

**Title 12 Department of Labor and Industrial Relations
Subtitle 3 Disability Compensation Division**

**CHAPTER 14
REHABILITATION**

Subchapter 1 General Provisions

§12-14-1 Definitions
§§12-14-2 to 12-14-3 (Reserved)

Subchapter 2 Review and Approval of Vocational Rehabilitation Plans

§12-14-4 Initial evaluation required prior to submittal of
 vocational rehabilitation plan
§12-14-4.1 Progress reports required subsequent to the initial
 evaluation and prior to the plan
§12-14-5 Criteria for an approved vocational rehabilitation plan
§12-14-6 Effective period
§12-14-7 Revision or modification to an approved vocational
 rehabilitation plan
§12-14-8 Director's action against a certified rehabilitation
 provider with an unapproved plan
§12-14-9 Director's action to modify, suspend, or terminate a
 vocational rehabilitation plan
§12-14-10 Vocational rehabilitation plan, revision, or modification
 considered approved if no action is taken by the director
 on objections
§12-14-11 Vocational rehabilitation plan or program prepared by
 an employer or insurance carrier
§12-14-12 Vocational rehabilitation plan or program at a site other
 than where employee resides
§§12-14-13 to 12-14-15 (Reserved)

Subchapter 3 Certification of Providers of Rehabilitation Services

§12-14-16 Criteria for registering as a vocational rehabilitation
 specialist and certifying as a provider of vocational
 rehabilitation services
§12-14-16.1 (Repealed)
§12-14-16.2 (Repealed)
§12-14-16.3 Required knowledge
§12-14-16.4 Service interval
§12-14-16.5 Services to employee
§12-14-17 Effective period
§12-14-17.1 Re-registration
§12-14-18 Uncertified provider or unregistered specialist
§12-14-19 Revocation of certification, registration, or both
§12-14-20 Revocation of certification or registration of a certified
 rehabilitation provider or registered rehabilitation
 specialist
§12-14-21 Enforcement of standards
§12-14-22 Registration maintenance standards

Subchapter 4 Identification and Referral Procedures

§12-14-23 Responsibility
§§12-14-24 to 12-14-25 (Reserved)

Subchapter 5 Implementation of Vocational Rehabilitation Plans

§12-14-26 Purpose
§12-14-27 Status report
§12-14-28 (Repealed)
§12-14-29 Appropriate action based on information obtained
§12-14-30 Closing report
§12-14-31 Reporting exception
§§12-14-32 to 12-14-34 (Reserved)

Subchapter 6 Enrollment in Rehabilitation Programs

§12-14-35 Enrollment requirement
§12-14-36 Termination of right to vocational rehabilitation
§12-14-37 (Reserved)

Subchapter 7 Temporary Total Disability Payments and Living Expenses

§12-14-38 Entitlement to rehabilitation payments
§12-14-39 Entitlement to living expenses; advance lump-sum payment
§12-14-40 Allowable living expenses
§12-14-41 Payment of rehabilitation expenses when liability issue
is unresolved
§§12-14-42 to 12-14-45 (Reserved)

Subchapter 8 Medically Not Feasible

§12-14-46 Determination
§12-14-47 (Reserved)

Subchapter 9 Appeal Rights

§12-14-48 Reconsideration and hearing
§12-14-49 Appellate body and filing period
§§12-14-50 to 12-14-51 (Reserved)

Subchapter 10 Transfer of Employee to Another Provider

§12-14-52 Financial obligations to succeeding provider
§§12-14-53 to 12-14-54 (Reserved)

Subchapter 11 Hire and Separation of Provider's Employees

§12-14-55 Notification required
§12-14-56 Notification required
§12-14-57 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§12-14-1 Definitions. As used herein:

"Department", "director", "employee", "employment", "medical services", "physician", and "wages" shall be as defined in section 386-1, HRS.

"Certified rehabilitation provider" or "provider" means an agency with one or more registered rehabilitation specialists who meet the certification criteria under subchapter 3. In accordance with HRS 386-25(b), certified rehabilitation provider also means the department of human services.

"Direct employee services" means all vocational rehabilitation services provided to an employee as part of the vocational rehabilitation process of evaluation, planning, provision, placement, and follow-up.

"Eligibility for vocational rehabilitation services" means the employee has or may have suffered permanent disability as a result of work injuries.

"Enrollee" means an employee who is eligible for and has enrolled in an approved vocational rehabilitation program designed to return the employee to suitable gainful employment.

"Feasibility for vocational rehabilitation services" means the registered rehabilitation specialist has identified the vocational rehabilitation services needed to assist the employee to obtain and maintain suitable gainful employment and has the skill, knowledge, and ability to provide the needed vocational rehabilitation services identified.

"Functional limitations" established by the registered rehabilitation specialist means the negative effects of disability on the performance of tasks required in specific areas of employment.

"Modification of a vocational rehabilitation plan" means a limited change in the plan that does not change the direction of vocational rehabilitation.

"Physical limitations" means specific limitations to one or more physical abilities established by the physician.

"Psychological limitations" means specific limitations in mental and/or behavioral ability established by the physician.

"Registered rehabilitation specialist" or "specialist" means an employee of a certified rehabilitation provider who is registered with the department to provide vocational rehabilitation services and meets the criteria set forth in subchapter 3.

"Rejection of a vocational rehabilitation plan" means the non-approval or denial of a plan by the department's vocational rehabilitation unit.

"Revision to a vocational rehabilitation plan" means a change to the plan which may include but is not limited to a change of goal or changes to the process to achieve the goal, or both.

"Suitable gainful employment" means employment or self-employment within the geographical area where the employee resides, which is reasonably attainable and which offers an opportunity to restore the employee's earning capacity as nearly as possible to that level which the employee was earning at the time of injury and to return the employee to the active labor force as quickly as possible in a cost effective manner, giving due consideration to the employee's qualifications, interests, incentives, future earning capacity, and the present and future labor market.

