual to the Texas Department of Protective and Regulatory Services as required by the Texas Human Resources Code §48.051.

(b) If the allegation involves **sexual exploitation**, the chief executive officer shall comply with reporting requirements listed in the Civil Practice and Remedies Code §81.006.

(c) The chief executive officer shall take immediate action to prevent or stop the abuse, neglect, or exploitation and provide appropriate care and treatment.

(d) The chief executive officer or designee shall ensure that a verbal report has been or is made to the commission's investigations division as required in subsection (a) of this section.

(e) The person who reported the incident shall submit a written incident report to the chief executive officer within 24 hours.

(f) The chief executive officer shall send a written report to the commission's investigations division within two working days after receiving notification of the incident. This report shall include:

(1) the name of the client and the person the allegations are against;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (2) the information required in the incident report or a copy of the incident report;
- (3) Other individuals, organizations, and law enforcement notified.
- (g) The chief executive officer or designee shall also notify the legal **consenter**. If the client is the legal consenter, family members and significant others may be notified only if the client gives written consent.
- (h) The facility shall investigate the complaint and take appropriate action unless otherwise directed by the commission's investigations division. The investigation and the results shall be documented.
- (i) The facility shall take action needed to prevent any confirmed incident from recurring.
- (j) The facility shall:
  - (1) document all investigations and resulting actions and keep the documentation in a central file;
  - (2) have a written policy that clearly prohibits the abuse, neglect, and exploitation of clients;
  - (3) Enforce the policy and provide appropriate sanctions for confirmed violations.

**§148.311. Program Rules.**

- (a) The **facility** shall establish appropriate written rules to protect the health, safety, and welfare of all **clients**.
- (b) The consequences for violating **program** rules shall be defined in writing and shall include clear identification of violations that may result in **discharge**. The consequences shall be reasonable, appropriate and shall not include:
  - (1) physical discipline or measures involving the use of food, water, sleep, or bathroom privileges; or
  - (2) Discipline that is authorized, supervised, or carried out by clients.
- (c) Every client shall be informed verbally and in writing of the program rules and consequences for violating the rules at the time of **admission**.
- (d) The facility shall enforce the rules fairly and objectively and shall not implement consequences for the convenience of **staff**.

**§148.312. Client Labor.**

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (a) The **facility** shall not hire **clients** to fill **staff** positions. Former clients are not eligible for employment at the facility until at least two years after documented **discharge** from active treatment from the facility.
- (b) Clients may be required or allowed to work for the facility only when the following conditions are met.
  - (1) Work responsibilities (and compensation, if applicable) are defined in writing.
  - (2) Staff explains mandatory work requirements before admission.
  - (3) The client gives voluntary written consent to the work.
  - (4) Work does not interfere or conflict with treatment.
  - (5) Work does not endanger client safety or well-being.
  - (6) Work does not involve access to client records.
  - (7) Work arrangements do not violate client confidentiality.
  - (8) The facility provides appropriate equipment, supplies, instruction, and assistance.
- (c) The facility shall not require clients to participate in any fund raising or publicity for the facility.
- (d) The facility and its staff members shall not enter into a business relationship with any client, give a personal gift to a client, or accept a personal gift of value from a client until at least two years after documented discharge.

**§148.313. Restraint and Seclusion.**

- (a) The governing body shall adopt a policy to either authorize or prohibit the use of **personal restraint, mechanical restraint, and seclusion**. All **adolescent** residential programs and programs accepting emergency detentions shall authorize use of personal restraint. Any facility authorizing use of restraint or seclusion shall have a written procedure that ensures compliance with this section.
- (b) In programs authorizing use of restraint or seclusion, **direct care staff** shall be trained as described in §148.203 of this title (relating to Staff Training).
- (c) Staff shall not use restraint or seclusion unless a **client's** behavior endangers the client or others and less restrictive methods have been tried and failed.
- (d) Staff shall not use more force than is reasonable and necessary to prevent imminent harm and shall ensure the safety, well-being, and dignity of clients who are restrained or secluded,

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

including attention for personal needs.

- (e) Staff shall obtain authorization from the supervising **qualified credentialed counselor** before starting restraint or seclusion or as soon as possible after implementation.
  - (1) The facility shall not use standing authorizations for restraint or seclusion.
  - (2) Authorization for mechanical restraint or seclusion shall be based on a face-to-face evaluation.
  - (3) Each authorization shall include a specific time limit, not to exceed 12 hours.
- (f) When the client has been safely restrained or secluded, staff shall tell the client what behavior and timeframes are required for release and shall release the client as soon as the criteria are met.
- (g) Clinical staff shall review and document alternative strategies for dealing with behaviors necessitating the use of restraint or seclusion two or more times in any 30-day period.
- (h) The chief executive officer or designee shall review all incident reports involving restraint or seclusion and take action to address unwarranted use of these measures.
- (i) A client held in restraint shall be under continuous direct observation. The facility shall ensure adequate circulation during mechanical restraint and shall only use devices designed for therapeutic restraint.
- (j) Seclusion rooms shall be set up to prevent clients from harming themselves and shall allow staff to observe clients easily in all parts of the room. When a client is in seclusion, staff shall conduct a visual check every 15 minutes.
- (k) The facility shall have a written procedure that ensures compliance with this section.
- (l) Staff shall record the following information in the client record within 24 hours:
  - (1) the circumstances leading to the client's loss of control;
  - (2) the specific behavior necessitating the restraint or seclusion and the behavior required for release;
  - (3) less restrictive interventions that were tried before restraint or seclusion began;
  - (4) the signed authorization of the supervising qualified credentialed counselor;
  - (5) the names of the staff members who implemented the restraint or seclusion;
  - (6) the date and time the procedure began and ended;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (7) the behavior and timeframes required for release;
- (8) the client's response;
- (9) observations made, including the 15 minute checks; and
- (10) Attention given for personal needs.

