

## 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 offender.

## TDCJ-CJAD Standards for CSCD

**(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 treatment services; or

## TDCJ-CJAD Standards for CSCD

(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.

**(j) Release of Information.** There shall be written policies and procedures for protecting and releasing offender

## TDCJ-CJAD Standards for CSCD

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.

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

## TDCJ-CJAD Standards for CSCD

- (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.
- (6) Chemical dependency education shall follow a course outline that identifies lecture topics and major

## TDCJ-CJAD Standards for CSCD

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.

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

## TDCJ-CJAD Standards for CSCD

- (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 person 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 service/restitution programs.

## TDCJ-CJAD Standards for CSCD

- (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 consenter.
- (f) If possible, all information shall be provided in the consenter'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**

DRAFT

# EXHIBIT "C"

## Insurance Requirements Professional Services (i.e...Engineers, Architects, Appraisers & Surveyors)

The proposer awarded the contract shall furnish proof of insurance, which will also include any subcontractor that is subcontracted by the proposer in at least the following limits, to be in place prior to providing any services under this Contract and to continue at all times in force in effect during the term of this Contract:

1. Professional liability insurance policy with limits of at least One Million Dollars (\$1,000,000) per occurrence, or limited to claims made, include at least a five (5) year extended reporting period.
2. A Five Hundred Thousand Dollars (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of County.
3. Automobile liability insurance policy with limits of at least Three Hundred Thousand Dollars (\$300,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Coverage should include injury to or death of persons and property damage claims with limits up to Five Hundred Thousand Dollars (\$500,000.00) arising out of the services provided to County hereunder.
4. Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;
5. Workers compensation insurance in amounts established by Texas law, unless the Bidder is specifically exempted from the Texas Workers Compensation Act, Texas Labor Code Chapter 401, et. seq.

Hidalgo County will only accept certificates of insurance on an Acord form (as attached hereto). Certificates of insurance naming County as an additional insured shall be submitted to County for approval prior to any services being performed by Contractor. Each policy of insurance required hereunder shall extend for a period equivalent to, or longer than the term of the Contract, and any insurer hereunder shall be required to give at least thirty (30) days written notice to the County prior to the cancellation of any such coverage on the termination date, or otherwise. This Contract shall be automatically suspended upon the cancellation, or other termination, of any required policy of insurance hereunder, and such suspension shall continue until evidence adequate replacement coverage is provided to County. If replacement coverage is not provided within thirty (30) days following suspension of the Contract, this Contract shall automatically terminate.

**ACORD** CERTIFICATE OF INSURANCE DATE (MM/DD/YY)

PRODUCER \_\_\_\_\_ THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED \_\_\_\_\_

**INSURERS AFFORDING COVERAGE**

INSURER A \_\_\_\_\_  
 INSURER B \_\_\_\_\_  
 INSURER C \_\_\_\_\_  
 INSURER D \_\_\_\_\_  
 INSURER E \_\_\_\_\_

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THEIR TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE	LIMITS
A	<b>GENERAL LIABILITY</b>				EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any and fire) \$
	<input type="checkbox"/> CLAIMS MADE OCCUR				MED. EXP. (Any one person) \$
	<input type="checkbox"/> INSURER'S CONT. PROFIT				PERSONAL ADV. INJURY \$
	<input type="checkbox"/> OWNER'S PROTECTIVE LIABILITY				GEN'L AGGREGATE \$
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER POLICY PROJECT <input type="checkbox"/> LOC.				PRODUCTS - COMPTON \$
B	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Per accident) \$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> NON-OWNED AUTOS				AUTO ONLY - EA ACCIDENT \$
	<b>GARAGE LIABILITY</b>				OTHER THAN AUTO ONLY - EA ACC. \$
	<input type="checkbox"/> ANY AUTO				AGGREGATE \$
					\$
C	<b>EXCESS LIABILITY</b>				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
D	<b>WORKERS COMPENSATION AND EMPLOYER'S LIABILITY</b>				WC STATE <input type="checkbox"/> OTHER TORT LIMITS
					E.L. EACH ACCIDENT \$
					E.L. DISEASE (A EMPLOYEE) \$
					E.L. DISEASE (POLICY LIMIT) \$
	<b>OTHER</b>				

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 County of Hidalgo shall be named as additional insured on all Commercial General Liability policies.

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION
Hidalgo County Attn: Purchasing Department 2812 S Highway Bus. 281 Edinburg, Texas 78539		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

# Insurance Requirement Acknowledgment

I, \_\_\_\_\_, authorized representative for \_\_\_\_\_,  
Company/Vendor

hereby acknowledge receipt of the County's required insurance limits. Said requirements:

- will be acquired within 10 working days after notification from Purchasing Department of award of project by the Hidalgo County Commissioners' Court;
- will acquire additional amounts required to meet the County's requirements within 10 working days after notification from Purchasing Department of award of project by the Hidalgo County Commissioners' Court; currently carry the following

Professional Liability (Errors & Omissions): \$ \_\_\_\_\_

Automobile Liability: \$ \_\_\_\_\_ General Liability: \$ \_\_\_\_\_

- have already been met, see attached copy of insurance certificate.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

## Notice to Proposer:

A certificate of insurance for the required insurance limits shall be provided to the Purchasing Department's Contract Managers in order to qualify for award and to execute a contract between your Company and the County

Failure to provide Certificates of Insurance to the Purchasing Department's Contract Managers will cause the award to be rescinded and re-awarded to next qualified vendor. Certificates of Insurance will be monitored and verified on a quarterly basis to ensure coverage policy is in place. It is the Company's obligation to maintain the appropriate insurance coverage throughout the term of the contract.