"Suspension of a vocational rehabilitation plan" means to stop temporarily the implementation or continuation of a plan.

"Vocational rehabilitation plan" or "plan" means an approved plan prepared by a certified rehabilitation provider with an employee that is designed to assist the employee to obtain and maintain suitable gainful employment.

"Vocational rehabilitation program" or "program" means the sequence of vocational rehabilitation services beginning upon an employee's enrollment in vocational rehabilitation and continuing until services are terminated by the director.

"Vocational rehabilitation services" or "services" means services provided in a rehabilitation program to assist an employee to obtain and maintain suitable gainful employment which may include, but shall not be limited to, vocational evaluation, adjustment to disability, counseling, guidance, vocational and personal adjustment, referrals, transportation, training, supplies, equipment, appliances, aid, occupational licenses, and other goods and services needed to assist an employee to obtain and maintain suitable gainful employment.

"Vocational rehabilitation work" means employment that meets the following criteria:

- (1) The target group consists of disabled adults;
- (2) The goal of rehabilitation is suitable gainful employment; and
- (3) The function of the person is to provide vocational rehabilitation services. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: §386-25)

§§12-14-2 to 12-14-3 (Reserved)

SUBCHAPTER 2

REVIEW AND APPROVAL OF VOCATIONAL REHABILITATION PLANS

§12-14-4 Initial evaluation required prior to submittal of vocational rehabilitation plan. A provider shall submit an initial evaluation report of the employee to the director and employer within forty-five days from the date of referral or selection. The evaluation shall determine whether the employee requires vocational rehabilitation services to return to suitable gainful employment, shall identify these services and shall state whether the provider can provide these services. The initial evaluation report shall contain:

- (1) An assessment of the employee's:
 - (A) Current medical status;
 - (B) Primary disability;
 - (C) Secondary disabilities;
 - (D) Disabilities not related to the work injury; and
 - (E) Physical or psychological limitations or both. In the event this information is not provided by the treating physician in a reasonable amount of time, information from another physician will be accepted.
- (2) A job analysis addressing the demands of the employee's employment;
- (3) A statement from the provider identifying the employee's vocational handicaps in relation to the employee's ability to:
 - (A) Return to usual and customary employment; and
 - (B) Participate in and benefit from a vocational rehabilitation program.
- (4) A statement from the provider determining the feasibility of vocational rehabilitation services, including:
 - (A) The provider's ability to assist the employee in the employee's efforts to return to suitable gainful employment;
 - (B) An outline of specific vocational rehabilitation services to be provided, justification for the necessity of the services, estimated time frames for delivery of services, and how the effectiveness of these services is to be measured; and
 - (C) How the vocational rehabilitation services directly relate to the employee obtaining suitable gainful employment.
- (5) Enrollment form and Statement of Worker's Rights and Responsibilities form pursuant to section 12-14-35.

[Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99]
(Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-4.1 Progress reports required subsequent to the initial evaluation and prior to the plan. A provider shall submit to the employer and employee progress reports every thirty days. Upon request, the provider shall submit the reports to the director. These reports shall include but not be limited to:

- (1) An assessment of the employee's adjustment to disability, newly identified disabilities, functional, physical and psychological limitations and vocational handicaps;
- (2) Specific services provided during the report period and their outcome as they relate to the vocational rehabilitation process; and
- (3) Specific services to be provided during the next report period as they relate to the vocational rehabilitation process, justification for the necessity of these services, estimated time frames for delivery of services, and how the effectiveness of these services is to be measured. [Eff. 1/28/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-5 Criteria for an approved vocational rehabilitation plan. (a) A provider shall file the employee's plan with the director for review and approval. The plan shall be subject to the approval of the employee. Upon receipt of the plan from the provider, an employee has ten days to review and sign the plan. The plan shall be submitted to the employer and employee and be filed with the director within two working days from the date of the employee's signature. A plan shall include a statement of the feasibility of the vocational goal, using the process of:

- (1) First determining if the employee's usual and customary employment represents suitable gainful employment; should it not,
 - (2) Next determining if modified work or other work with the same employer represents suitable gainful employment; should it not,
 - (3) Next determining if modified or other employment with a different employer represents suitable gainful employment; should it not, and finally,
 - (4) Providing training to obtain employment in another occupational field.
- (b) A plan may be approved by the director, provided it includes:
- (1) A physician's assessment of the employee's physical limitations, psychological limitations, and ability to return to work. In the event this information is not provided by the treating physician in a reasonable

amount of time, information from another physician will be accepted;

- (2) A labor market survey indicating there is reasonable assurance that the proposed occupation for which the employee is to be placed or trained is readily available in the community when placement begins, or there is assurance of reemployment by the employer;
- (3) A job analysis of the proposed occupation, setting forth its duties, responsibilities, physical demands, environmental working conditions, specific qualifications needed for entry level employment, reasonable accommodations, expected estimated earnings, and other relevant information;
- (4) The nature and extent of the vocational rehabilitation services to be provided, including:
 - (A) Specific services to be provided, justification for the necessity of the services, estimated time frames for delivery of services, and how the effectiveness of these services is to be measured;
 - (B) Criteria for determining successful completion of the vocational rehabilitation plan; and
 - (C) The employee's responsibilities;
- (5) Report of tests and copies thereof that have been administered to the employee, including a statement regarding the need for and use of the tests to identify a vocational goal;
- (6) If retraining, including on-the-job training, is found to be necessary, the estimated cost of retraining, a description of specific skills to be learned or knowledge acquired with specific time periods and clearly defined measurements of success, and the nature, amount, and duration of living expenses as provided in section 12-14-40;
- (7) Total cost of plan; and
- (8) The employee's approval of the plan.
- (c) The employer shall have ten calendar days

from the postmark date of the plan to submit in writing to the director any objections to the plan. The front page of the objection shall be clearly identified as a "VOCATIONAL REHABILITATION PLAN OBJECTION" in capital letters in no less than ten point type and may include a copy of the envelope showing postmark date.