**§148.315. Responding to Emergencies.**

- (a) The **facility** shall ensure that **staff** has the training and resources necessary to protect the health and safety of **clients** and other individuals during **medical and psychiatric emergencies**.
- (b) The facility shall have written procedures for responding to medical and psychiatric emergencies.
- (c) Emergency numbers shall be posted by all phones.
- (d) The facility shall have adequate first aid supplies that are visible or well labeled and easy to access at all times.

**§148.316. Searches**

- (a) All residential **facilities** shall adopt a written policy on **client** searches. Client searches include personal searches and searches of a client's property or sleeping quarters. If client searches are allowed, the facility shall adopt a written search procedure that ensures the protection of client rights.
- (b) Client searches may only be conducted to protect the health, safety, and welfare of clients, including detection of drugs and weapons.
- (c) Searches shall be conducted in a professional manner that maintains respect and dignity for the client. The facility shall not conduct a directly observed strip search of any client.
- (d) A witness shall be present during all client searches.
- (e) **Staff** and witnesses involved in a personal search shall be the same gender as the client.
- (f) All client searches shall be documented in the client record, including the reason for the search, the result of the search, and the **signatures** of the individual conducting the search and the witness.

**F. Program Services**

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

**§148.401. Requirements Applicable to All Programs (Residential and Outpatient)**

- (a) The **facility** shall, to the greatest extent possible, provide **clients** access to a full continuum of care within the facility or establish agreements with other service providers to give clients access to treatment settings and levels it does not provide.
- (b) The level of care received by clients shall be modified as needed during the course of treatment to meet individual client needs.
- (c) The facility shall provide the minimum services required for each licensed level of care.
  - (1) Level I shall provide medication and nursing care to manage the client's withdrawal symptoms. The program shall also provide **motivational interviewing** and **brief interventions and therapies** to enhance the client's understanding of addiction, address immediate needs, motivate the client to participate in on-going treatment, and prepare the client for **discharge** or transfer. The number of hours and content of the services for each client shall be based on the individual's condition and needs identified during assessment.
  - (2) Level II shall provide an average of at least 20 hours of treatment services per week for each client, comprised of at least three hours of **chemical dependency counseling** (including at least one hour of individual counseling) and 17 hours of additional counseling, **chemical dependency education**, and/or **life skills training**.
  - (3) Level III shall provide an average of at least ten hours of treatment services per week for each client, comprised of at least two hours of chemical dependency counseling (including at least one hour of individual counseling every other week) and eight hours of additional counseling, chemical dependency education, and/or life skills training.
  - (4) Level IV shall provide an average of at least two hours of counseling per week including at least one hour of individual counseling per month. Additional hours of service, if provided, may include counseling, education, and/or life skills training.
- (d) Group size shall be limited to a number that allows effective interaction between the group and **counselor** and among group members.
  - (1) Group counseling sessions are limited to a maximum of 16 clients.
  - (2) Group education and life skills training sessions are limited to a maximum of 35 clients. This limit does not apply to multi-family educational groups, seminars, outside speakers, or other events designed for a large audience.
- (e) Chemical dependency education and life skills training shall follow a written curriculum. All educational sessions shall include client participation and discussion of the material presented and how it relates to the clients' individual treatment goals.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (f) The **program** shall provide education about tuberculosis, **HIV**, Hepatitis B and C, and sexually transmitted diseases based on the Texas Commission on Alcohol and Drug Abuse Workplace and Education Guidelines for HIV and Other Communicable Diseases.
- (g) The program shall provide education about the health risks of tobacco products and nicotine addiction and shall encourage abstinence from tobacco products.
- (h) The program shall provide access to screening for tuberculosis and testing for HIV antibody, Hepatitis C, and sexually transmitted diseases.
  - (1) HIV antibody testing shall be carried out by an entity approved by the Texas Department of Health.
  - (2) If a client tests positive, the program shall refer the client to an appropriate health care provider.
- (i) The program shall refer clients to physical health, mental health, and ancillary services if those services are not available through the program and are necessary to meet treatment goals and shall conduct follow-up.
- (j) Individuals shall not be denied admission or discharged from treatment because they are taking prescribed medication.