**THIS FORM MUST ACCOMPANY YOUR PACKET**

# PROJECT REQUIREMENTS ACKNOWLEDGMENT

This is to certify that I, \_\_\_\_\_, possess all of the APPLICABLE:

1. Licenses: \_\_\_\_\_

2. Bonds: \_\_\_\_\_

3. Certificates: \_\_\_\_\_

4. Permits: \_\_\_\_\_

5. Other: \_\_\_\_\_

necessary to carry out the required project. Furthermore, I am providing copies of the required documentation so that, if my company is awarded this project, I may be eligible to enter into a contract with Hidalgo County and proceed to complete the project in a timely manner.

\* Any licenses, bonds, certificates, permits, etc. which are required must be presented as part of the packet in order to expedite the evaluation process. Failure to provide said documentation will result in the disqualification of your proposal/qualification.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

# EXHIBIT "D"

## CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

### OFFICE USE ONLY

Date Received

1 Name of person who has a business relationship with local governmental entity.

2  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes  No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes  No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes  No

D. Describe each employment or business relationship with the local government officer named in this section.

4

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date



**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION**

The primary objective of the Hidalgo County HUB Program is to ensure Historically Underutilized Businesses receive a fair and equal opportunity for participation in the County's procurement process. This fact holds true for Services (Professional & Non-Professional), Commodities, and Construction contracts and any subcontracts thereto. The program strongly encourages Prime Contractors to provide subcontracting opportunities to Certified Hub Contractors/Vendors. Our goal for HUB contractor/vendor participation, as well as HUB subcontractor participation is 30%. To be considered as a "Certified HUB Contractor/Vendor" the contractor/vendor must have been certified by, and hold a current and valid certification with any of the three agencies listed below.

Have you been Certified as a HUB or an MBE/WBE source?:                      Yes    No

If yes, by whom?:    Texas Building & Procurement Commission                      Other \_\_\_\_\_

Indicate Certification No(s): \_\_\_\_\_ or Are Certificate(s) Attached?:    Yes    No

---

**LIST OF CERTIFIED HUB SUBCONTRACTORS**  
(Attach additional pages if necessary)

What percentage of the Bid, RFP, or RFQ is to be subcontracted with Certified HUB sources?: \_\_\_\_\_%  
(List HUB Subcontractor information below).

HUB Subcontractor Name: \_\_\_\_\_ HUB Status: \_\_\_\_\_  
Certifying Agency (Check all applicable):    Texas Building & Procurement Commission    Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: (    ) \_\_\_\_\_  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed: \_\_\_\_\_

---

HUB Subcontractor Name: \_\_\_\_\_ HUB Status: \_\_\_\_\_  
Certifying Agency (Check all applicable):    Texas Building & Procurement Commission    Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: (    ) \_\_\_\_\_  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed: \_\_\_\_\_

---

HUB Subcontractor Name: \_\_\_\_\_ HUB Status: \_\_\_\_\_  
Certifying Agency (Check all applicable):    Texas Building & Procurement Commission    Other  
Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_ Phone No.: (    ) \_\_\_\_\_  
Subcontract Amount: \$ \_\_\_\_\_ Description of Work to be Performed: \_\_\_\_\_

---

**PROPOSER'S AFFIDAVIT  
Exhibit "E"**

**PROPOSER'S AFFIDAVIT OF NON-COLLUSION  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING  
FOR "TREATMENT ALTERNATIVE TO INCARCERATION PROGRAM (TAIP)  
SUBSTANCE ABUSE TREATMENT SERVICES FOR HIDALGO COUNTY  
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT"  
PROJECT NO.: 2009-245-00-00CGV**

STATE OF TEXAS  
COUNTY OF HIDALGO

Affiant, \_\_\_\_\_, being first duly sworn, deposes that:

- (1) Affiant does hereby state neither the proposer nor any of the proposer's officers, partners, owners, agents, representatives, employees, or parties in interest, has in any way colluded, conspired, agreed, directly or indirectly with any person, firm, corporation, or other proposer, or potential proposer, to provide any money or other valuable consideration for assistance in procuring or attempting to procure a contract or fix the prices in the attached proposed or the proposal of any other proposer, and further states that no such money or other reward will be hereinafter paid.
- (2) Affiant further states they have neither recommended or suggested to Hidalgo County or nay of its officials or employees, any of the terms or provisions set forth in their Request for Proposal and subsequent agreement, except at a meeting open to all interested proposers, of which proper notice was given.
- (3) Affiant, further states their officers, employees, or agents have not, and will not attempt to lobby, directly or indirectly, the Hidalgo County Commissioner's Court between proposal submission date and award by the Hidalgo County Commissioner's Court.
- (4) Affiant further states no officer, or stockholder of the proposer is a member of the staff, or related to any employee of the Hidalgo County except as noted herein below:

\_\_\_\_\_  
Signature/Title: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_, 20\_\_\_\_

**Certification  
Regarding Debarment, Suspension and Ineligibility**

As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
- b. Have not within a three-year period preceding this bid proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
- d. Have not within a three-year period preceding this bid proposal and/or application had one or more public transactions terminated for cause or default.

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Date: \_\_\_\_\_

If the bidder is unable to certify to all of the statements in this Certification, such bidder should attach an explanation to this proposal.