(d) The director may approve a plan which does not include all of the requirements of subsections (a), (b) and (c) provided the director finds the plan:

- (1) Is in the best interest of the employee;
- (2) Contains reasonable assurance the employee will be placed in suitable gainful employment; and
- (3) Has been approved by the employee.

(e) In the event the plan requires the purchase of any tools, supplies or equipment, the deadline for purchase shall be included in the plan. Tools, supplies, and equipment are considered to be the property of the employer until the plan is determined by the director to be successfully completed, after which, it becomes the property of the employee. Included in the plan shall be a statement that should the deadline pass, the purchase shall be made and the employer shall pay for the purchase.

(f) An employee with an approved plan who is determined as able to return to usual and customary employment may choose to complete the plan or request the director take action under section 12-14-9(4) and allow a new plan whose goal must be the employee's usual and customary employment. [Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-6 Effective period. An approved vocational rehabilitation program shall be effective and applicable only for the period during which vocational rehabilitation services are being provided an employee on a regular, scheduled basis. The program shall not be effective and applicable when the services are no longer provided because the:

- (1) Program is completed;
- (2) Employee leaves the program before its completion; or
- (3) Employee does not actively participate in the program, excluding time periods when the director determines the employee is unable to participate. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-7 Revision or modification to an approved vocational rehabilitation plan. A revision or modification to an approved plan shall be filed with the director for approval pursuant to sections 12-14-5 and 12-14-10. A revision to a plan can be made no more than once. [Eff. 1/1/81; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-8 Director's action against a certified rehabilitation provider with an unapproved plan. A provider who renders unapproved vocational rehabilitation services may be required to terminate the services immediately and the director may void the certification of the provider pursuant to section 12-14-19, or take other action under section 12-14-21. Further, no remuneration shall be paid to the provider by the employer. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-9 Director's action to modify, suspend, or terminate a vocational rehabilitation plan. The director may modify, suspend, or terminate an employee's plan if the director finds that:

- (1) The employee is not making satisfactory progress in the plan based on the director's review of reports submitted by the provider in accordance with section 12-14-27 and other information available to the director;
- (2) The plan is not likely to prepare the employee for suitable gainful employment due to unexpected contingencies;
- (3) The employee is not available to participate in or refuses to complete the plan; or
- (4) A more suitable plan is available. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-10 Vocational rehabilitation plan, revision, or modification considered approved if no action is taken by the director on objections. (a) The employer may file an objection to a proposed plan, revision, or modification with the director, copying the employee and the vocational rehabilitation counselor within ten calendar days from the postmark date of the plan, revision, or modification. The front page of the objection shall be clearly identified as a "VOCATIONAL REHABILITATION PLAN OBJECTION" in capital letters in no less than ten point type and may include a copy of the envelope showing postmark date. The objections shall specify a rationale as to why the plan, revision, or modification should not be approved.

(b) If no objection to a plan, revision, or modification is filed with the director by the deadline specified in subsection (a), the plan, revision, or modification shall be approved and the employer may not request further reconsideration under section 12-14-48.

(c) If an objection to a plan, revision, or modification is filed with the director and the director takes no action to approve or deny the plan, revision, or modification within twenty one calendar days from the file date of the plan, revision, or modification, the parties shall consider the plan, revision, or modification approved by the director. [Eff. 1/1/81; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-11 Vocational rehabilitation plan or program prepared by an employer or insurance carrier. A plan or program prepared by an employee of a self-insured employer or insurance carrier may be accepted by the director provided the employee approves the plan or program and it meets all the requirements of this chapter. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS

§386-72) (Imp: HRS §386-25)

§12-14-12 Vocational rehabilitation plan or program at a site other than where employee resides. A plan or program at a site other than the island on which the employee resides will be approved by the director only when it is shown that no rehabilitation program could be made available on that island. A plan or program at a site located outside the state will be approved by the director only when it is shown that no rehabilitation program could be made available in the state. [Eff. 1/1/81; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§§12-14-13 to 12-14-15 (Reserved)

SUBCHAPTER 3

CERTIFICATION OF PROVIDERS OF REHABILITATION SERVICES

§12-14-16 Criteria for registering as a vocational rehabilitation specialist and certifying as a provider of vocational rehabilitation services. (a) An applicant seeking registration with the department as a registered rehabilitation specialist shall apply to the director. The applicant may be registered if the director finds the applicant has a current certification by the Commission on Rehabilitation Counselor Certification as a certified rehabilitation counselor. The burden of proof concerning current certification shall be borne by the applicant. Proof of certification shall be written verification received direct from the Commission on Rehabilitation Counselor Certification to the director, indicating the applicant is currently certified and the effective dates of the certification.

(b) A provider seeking certification as a certified rehabilitation provider shall apply to the director. The provider may be certified if the director finds the personnel responsible for providing vocational rehabilitation services are registered with the director and meet the requirements of this subchapter.