**§148.403. General Staffing Requirements (Residential and Outpatient).**

- (a) The **facility** shall maintain an adequate number of qualified **staff** to comply with licensure rules, provide appropriate and individualized treatment, and protect the health, safety, and welfare of **clients**.
- (b) **Direct care staff** shall be awake and on site during all hours of program operation.
- (c) Each program shall set limits on caseload size that ensure effective, individualized treatment. The **program** shall justify the caseload size in writing based on the program design, characteristics and needs of the population served, and any other relevant factors.
- (d) All **personnel** shall receive the training and supervision necessary to ensure compliance with **commission** rules, provision of appropriate and individualized treatment, and protection of client health, safety and welfare.
- (e) Individuals responsible for planning, directing, or supervising Level II, III, and IV treatment shall be **qualified credentialed counselors (QCCs)**. The clinical program director shall have at least two years of post-licensure experience providing **chemical dependency treatment**.
- (f) **Chemical dependency counseling, education, and life skills training** shall be provided by

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

**counselors** or individuals who have the specialized education, expertise, and/or experience needed to teach the material.

- (g) All **counselor interns** shall work under the direct supervision of a qualified credential counselor as required in Chapter 150 of this title (relating to Counselor Licensure).
- (h) Mental health services shall be provided by:
  - (1) a **qualified mental health professional**; or
  - (2) AN LCDC who has received additional training and achieved competence in working with chemically dependent individuals with co-occurring mental health conditions. At a minimum, the training must include 45 education hours in mental health and 2,000 hours of documented work experience under the supervision of a qualified mental health professional.
- (i) **Counselors** shall not provide group or individual counseling focused on trauma, abuse, or sexual issues unless they are licensed and have specialized education/training and supervised experience in the subject. At a minimum, LCDCs providing these services must have 45 education hours and 2,000 hours of documented work experience under the supervision of a qualified mental health professional.
- (j) One or more direct care staff trained in non-violent crisis intervention shall be on duty and on site at all times that the program is in operation. In residential programs, one or more direct care staff certified in CPR shall also be on duty and on site at all times that the program is in operation.
- (k) The facility shall not allow its clients to serve as staff. Former clients shall not be hired until at least two years after **discharge** from active treatment at the facility.

**§148.405. Additional Requirements for Level I (Residential or Outpatient Detoxification).**

- (a) The **program** shall have a medical director who is a licensed physician. The medical director shall be responsible for **admission**, diagnosis, medication management, and **client** care.
- (b) The medical director shall approve all medical policies, procedures, guidelines, tools, and the medical content of all forms, which shall include:
  - (1) **screening** instruments and procedures;
  - (2) treatment protocol or standing orders for each major drug category; and
  - (3) Emergency procedures.
- (c) In residential programs, **direct care staff** shall be awake and on duty where the clients are located 24 hours a day.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (1) During day and evening hours, at least two awake staff shall be on duty for the first 12 clients, with one more person on duty for each additional one to 16 clients.
- (2) At night, at least one awake staff member shall be on duty for the first 12 clients, with one more person on duty for each additional one to 16 clients. Night staff shall conduct and individually document in client records at least three checks while clients are sleeping.
- (d) Residential programs shall have a licensed vocational nurse or registered nurse on duty for at least eight hours every day and a physician on call 24 hours a day.
- (e) In outpatient programs, a licensed vocational nurse or registered nurse shall be on duty during all hours of operation. Clients shall have access to an on-call health care professional with detoxification experience 24 hours a day.
- (f) The program shall ensure continuous access to emergency medical care.
- (g) Direct care staff shall complete training in detoxification as described in §148.203 of this title (relating to Staff Training) and in restraint and/or seclusion as described in §148.313 of this title (relating to Restraint and Seclusion). Training in restraint and seclusion is required only if those procedures are authorized by policy.

**§148.406. Additional Requirements for Level II, III, and IV Residential Services.**

- (a) In **adult** Level II residential programs, the **direct care staff-to-client** ratio shall be at least 1:16 when clients are awake and 1:32 during sleeping hours.
- (b) In adult Level III and IV residential programs, the direct care staff-to-client ratio shall be at least 1:20 when clients are awake and 1:50 during sleeping hours.
- (c) Direct care staff included in staff-to-client ratios shall not have job duties that prevent ongoing and consistent client supervision.
- (d) The program shall have at least one **counselor** on duty at least eight hours a day, Monday through Saturday.
- (e) The program shall provide planned, structured activities during evenings and weekends in addition to the required treatment services. The minimum number of additional hours is 10 for adults and 15 for **adolescents**.
- (f) Clients in residential programs shall have an opportunity for eight continuous hours of sleep each night. Staff shall conduct and document at least three checks while clients are sleeping.
- (g) Every residential program shall adopt medication procedures so that clients can take medication during treatment.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (h) Residential programs shall provide three meals for every client. Meals shall provide a balanced and nutritious diet. Records of menus as served shall be maintained for 30 days after the date of the serving.
  - (1) The program shall provide modified diets to residents who require them as determined by a **licensed health professional**. Special diets shall be prepared in consultation with a licensed dietitian.
  - (2) All food shall be selected, stored, prepared, and served in a safe, healthy manner.
  - (3) When meals are provided by a contracted food service, a written contract shall require the food service to pass an annual kitchen health inspection by the local health authority or the Texas Department of Health.
- (i) Residential programs shall ensure clients have access to appropriate physical and mental health services.