(c) All specialists whom the director determined to be registered prior to the effective date of these amendments shall be registered, provided they are employed as registered rehabilitation specialists of certified rehabilitation providers as of the effective date of these amendments, have not voluntarily terminated their registration, have not been revoked under section 12-14-16.4, or been terminated or revoked for any other reasons outlined in this subchapter. [Eff. 1/1/81; am

1/28/85; am 4/12/93; am 11/08/93; am 11/08/99; am 12/17/01]
(Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-16.1 (Repealed)

§12-14-16.2 (Repealed)

§12-14-16.3 Required knowledge. Each applicant applying for approval as a registered rehabilitation specialist shall have a working knowledge of this chapter. The director may require an examination as proof of knowledge. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-16.4 Service interval. Should a registered rehabilitation specialist fail to provide direct case service under this chapter for a period of six months, the director may, pursuant to section 12-14-19, revoke the specialist's registration. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-16.5 Services to employee. All vocational rehabilitation services shall be provided by a certified rehabilitation provider and all direct employee services shall be provided by a registered rehabilitation specialist of the certified rehabilitation provider. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-17 Effective period. The registration granted a registered rehabilitation specialist or the certification granted a certified rehabilitation provider shall be in effect for one year from date of registration or certification. After the initial registration or certification, the specialist or provider may be registered or certified for a period of three years if the criteria in section 12-14-16(a) and 12-14-22 are met. Written application for renewal shall be received by the director no earlier than one hundred eighty five days but no later than sixty days prior to the specialist's or provider's current registration or certification termination date. The director for good cause may grant a thirty day grace period to submit written application for renewal. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-17.1 Re-registration. All specialists who do not meet the requirements of section 12-14-16(a) but do meet the requirements of sections 12-14-16(c) and 12-14-22 may be re-registered for a period of three years provided they have maintained their registration with the director. Written application for renewal shall be received by the director no earlier than one hundred eighty five days but no later than sixty

days prior to the specialist's current registration termination date. The director for good cause may grant a thirty day grace period to submit written application for renewal. [Eff. 1/28/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-18 Uncertified provider or unregistered specialist.

A provider or employee of the provider who provides services to employees without obtaining certification or registration from the director shall be required to terminate those services immediately, and shall not be considered for certification or registration for a period of two years from the date a final decision is rendered on the infraction. The uncertified provider or employee of the provider may appeal the director's determination as provided by section 12-14-49. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-19 Revocation of certification, registration, or both. The director may revoke the certification of a provider or the registration of a specialist, or both, for a period up to two years if following an investigation, to include an opportunity for the specialist or provider, or both, to respond, the director finds that the provider or specialist, or both, knowingly failed:

- (1) To comply with section 386-25, HRS, or this chapter;
- (2) To fulfill any obligation in providing the vocational rehabilitation services prescribed in the approved plan; or
- (3) To provide any vocational rehabilitation services required by the employee during the length of the program.

The provider or specialist shall be notified by written determination of the revocation of certification or registration. The provider or specialist may request a reconsideration and hearing as defined in section 12-14-48, or the provider or specialist within ten days of the determination may file a written request for a hearing. The provider or specialist may appeal the director's decision as provided by section 12-14-49. The provider or specialist may continue to provide services to enrolled employees, but shall not accept new or transferred cases until such final decision is rendered. [Eff. 1/1/81; am 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-20 Revocation of certification or registration of a certified rehabilitation provider or registered rehabilitation specialist. The director may revoke a provider's certification or specialist's registration for a period of up to two years pursuant to section 12-14-19 or take action as defined in section 12-14-21 for infractions such as:

- (1) Knowingly providing false or misleading information during the enrollment process;

- (2) Failure, neglect, or refusal to comply with Chapter 386, HRS;
- (3) Failure, neglect, or refusal to comply with the department's written rules, determinations, or decisions;
- (4) Failure, neglect, or refusal to submit complete, adequate, and detailed reports as defined in this chapter;
- (5) Failure, neglect, or refusal to respond to the director's written request for additional reports;
- (6) Repeated submission of false or misleading reports;
- (7) Collusion with any other person, including workers, to submit false or misleading information;
- (8) Submission of inaccurate or misleading bills;
- (9) Charging or attempting to charge an employee for services authorized by the carrier or self-insured employer;
- (10) Conviction in any court for any offense involving moral turpitude, in which case the record of the conviction constitutes conclusive evidence;
- (11) Repeated acts of gross misconduct in the provision of vocational rehabilitation services;
- (12) Repeated acts that involve conflicts of interest;
- (13) Declaration of mental incompetence by a court of competent jurisdiction;
- (14) Failure to comply with any state or federal laws relating to employment practices; or
- (15) Failure to provide vocational rehabilitation services as required by the employee during the length of the program and or as prescribed in the vocational rehabilitation plan.

The provider or specialist may request for reconsideration and hearing of the director's determination as provided by section 12-14-48. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-21 Enforcement of standards. The director shall enforce sections 12-14-20 and 12-14-22. Failure to comply with these sections may result in one or a combination of the following:

- (1) A written warning from the director;
- (2) Requirement of hours of training in the area of deficiency, with no new cases to be assigned to the specialist until proof of completion of training is received by the director;
- (3) Revocation of a specialist's registration under this chapter; or
- (4) Revocation of a provider's certification under this chapter pursuant to section 12-14-19. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-22 Registration maintenance standards.

(a) Specialists shall meet the requirements of this section.

(b) Specialists shall obtain a minimum of sixty hours of formal training directly related to vocational rehabilitation every three years at an accredited institution or 20 hours for each year registration is granted in any of the following areas:

- (1) Counseling;
- (2) Placement of the disabled;
- (3) Tests and measurements;
- (4) Practices and principles of vocational rehabilitation;
- (5) Psychosocial aspects of disability;
- (6) Medical aspects of disability; or
- (7) Other courses directly related to vocational rehabilitation, with approval of the director.

(c) Training received outside a formal school setting may be substituted for formal training in a school setting based on at least one of the following criteria and at the discretion of the director:

- (1) Training is directly related to vocational rehabilitation;
- (2) Training is recognized as certifiable by the Commission on Rehabilitation Counselor Certification, for registered rehabilitation specialists with this credential;
- (3) Training is sponsored by a recognized vocational rehabilitation organization;
- (4) In-service training will be accepted provided it is approved by the director prior to its presentation.

(d) Specialists shall submit for review official documentation of completion of training received as defined in subchapter 3 or verification of current certification by the Commission on Rehabilitation Counselor Certification as a certified rehabilitation counselor.

(e) Specialists shall be subject to the Commission on Rehabilitation Counselor Certification's code of ethics (Appendix A) dated June 9, 1988 which is made a part of this chapter and attached herein. Should there be actual or apparent conflict between the code and the administrative rules to which it is appended, the administrative rules will take precedence.

(f) Specialists on every case shall meet all reporting requirements set forth in this chapter. [Eff. 1/28/85; am 2/9/89; am 10/8/90; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

SUBCHAPTER 4

IDENTIFICATION AND REFERRAL PROCEDURES

§12-14-23 Responsibility. (a) The employee in accordance with section 386-25, HRS, and within the limits established by section 12-14-36, initially may select and initiate services with any one certified rehabilitation provider as established in section 12-14-16. All subsequent changes or transfers of provider shall be in accordance with section 12-14-52.

(b) Based on sources such as physicians' medical reports and recommendations by hearings officers, employers, insurance carriers, and others, the director may as expeditiously as possible identify employees who may need vocational rehabilitation and refer these employees to a provider unless the director, in accordance with section 12-14-46, certifies that it is not feasible to rehabilitate the employee.

(c) Within one hundred twenty days from the date of injury, based on a physician's medical report and other information, the employer shall provide information on the employee's rights to vocational rehabilitation, instructions on how to select a vocational rehabilitation provider, an employee selection form and a list of current certified vocational rehabilitation providers to the employee. The employee shall have thirty calendar days from the date the employer provides the information to the employee to make a selection. If the employee fails to select, the employer may request a referral from the director.

(d) Upon the employee's selection of a provider of vocational rehabilitation services, the provider has seven calendar days to submit in writing, notification of employee's selection by submittal of the employee selection form to the employer, employee and the director. The employee selection form shall include the employee's name and address, department's workers' compensation case number, employer's name, and the name of the selected provider.

(e) Employers may, within ten calendar days from the postmark date of the employee selection form, challenge an employee's eligibility for vocational rehabilitation benefits by filing written notice to the director, employee and provider, defining the employer's justification for non-eligibility. The front page of the objection shall be clearly identified as an "ELIGIBILITY FOR VOCATIONAL REHABILITATION OBJECTION" in capital letters in no less than ten point type and may include a copy of the envelope showing postmark date. [Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§§12-14-24 to 12-14-25 (Reserved)

SUBCHAPTER 5

IMPLEMENTATION OF VOCATIONAL REHABILITATION PLANS

§12-14-26 Purpose. The primary purpose of a plan is to restore an employee to suitable gainful employment as quickly as possible in a cost-effective manner. The plan is written by the employee and the specialist, and is not considered a plan without the approval of the employee. The director upon request or when otherwise deemed necessary, shall take appropriate action to ensure:

- (1) The provider renders rehabilitation services for the employee in accordance with the provisions of the plan;
- (2) The employee complies with the provisions of the plan; and
- (3) The plan is effective in restoring the employee to suitable gainful employment. [Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-27 Status report. The provider shall submit reports on the status and progress of the employee's plan to the employer and employee every thirty days. Upon request, the provider shall submit the reports to the director. The status reports shall include but not be limited to the following:

- (1) Objectives for the report period, whether these objectives were met and, if not, what action is to be taken;
- (2) Specific services provided as they relate to the vocational rehabilitation process during the report period and their outcome;
- (3) Specific services to be provided in the next report period, as they relate to the vocational rehabilitation process, justification for the necessity of the services, how the effectiveness of the services is to be measured, and the estimated time frames for delivery;
- (4) Whether the plan is progressing as scheduled; if not, what appropriate action is to be taken;
- (5) During the placement period, labor market information including but not limited to:
 - (A) Employers contacted;
 - (B) Results of the contacts;
 - (C) Wage information;
 - (D) Qualifications employers require for the positions; and
 - (E) How often positions are available.
- (6) Identification of the employee's status in the vocational rehabilitation process; and

- (7) Any other information which would insure successful completion of the plan. [Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-28 (Repealed)

§12-14-29 Appropriate action based on information obtained.

Information obtained from the provider, the employer, and the employee shall be the basis for whatever action the director may feel necessary and appropriate to modify, suspend, or terminate the plan or program for reasons that may include but are not limited to those set forth in sections 12-14-9 and 12-14-26. [Eff. 1/1/81; am 1/28/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-30 Closing report. (a) The provider shall submit a closing report on each case upon the termination of vocational rehabilitation services. The report shall include, but not be limited to, the following:

- (1) Justification for closure;
- (2) A brief description of services provided;
- (3) Length of service;
- (4) Employment information:
 - (A) Name of employer;
 - (B) Date employment began; and
 - (C) Wage information; and
- (5) Signature of the employee "witnessed by" the specialist, including a statement the report has been reviewed with the employee.

(b) Specialists shall not determine the employee is able to work unless they can document their ability to secure for the employee suitable gainful employment.

(c) Should the employee appear medically able to return to employment but not be employed at the time of vocational rehabilitation case closure, the employee may be referred to another provider for vocational rehabilitation services.

(d) If no objection is received by the director within ten calendar days from the date of the director's closure notice, the closure will be considered final and the employee may not request further reconsideration under section 12-14-48. The front page of the objection shall be clearly identified as a "VOCATIONAL REHABILITATION CLOSURE OBJECTION" in capital letters in no less than ten point type. [Eff. 1/28/85; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-31 Reporting exception. The director may accept reports which do not meet all of the requirements of this chapter provided the director finds the reports are in the best interest

of the employee. (Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72)
(Imp: HRS §386-25)

§§12-14-32 to 12-14-34 (Reserved)

SUBCHAPTER 6

ENROLLMENT IN REHABILITATION PROGRAMS

§12-14-35 Enrollment requirement. Pursuant to section 386-25(c), HRS, a provider shall use a form approved by the director to enroll an employee into a program.