**§148.411. Additional Requirements for Adolescent Programs (Residential and Outpatient).**

- (a) The **facility** shall maintain separation between **adults** and **adolescents** except during family-based treatment activities. Residential facilities shall have separate sleeping areas, bedrooms, and bathrooms for adults and adolescents and for males and females.
- (b) Residential and Level II outpatient programs shall provide access to education approved by the Texas Education Agency within three school days of admission when treatment is expected to last more than 14 days.
- (c) The **program's** treatment services, lectures, and written materials shall be age-appropriate and easily understood by **clients**.
- (d) The facility shall allow regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear individualized clinical justification documented in the client record.
- (e) The facility shall ensure that **staff** who plan, supervise, or provide adolescent treatment have specialized education or training as required in §148.203 of this title (relating to Staff Training). This applies to counselors but not to other direct care staff.
- (f) In residential programs, the **direct care staff**-to-client ratio shall be at least 1:8 during waking hours (including program-sponsored activities away from the facility) and 1:16 during sleeping hours. In Level II outpatient programs, the direct care staff-to-client ratio shall be at least 1:8.
- (g) Clients shall be under direct supervision at all times.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (h) The treatment plan shall address adolescent needs and issues and family relationships.
- (i) The program shall involve the adolescent's family or an alternate support system in the treatment process or document why this is not happening.
- (j) The program shall prohibit adolescent clients from using tobacco products on the program site. Staff and other adults (volunteers, clients, and visitors) shall not use tobacco products in the presence of adolescent clients on site.
- (k) The facility shall have written procedures that staff use when an adolescent leaves a program without permission. As stated in §148.102, this applies only to residential programs.

**§148.412. Correctional Facilities.**

- (a) **Programs** located in correctional facilities are not required to meet **commission** standards in areas under the control of the correctional facility. Correctional mandates shall take precedence when correctional requirements conflict with commission requirements.
- (b) A correctional facility is an institution operated under the jurisdiction of federal, state or local government used to confine individuals who have been convicted of a crime and sentenced to a period of incarceration. Correctional facilities include prisons, jails, and youth detention centers but exclude community-based organizations serving individuals mandated to treatment by the judicial or correctional system.
- (c) The commission may grant variances to community-based treatment **facilities** that contract with correctional authorities when correctional requirements conflict with commission requirements.

**§148.413. Court Commitment Services.**

- (a) **Facilities** accepting court commitments shall be licensed to provide the appropriate level of service:
  - (1) emergency detention: Level I or Level II residential services;
  - (2) **adult** inpatient involuntary commitments: Level II or Level III residential services for adults;
  - (3) adult outpatient involuntary commitments: Level II or Level III outpatient services;
  - (4) juvenile inpatient commitments: Level II residential services for **adolescents**;
  - (5) Juvenile outpatient commitments: Level II or Level III outpatient services for adolescents.
- (b) The facility's court commitment program shall comply with the Texas Health and Safety

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

Code, Chapter 462.

- (c) The facility shall report unauthorized departures to the referring courts. Verbal report shall be made immediately, with written confirmation within 24 hours.
- (d) The program shall provide the judiciary with sufficient written information about its program design, treatment methods, and admission processes, lengths of stay and continuum of care to assist the judiciary in committing appropriate **clients** to the facility.
- (e) The program shall accept all chemical dependency clients brought to the facility under an emergency detention warrant, order of protective custody, or civil court order for treatment. A formal **screening** and assessment is not required before **admission**.
- (f) A program that accepts emergency detentions shall adopt a written policy authorizing use of restraint and/or seclusion and implement procedures that conform with §148.313 of this title (relating to Restraint and Seclusion).
- (g) The client record shall contain documentation of the conditions and/or behaviors that caused the client's entry into the civil court commitment process.
- (h) The client record shall also contain copies of the legal documents required for civil court commitment as specified by Texas Health and Safety Code, Chapter 462.
- (i) The facility shall provide training for at least two designated **staff** to ensure they understand and comply with court commitment statutes, regulations, and procedures.

**§148.421. Screening and Admission Authorization**

- (a) Every individual admitted to a Level I treatment **program** shall meet the **DSM-IV** criteria for substance intoxication or withdrawal.
- (b) Every person admitted to a Level II, III, or IV treatment program shall meet the DSM-IV criteria for substance abuse or dependence.
- (c) **Adults** and **adolescents** shall be treated in separate programs.
  - (1) Adolescent programs serve youth 13 to 17 years of age. However, children aged 10 to 12 and young adults aged 18 to 21 may be admitted to an adolescent program when the screening process indicates the individual's needs, experiences, and behavior are similar to those of adolescent clients.
  - (2) Adult programs serve individuals 18 years of age or older. However, adolescents aged 16 or 17 may be admitted to an adult program when they are referred by the adult criminal justice system or when the screening process indicates the individual's needs, experiences, and behavior indicate that the individual's needs, experiences, and behavior are similar to those of adult clients.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (3) Every exception to the general age requirements shall be clinically justified and documented and approved in writing by the program director.
- (d) The facility shall use the Texas Department of Insurance criteria to place applicants in the most appropriate level of care accessible to them at the facility or through **referral**. Exceptions shall be clinically justified in writing and approved by the program director.
- (e) A qualified professional shall conduct a face-to-face examination of each applicant to establish the Axis I diagnosis, assess withdrawal potential, and determine the need for treatment and the type of treatment to be provided. The examination shall identify potential mental health problems that warrant further assessment.
- (1) In programs providing Level I treatment, the examination shall be conducted by a physician, physician assistant, **advanced nurse practitioner**, or registered nurse.
- (2) In programs providing Level II, III, or IV treatment, a **counselor** shall conduct the examination.
- (f) A qualified professional shall authorize each admission in writing and specify the type of care to be provided. If the examining professional is not qualified to authorize admission, the authorizing professional shall review the results of the examination and meet with the applicant face-to-face before authorizing admission. The authorization shall be documented in the client record and shall contain sufficient documentation to support the diagnosis and the placement decision.
- (1) All admissions to Level I treatment shall be authorized by a physician, physician assistant, advanced nurse practitioner, or registered nurse. Each admission authorization shall be verified and co-signed by a physician within 72 hours. If the physician determines an admission was not appropriate, the client shall be transferred to an appropriate service provider.
- (2) In programs providing Level II, III or IV treatment, a **QCC** shall authorize the admission.
- (h) If an individual is not admitted, the program shall refer and assist the applicant to obtain appropriate services.
- (i) When an applicant is denied admission, the facility shall maintain documentation signed by the examining professional who includes the reason for the denial and all referrals made.

**§148.422. Intake and Consent to Treatment.**

- (a) Before **admission**, a trained **staff** member shall collect and document information about the **client's** financial resources and insurance benefits.
- (b) The facility shall obtain written authorization from the **consenter** before providing any

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

treatment or medication. The consent form shall be dated and signed by the client, the consenter, and the staff person providing the information, and shall document that the client and consenter have received and understood the following information:

- (1) the specific condition to be treated;
  - (2) the recommended course of treatment;
  - (3) the expected benefits of the treatment;
  - (4) the probable health and mental health consequences of not consenting;
  - (5) the side effects and risks associated with the treatment; and
  - (6) Any generally accepted alternatives and whether an alternative might be appropriate.
- (c) Before admission, the **facility** shall also provide the client and consenter with the following information in writing:
- (1) the estimated average daily charge, including an explanation of any services that may be billed separately;
  - (2) the qualifications of the staff who will provide the treatment;
  - (3) the name of the primary **counselor**;
  - (4) the Client Bill of Rights as specified in §148.301 of this title (relating to Client Bill of Rights);
  - (5) the client grievance procedure;
  - (6) the **program** rules, including rules about visits, telephone calls, mail, and gifts, as applicable;
  - (7) violations that can lead to disciplinary action or **discharge**;
  - (8) any consequences or searches used to enforce program rules;
  - (9) the facility's services and treatment process; and
  - (10) Opportunities for family or significant others to be involved in treatment.
- (d) This information shall be explained to the client and consenter in simple, non-technical terms within 24 hours of admission. If an emergency or the client's physical or mental condition prevents the explanation from being given within 24 hours, staff shall document the circumstances in the client record and present the explanation as soon as possible. Documentation of the explanation shall be dated and signed by the client, the consenter, and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

the staff person providing the explanation.

- (e) The client record shall include a copy of the Client Bill of Rights dated and signed by the client and consentor.
- (f) If possible, all information shall be provided in the consentor's primary language.

**§148.423. Initial Assessment.**

- (a) A **counselor** shall conduct and document a comprehensive **assessment** of each **client** admitted to the **facility**. The assessment shall provide comprehensive information about the client's past and present status that provides a thorough understanding of the following areas:
  - (1) presenting problems and circumstances leading to admission;
  - (2) alcohol and other drug use, past and present;
  - (3) past psychiatric and chemical dependency treatment;
  - (4) significant medical history and current health status;
  - (5) family structure;
  - (6) current living situation;
  - (7) relationships with family of origin, nuclear family, and significant others;
  - (8) social history;
  - (9) education and vocational training;
  - (10) employment history and current status;
  - (11) legal history and current legal status;
  - (12) emotional state and behavioral functioning, past and present; and
  - (13) Strengths and weaknesses.
- (b) If the screening identifies a potential mental health problem, the facility shall obtain a mental health assessment and seek appropriate mental health services when resources for mental health assessments and/or services are available internally or through **referral** at no additional cost to the program. These services shall be provided by a facility authorized to provide such services or a qualified professional as described in §148.303(h) of this title

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

(relating to General Staffing Requirements (Residential and Outpatient)).