- (1) An approved enrollment form shall include:
 - (A) Employee information - name, address, telephone number, and social security number;
 - (B) Employer information - name, address, telephone number and department of labor account number, as assigned by the department's unemployment insurance division;
 - (C) Insurer information - name, address, and telephone number;
 - (D) Provider information - name, address, specialist's name, and telephone number; and
 - (E) Statement of worker's rights and responsibilities developed by the director and reproduced by the provider, shall be reviewed with the employee by the specialist, and signed and dated by both. The signatures shall be documentation that the specialist and the employee understand this document and its implications and both are committed to a realistic rehabilitation process, the goal of which is suitable gainful employment for the employee.
- (2) A copy of the completed enrollment form and statement of worker's rights and responsibilities shall be sent together with the initial evaluation to the employee, the director, and the employer. [Eff. 1/1/81; am 1/28/85; am 9/16/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-36 Termination of right to vocational rehabilitation. (a) An employee who has been issued a permanent partial disability award by the director or an employee who has stipulated away the right to vocational rehabilitation with the

approval of the director is determined to have waived the right to rehabilitation.

(b) The right to rehabilitation is preserved for any employee on temporary total disability and any employee who has been adjudged permanently and totally disabled by the director. [Eff. 1/1/81; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-37 (Reserved)

SUBCHAPTER 7

TEMPORARY TOTAL DISABILITY PAYMENTS AND LIVING EXPENSES

§12-14-38 Entitlement to rehabilitation payments.

(a) Temporary total disability benefits shall be paid the employee if, while enrolled in a program, the employee earns no wages. If the employee earns wages while enrolled, the provider shall, on a form approved by the director, report the gross weekly wages received by the employee. An approved gross wages report form shall include:

- (1) The employee's name, address, telephone number and social security account number;
- (2) The provider's name, address and telephone number;
- (3) The insurer's name, address and telephone number;
- (4) The name, address, telephone number, and department of labor account number, as assigned by the department's unemployment insurance division, of the employer from whom the employee received wages;
- (5) The dates worked, hours worked, pay rate and gross wages; and
- (6) The provider representative's signature and date signed.

(b) The gross wages report shall be submitted to the employer responsible for paying the employee's temporary total disability benefits within five days from the end of the scheduled vocational rehabilitation period. Upon request, the provider shall submit the gross wages report to the director. Based on the gross wages report, the employer shall make appropriate payments in accordance with section 386-25(d), HRS, within five days from the receipt date of the gross wages report form.

(c) An employee's inability to enroll in or continue in a program due to injury or illness does not preclude the employee from receiving temporary total disability benefits in accordance with section 386-31(b). [Eff. 1/1/81; am 9/16/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-39 Entitlement to living expenses; advance lump-sum payment. As provided in section 386-25, HRS, an employee enrolled in a program shall be entitled to the expenses enumerated in section 12-14-40 associated with the employee's program or period of extended evaluation. To enable the employee to participate in a program or period of extended evaluation, the employee's employer shall pay that period's necessary and approved expenses as a lump-sum amount at the beginning of the vocational rehabilitation period. [Eff. 1/1/81; am 9/16/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-40 Allowable living expenses. The provider shall assist an employee entitled to living expenses under section 386-25, HRS, on a form prescribed by the director, to submit a request for payment of living expenses associated with the program or period of extended evaluation to the employer at least seven days before the beginning of the scheduled period. Upon request, the form shall be submitted by the provider to the director. A flexible and appropriate vocational rehabilitation period shall be determined by the provider, employee, and director for each employee based on that individual employee's needs. Allowable expenses include:

- (1) The cost of books, tuition, supplies, and other items required by the program.
- (2) The cost of riding public transportation round trip to and from the employee's residence to the rehabilitation site and to any other destination required and authorized by the provider. This mode of travel is to be used in all cases unless the employee's physical condition, nature of the injury, or geographical location requires the use of a private motor vehicle as the mode of travel.
- (3) Transportation cost for the use of a private motor vehicle, not to exceed the prevailing rate paid per mile to authorized state government employees on official business, as determined by the director, to travel round trip from the employee's residence directly to the rehabilitation site, and to any other destination required and authorized by the provider.
- (4) Per diem cost covering meals and lodging for each day an employee attends rehabilitation at a site located outside the island on which the employee resides, not to exceed the per diem allowance paid to state government employees on official business, as determined by the director.
- (5) Transportation cost at the beginning and completion of the rehabilitation, to travel round trip from the employee's residence to the rehabilitation site located outside the island on which the employee resides, not

to exceed the prevailing airfare and busfare rates, and for the use of a private motor vehicle, the rate established in paragraph (3). [Eff. 1/1/81; am 9/16/85; am 4/12/93; am 11/08/99] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-41 Payment of rehabilitation expenses when liability issue is unresolved. When an employee chooses to enter a program during a period where compensability is agreed to but the issue of liability is still unresolved, the employee's present employer involved in the liability issue shall pay for the rehabilitation expenses of the employee until the liable employer is determined by the director. If the present employer is found not to be the liable employer, the liable employer so determined by the director shall reimburse the present employer for such rehabilitation expenses. [Eff. 1/1/81; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§§12-14-42 to 12-14-45 (Reserved)

SUBCHAPTER 8

MEDICALLY NOT FEASIBLE

§12-14-46 Determination. (a) When the director determines, based on the physician's medical reports and other information, that the nature and extent of the employee's injury or illness are such that vocational rehabilitation is not feasible, the director shall so certify. A copy of the determination shall be sent to the employee and the employer. Thereafter, for a period not to exceed one year or upon request, the director shall at intervals of one hundred twenty days review the workers' compensation record of the employee and refer the employee to vocational rehabilitation if such program is found to be appropriate.