- (c) The assessment shall result in a comprehensive diagnostic impression. The diagnostic impression shall include **DSM-IV** Axes I, IV, and V and may include Axes II and III.
- (d) The assessment shall result in a comprehensive listing of the client's problems and needs.
- (e) The assessment shall be signed by a **QCC** and filed in the client record within three individual service days of admission.
- (f) The program may accept an assessment from an outside source if:
  - (1) it meets the **commission's** criteria;
  - (2) it was completed during the 30 days preceding admission or is received directly from a facility that is transferring the client; and
  - (3) A counselor reviews the information with the client and documents an update.
- (g) For residential clients in Levels II, III, and IV, a **licensed health professional** shall conduct an assessment of the client's physical health status within 96 hours of admission. The facility may accept a health assessment from an outside source completed no more than 30 days before admission or received directly from a transferring facility. If the client has any physical complaints or indications of medical problems, the client shall be referred to a physician, physician assistant, or **advanced nurse practitioner** for a history and physical examination. The examination, if needed, shall be completed within a reasonable time frame and the results filed in the client record.
- (h) Each Level I client shall have a history and physical examination signed by a physician, physician assistant, or advanced nurse practitioner.
  - (1) Residential clients shall have the history and physical examination completed and filed within 24 hours of admission. The program may accept an examination completed during the 24 hours preceding admission if it is approved by the program's physician, physician assistant, or advanced practice nurse.
  - (2) Outpatient clients shall have the history and physical examination completed and available for review by program staff before admission.

**§148.424. Treatment Planning and Implementation.**

- (a) The **counselor** and **client** shall work together to develop an individualized, written treatment plan that addresses problems and needs identified in the **assessment**. When appropriate, family and/or significant others shall also be involved.
  - (1) When the client needs services not offered by the **facility**, appropriate **referrals** shall be

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

made and documented in the client record.

- (2) The client record shall contain justification when identified needs are temporarily deferred or not addressed during treatment.
- (b) The treatment plan shall include goals, objectives, and strategies.
  - (1) Goals shall be based on the client's problems/needs, strengths, and preferences.
  - (2) Objectives shall be individualized, realistic, measurable, time specific, appropriate to the level of treatment, and clearly stated in behavioral terms.
  - (3) Strategies shall describe the type and frequency of the specific services and interventions needed to help the client achieve the identified goals.
- (c) The treatment plan shall include the criteria for discharging or transferring the client to another level of care. The Texas Department of Insurance criteria shall be used as a general guideline for determining when clients are appropriate for transfer or **discharge**, but individualized criteria shall be specifically developed for each client.
- (d) The treatment plan shall include initial plans for discharge. The discharge plans shall be updated as the client progresses through treatment.
- (e) The treatment plan shall identify the client's primary counselor and shall be dated and signed by the client and the counselor. When the counselor is an intern or graduate, a **QCC** shall review and sign the treatment plan.
- (f) The treatment plan shall be completed and filed in the client record with five individual service days of admission.
- (g) The **program** shall implement the treatment plan. The progress notes shall reflect that every goal and objective is addressed regularly or as needed during the course of treatment and shall document when a goal or objective is completed.
- (h) Program staff shall document all treatment services (**counseling, chemical dependency education, and life skills training**) in the client record within 72 hours, including:
  - (1) the date, nature, and duration of the contact;
  - (2) the topic of the session and the goals and/or objectives addressed;
  - (3) the client's response; and
  - (4) The signature and credentials of the person providing the service.
- (i) In addition to the items in subsection (h) of this section, individual and group counseling notes

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

shall include:

- (1) clinical observations made during the session, including the client's mental status; and
  - (2) Changes in client circumstances and new issues or needs identified during the session.
- (j) All residential programs and Level II outpatient programs shall write a weekly summary note describing the client's response to treatment over the course of the week. Information documented in other progress notes does not need to be repeated in the weekly summary. The weekly summary shall be completed within 72 hours of the end of the treatment week and shall include:
- (1) significant events and changes in the client's circumstances;
  - (2) clinical observations, including the client's mental status;
  - (3) progress towards specific goals and objectives; and
  - (4) New issues or needs identified.
- (k) The treatment plan shall be evaluated on a regular basis and revised as needed to reflect the ongoing reassessment of the client's problems, needs, and response to treatment.
- (l) The primary counselor shall meet with the client to evaluate the treatment plan at appropriate intervals defined in writing by the program. At a minimum, treatment plans shall be reviewed midway through the projected duration of treatment. The treatment plan shall also be reviewed and revised when there is a significant change in the client's status.
- (m) The treatment plan review shall include:
- (1) an evaluation of the client's progress toward each goal and objective;
  - (2) revision of the goals, objectives and discharge plans as needed; and
  - (3) An assessment of the continued appropriateness of the current treatment level.
- (n) Treatment plan reviews shall be dated and signed by the client, the counselor and the supervising QCC, if applicable.
- (o) When a client is transferred to a new level of care, the client record shall contain:
- (1) clear documentation of the decision signed by a QCC, including the rationale and the effective date; and
  - (2) A revised treatment plan.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