(b) The employee is not precluded from enrolling in any approved future program if the director, based on the physician's medical reports and other information, finds that the employee's injury or illness is such that rehabilitation is feasible. [Eff. 1/1/81; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-47 (Reserved)

SUBCHAPTER 9

APPEAL RIGHTS

§12-14-48 Reconsideration and hearing. (a) Except as otherwise provided, determinations of the rehabilitation unit are considered final unless a written request for reconsideration is filed with the rehabilitation unit within ten calendar days from the date of the determination. The front page of the request shall be clearly identified as a "REQUEST FOR RECONSIDERATION" in capital letters in no less than ten point type.

(b) The rehabilitation unit shall issue a reconsideration determination to affirm, reverse, or modify the determination or refer the request for reconsideration for hearing.

(c) A reconsideration determination is considered final unless a written request for hearing is filed within ten calendar days from the date of the reconsideration determination. A hearing shall be held before a hearings officer designated by the director. A written decision shall be issued in the name of the director. [Eff. 1/28/85; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-49 Appellate body and filing period. Any party who disagrees with or is aggrieved by a decision of the director may request in writing to the director for a reconsideration of the decision within twenty days from the date of the decision. The director's decision shall be final unless the appellant appeals to the labor and industrial relations appeals board within twenty days from the date of the director's decision. If still dissatisfied, the appellant may further appeal the board's decision to the state supreme court within thirty days from the date of the board's written decision. [Eff. 1/1/81; am 1/28/85] (Auth: HRS §386-72) (Imp: HRS §§386-25, 386-88)

§§12-14-50 and 12-14-51 (Reserved)

SUBCHAPTER 10

TRANSFER OF EMPLOYEE TO ANOTHER PROVIDER

§12-14-52 Financial obligations to succeeding provider.

(a) If for any reason an employee must change or transfer to another provider, such transfer must be submitted in writing to

the director. In such instances, the latter provider shall be entitled to all considerations that were agreed to between the former provider and the employer from the time the latter provider assumed the program until its completion and the former provider shall be compensated only for services performed up to the date of the transfer.

(b) After the initial selection as established by section 12-14-23 by the employee, any subsequent changes or transfers shall be made by the director if no agreement can be made between the employer and employee. [Eff. 1/1/81; am 4/12/93; am 11/08/99; am 12/17/01] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-53 to 12-14-54 (Reserved)

SUBCHAPTER 11

HIRE AND SEPARATION OF PROVIDER'S EMPLOYEES

§12-14-55 Notification required. Providers shall, when a specialist subject to section 12-14-16 is hired by or separated from the provider or changes employment status, notify the director in writing within five days from the date of hire, separation, or change. Such notification shall include the employee's name, position, date of hire, separation, or change, and the provider's name, address and telephone number. [Eff. 1/1/81; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-56 Notification required. All specialists shall notify the director in writing within seventy-two hours of the effective date of any change of employment status or registration status, or both. [Eff. 1/28/85; am 4/12/93] (Auth: HRS §386-72) (Imp: HRS §386-25)

§12-14-57 (Reserved)

Effective January 1, 1981

CRCC**Preamble**

Rehabilitation counselors are committed to facilitating personal, social, and economic independence of individuals with disabilities. In fulfilling this commitment, rehabilitation counselors work with people, programs, institutions, and service delivery systems. Rehabilitation counselors recognize that both action and inaction can be facilitating or debilitating. Rehabilitation counselors may be called upon to provide counseling; vocational exploration; psychological and vocational assessment; evaluation of social, medical, vocational, and psychiatric information; job placement and job development services; and other rehabilitation services, and do so in a manner that is consistent with their education and experience. Moreover, rehabilitation counselors also must demonstrate adherence to ethical standards and must ensure that the standards are enforced vigorously. The Code of Professional Ethics, henceforth referred to as the Code, is designed to facilitate the accomplishment of these goals.

The primary obligation of rehabilitation counselors is to their clients, defined in this Code as people with disabilities who are receiving services from rehabilitation counselors. The basic objective of the Code is to promote the public welfare by specifying and enforcing ethical behavior expected of rehabilitation counselors. Accordingly, the Code consists of two kinds of standards, Canons and Rules of Professional Conduct.

The Canons are general standards of an aspirational and inspirational nature reflecting the fundamental spirit of caring and respect which professionals share. They are maxims which serve as models of exemplary professional conduct. The Canons also express general concepts and principles from which more specific Rules are derived. Unlike the Canons, the Rules are more exacting standards that provide guidance in specific circumstances.

Rehabilitation counselors who violate the Code are subject to disciplinary action. A Rule violation is interpreted as a violation of the applicable Canon and the general principles embodied thereof. Since the use of the Certified Rehabilitation Counselor (CRC) designation is a privilege granted by the Commission on Rehabilitation Counselor Certification (CRCC), the CRCC reserves unto itself the power to suspend or to revoke the privilege or to approve other penalties for a Rule violation. Disciplinary penalties are imposed as warranted by the severity

of the offense and its attendant circumstances. All disciplinary actions are undertaken in accordance with published procedures and penalties designed to assure the proper enforcement of the Code within the framework of due process and equal protection of the laws.

When there is reason to question the ethical propriety of specific behaviors, persons are encouraged to refrain from engaging in such behaviors until the matter has been clarified. Certified Rehabilitation Counselors who need assistance in interpreting the Code should request in writing an advisory opinion from the Commission on Rehabilitation Counselor Certification. Rehabilitation counselors who are not certified and require assistance in interpreting the Code should request in writing an advisory opinion from their appropriate professional organization.

Rehabilitation Counselor Code of Ethics

Canon 1 - MORAL AND LEGAL STANDARDS

Rehabilitation counselors shall behave in a legal, ethical, and moral manner in the conduct of their profession, maintaining the integrity of the Code and avoiding any behavior which would cause harm to others.