**§148.426. Discharges.**

- (a) The **program** shall plan all **discharges** with **clients, consenters**, and other service providers to provide reasonable protection and continuity of services to the client.
  - (1) When a client is **referred** or transferred to another chemical dependency or mental health service provider for continuing care, the facility shall contact the receiving program before the client is discharged to make arrangements for the transfer.
  - (2) Coordination activities shall be documented in the client record.
  - (3) With proper client consent, the facility shall provide the receiving program with copies of relevant parts of the client's record.
- (b) The program shall involve the client's family or an alternate support system in the discharge planning process when appropriate.
- (c) Discharge planning shall be completed before the client's scheduled discharge.
- (d) A written discharge plan shall be developed to address ongoing client needs, including:
  - (1) individual goals or activities to sustain recovery;
  - (2) referrals; and
  - (3) **Aftercare** services, if applicable.
- (e) The completed discharge plan shall be dated and signed by the counselor, the client, and the consenter (if applicable).
- (f) The program shall give the client and consenter a copy of the plan, and file the original signed plan in the client record.
- (g) The program shall complete a discharge summary for each client within 30 days of discharge. The discharge summary shall be signed by a **QCC** and shall include:
  - (1) dates of admission and discharge;
  - (2) needs and problems identified at the time of admission, during treatment, and at discharge;
  - (3) services provided;
  - (4) assessment of the client's progress towards goals;
  - (5) reason for discharge; and

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (6) Referrals and recommendations, including arrangements for aftercare.
- (h) The **facility** shall contact each client no later than 90 days after discharge from the facility and document the individual's current status or the reason the contact was unsuccessful.

## **G. Medication**

### **§148.501. General Provisions for Medication.**

- (a) All **facilities** that provide medication shall implement written procedures for medication storage, administration, documentation, inventory, and disposal.
- (b) Prescription medication shall be used only for therapeutic and medical purposes and shall be administered as prescribed by an appropriately licensed professional.
- (c) Single doses of prescription medication shall be prepared and packaged by a licensed pharmacist or physician.
- (d) The facility shall ensure that staff that provides medication are properly credentialed and trained.
- (e) The program shall have the phone number of a pharmacy and a comprehensive drug reference manual easily accessible to **staff**.

### **§148.502. Medication Storage.**

- (a) Prescription and over-the-counter medications, syringes, and needles shall be kept in locked storage and accessible only to **staff** who are authorized to provide medication.
- (b) **Clients** may keep prescription or over-the-counter medication in their personal possession on site with written authorization from the program director. Staff shall ensure that authorized clients keep medication on their persons or safely stored and inaccessible to other clients.
- (c) The **program** shall store all medications, syringes, and needles in their original containers under appropriate conditions.
- (d) The **facility** shall ensure that stock prescription medications are stored in a licensed pharmacy or physician's office and dispensed by a pharmacist or physician as required by the Texas Occupations Code, Subtitle J.
- (e) The facility shall ensure that prescription medication is in a container labeled by the pharmacy.

### **§148.503. Medication Inventory and Disposal.**

- (a) The **program** shall use an effective system to track and account for all prescription

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

medication.

- (b) **Staff** shall inventory and inspect all stored prescription medication at least daily using a centralized medication inventory form.
- (c) The staff member conducting the inventory shall **sign** and date the inventory sheet. When a discrepancy exists between the administration record and the inventory count form, a note explaining the reason for the discrepancy or action taken to reconcile/correct the discrepancy shall be signed by the staff member conducting the inventory and kept with the medication inventory forms.
- (d) Staff shall separate unused and outdated medication immediately and dispose of it within 30 days.
- (e) Methods used for disposal shall prevent medication from being retrieved, salvaged, or used. Two staff members shall witness and document disposal, including amount of medication disposed of and method used.

**§148.504. Administration of Medication.**

- (a) **Staff** shall provide and discontinue medication exactly as prescribed.
- (b) Prescription medication shall be administered only by nurses and other staff who are legally authorized to administer medication.
- (c) **Clients** may self-administer medication under the supervision of staff who are trained as described in §148.203 of this title (relating to Staff Training).
- (d) Each dose of prescription and over-the-counter medication taken by the client shall be documented in the client's record.
- (e) The medication record shall include:
  - (1) the client's name;
  - (2) drug allergies (or the absence of known allergies);
  - (3) the name and dose of each medication;
  - (4) the frequency and route of each medication;
  - (5) the date and time of each dose; and
  - (6) The **signature** of the staff person who administered or supervised each dose.
- (f) The facility shall document the circumstances and reason for any missed doses.

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (g) When a client appears to have an adverse reaction to medication, a staff member shall:
- (1) notify the prescribing professional or another physician, dentist, podiatrist, physician assistant or **advanced practice nurse** (preferably the prescribing professional);
  - (2) complete an incident report; and
  - (4) Document the facts in the client record, including the date and time of notification and any other action taken.

## **H. Residential Physical Plant Requirements**

### **§148.601. General Physical Plant Provisions.**

- (a) Physical plant requirements apply only to residential programs.
- (b) The residential **program** shall have a certificate of occupancy from the local authority that reflects the current use by the occupant or documentation that the locality does not issue occupancy certificates.
- (c) The entire **residential site**, including grounds, buildings, electrical and mechanical systems, appliances, equipment, and furniture shall be structurally sound, in good repair, clean, and free from health and safety hazards.
- (d) The water supply shall be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water shall be obtained from a water supply system approved by the Texas Natural Resource Conservation Commission (TNRCC).
- (e) Sewage shall be discharged into a state-approved sewage system or septic system; otherwise, the sewage shall be collected, treated, and disposed of in a manner which is approved by TNRCC.
- (f) Mobile homes, recreational vehicles, and campers shall not be used for **client** sleeping areas.

### **§148.602. Required Inspections.**

The **residential site** shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations. The inspections shall be signed, dated, and free of any outstanding corrective actions. The following inspections are required:

- (1) annual inspection by the local certified fire inspector or the state fire marshal;
- (2) annual inspection of the alarm system by the fire marshal or an inspector authorized to install and inspect such systems;

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (3) quarterly fire alarm system test by facility staff;
- (4) annual kitchen inspection by the local health authority or the Texas Department of Health;
- (5) gas pipe pressure test once every three years by the local gas company or a licensed plumber;
- (6) annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and
- (7) Annual inspection of liquefied petroleum gas systems by an inspector certified by the Texas Railroad Commission.

**§148.603. Emergency Evacuation**

Every residential **program** shall:

- (1) have emergency evacuation procedures that include provisions for individuals with disabilities;
- (2) hold fire drills on each shift at least quarterly and correct identified problems promptly;
- (3) post exit diagrams conspicuously throughout the program site (except in small one-story buildings where all exits are obvious); and
- (4) Be able to clear the building safely and in a timely manner at all times.

**§148.604. Exits.**

- (a) Every building shall have at least two well-separated exits on each story.
- (b) Every route of exit shall be free of hazards and obstructions, well lit, and marked clearly with illuminated exit signs at all times.
- (c) Rooms for 50 or more people shall have exit doors that swing out.
- (d) No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and approved by the fire marshal.

**§148.605. Space, Furniture and Supplies.**

- (a) The **facility** shall have areas for leisure and dining with adequate space for the number of residents.
- (b) Sleeping areas shall have at least:

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

- (1) 80 usable square feet per person in single-occupancy rooms; and
- (2) 60 usable square feet per person in multiple-occupancy rooms (or 50 square feet per person if bunk beds are used). Bunk beds shall not be used in Level I programs.
- (c) The facility shall provide adequate personal storage space for each **client**, including space for hanging clothes.
- (d) The **program** shall make at least one phone available to clients.
- (e) Each client shall have a separate bed of solid construction with a mattress. Clean bed linens, towels, and soap shall be available at all times and in quantity sufficient to meet the needs of the residents.
- (f) All clients shall have access to laundry services or properly maintained laundry facilities equivalent to one washer and dryer per 25 clients.

**§148.606. Fire Systems.**

- (a) A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the **facility's** occupancy and capacity classifications.
- (b) Electrical fire alarm systems shall be installed by agents registered with the State Fire Marshal's office. The facility shall maintain a copy of the fire alarm installation certificate.
- (c) Alarms shall be loud enough to be heard above normal noise levels throughout the building.
- (d) Fire extinguishers shall be mounted throughout the facility as required by code and approved by the fire marshal.
  - (1) Each laundry and walk-in mechanical room shall have at least one portable A: B: C extinguisher and each kitchen shall have at least one B: C fire extinguisher.
  - (2) Each extinguisher shall have the required maintenance service tag attached.
- (e) **Staff** shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

**§148.607. Other Physical Plant Requirements.**

- (a) Occupied parts of the building shall be kept between 65 degrees and 85 degrees Fahrenheit, including kitchens and laundry areas. Cooling and heating shall be provided, as necessary, for resident comfort.
- (b) Portable electric heaters and open-flame heating devices are prohibited. All fuel-burning

**Texas Commission on Alcohol and Drug Abuse**  
**Chapter 148 – Facility Licensure**  
**Revised**

devices shall be vented.

- (c) The **facility** shall be well ventilated through the use of windows, mechanical ventilation, or a combination. Windows used regularly for ventilation shall be screened.
- (d) Bedrooms shall have windows with appropriate coverings for privacy. Bathrooms with windows shall have appropriate coverings for privacy.
- (e) The facility shall have adequate internal and external lighting to provide a safe environment and meet user needs.
- (f) There shall be at least one sink, one tub or shower, and one toilet for every eight residents. All of the fixtures shall be in good working order and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility.
- (g) The facility shall provide an adequate supply of hot water for the number of residents and the **program** schedule.
- (h) Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures.
- (i) Clean drinking water shall be readily available to all residents.
- (j) Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.
- (k) The facility shall be kept free of insects, rodents, and vermin.
- (l) Poisonous, toxic, and flammable materials shall be labeled, stored, and used safely.
- (m) Domestic animals shall be properly vaccinated and managed.

**Texas Commission on Alcohol and Drug Abuse  
Chapter 148 – Facility Licensure  
Revised**

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