Rules of Professional Conduct

- R1.1 Rehabilitation counselors will obey the laws and statutes in the legal jurisdiction in which they practice and are subject to disciplinary action for any violation, to the extent that such violation suggests the likelihood of professional misconduct.
- R1.2 Rehabilitation counselors will be thoroughly familiar with, will observe, and will discuss with their clients the legal limitations of their services, or benefits offered to clients so as to facilitate honest and open communication and realistic expectations.
- R1.3 Rehabilitation counselors will be alert to legal parameters relevant to their practices and to disparities between legally mandated ethical and professional standards and the Code. Where such disparities exist, rehabilitation counselors will follow the legal mandates and will formally communicate any disparities to the appropriate committee on professional ethics. In the absence of legal guidelines, the Code is ethically binding.

- R1.4 Rehabilitation counselors will not engage in any act or omission of a dishonest, deceitful, or fraudulent nature in the conduct of their professional activities. They will not allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgment and skills, nor will rehabilitation counselors abuse their relationships with clients to promote personal or financial gain or the financial gain of their employing agencies.
- R1.5 Rehabilitation counselors will understand and abide by the Canons and Rules of Professional Conduct which are prescribed in the Code.
- R1.6 Rehabilitation counselors will not advocate, sanction, participate in, cause to be accomplished, otherwise carry out through another, or condone any act which rehabilitation counselors are prohibited from performing by the Code.
- R1.7 Rehabilitation counselors' moral and ethical standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in rehabilitation counselors. To protect public confidence, rehabilitation counselors will avoid public behavior that clearly is in violation of accepted moral and ethical standards.
- R1.8 Rehabilitation counselors will respect the rights and reputation of any institution, organization, or firm with which they are associated when making oral or written statements. In those instances where they are critical of policies, they attempt to effect change by constructive action within organizations.
- R1.9 Rehabilitation counselors will refuse to participate in employment practices which are inconsistent with the moral or legal standards regarding the treatment of employees or the public. Rehabilitation counselors will not condone practices which result in illegal or otherwise unjustifiable discrimination on any basis in hiring, promotion, or training.

Canon 2 - COUNSELOR-CLIENT RELATIONSHIP

Rehabilitation counselors shall respect the integrity and protect the welfare of people and groups with whom they work. The primary obligation of rehabilitation counselors is to their clients, defined as people with disabilities who are receiving services from rehabilitation counselors. Rehabilitation

counselors shall endeavor at all times to place their clients' interests above their own.

Rules of Professional Conduct

- R2.1 Rehabilitation counselors will make clear to clients, the purposes, goals, and limitations that may affect the counseling relationship.
- R2.2 Rehabilitation counselors will not misrepresent their role or competence to clients. Rehabilitation counselors will provide information about their credentials, if requested, and will refer clients to other specialists as the needs of clients dictate.
- R2.3 Rehabilitation counselors will be continually cognizant of their own needs, values, and of their potentially influential position, vis-a-vis clients, students, and subordinates. They avoid exploiting the trust and dependency of such persons. Rehabilitation counselors make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. Examples of dual relationships include, but are not limited to, research with and treatment of employees, students, supervisors, close friends, or relatives. Sexual intimacies with clients are unethical.
- R2.4 Rehabilitation counselors who provide services at the request of a third party will clarify the nature of their relationships to all involved parties. They will inform all parties of their ethical responsibilities and take appropriate action. Rehabilitation counselors employed by third parties as case consultants or expert witnesses, where there is no pretense or intent to provide rehabilitation counseling services directly to clients, beyond file review, initial interview and/or assessment, will clearly define, through written or oral means, the limits of their relationship, particularly in the areas of informed consent and legally privileged communications, to involved individuals. As case consultants or expert witnesses, rehabilitation counselors have an obligation to provide unbiased, objective opinions.
- R2.5 Rehabilitation counselors will honor the right of clients to consent to participate in rehabilitation services. Rehabilitation counselors will inform clients or the clients' legal guardians of factors that may affect clients' decisions to participate in rehabilitation services, and they will obtain written consent after clients or their legal guardians are fully informed of such factors. Rehabilitation counselors who work with minors or other persons who are unable to give voluntary,

- informed consent, will take special care to protect the best interests of clients.
- R2.6 Rehabilitation counselors will avoid initiating or continuing consulting or counseling relationships if it is expected that the relationships can be of no benefit to clients, in which case rehabilitation counselors will suggest to clients appropriate alternatives.
- R2.7 Rehabilitation counselors will recognize that families are usually an important factor in clients' rehabilitation and will strive to enlist family understanding and involvement as a positive resource in promoting rehabilitation. The permission of clients will be secured prior to family involvement.
- R2.8 Rehabilitation counselors and their clients will work jointly in devising an integrated, individualized rehabilitation plan which offers reasonable promise of success and is consistent with the abilities and circumstances of clients. Rehabilitation counselors will persistently monitor rehabilitation plans to ensure their continued viability and effectiveness, remembering that clients have the right to make choices.
- R2.9 Rehabilitation counselors will work with their clients in considering employment for clients in only jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications and other relevant characteristics and needs. Rehabilitation counselors will neither place nor participate in placing clients in positions that will result in damaging the interest and welfare of either clients or employers.

Canon 3 - CLIENT ADVOCACY

Rehabilitation counselors shall serve as advocates for people with disabilities.

Rules of Professional Conduct

- R3.1 Rehabilitation counselors will be obligated at all times to promote access for people with disabilities in programs, facilities, transportation, and communication, so that clients will not be excluded from opportunities to participate fully in rehabilitation, education, and society.

- R3.2 Rehabilitation counselors will assure, prior to referring clients to programs, facilities, or employment settings, that they are appropriately accessible.
- R3.3 Rehabilitation counselors will strive to understand accessibility problems of people with cognitive, hearing, mobility, visual and/or other disabilities and demonstrate such understanding in the practice of their profession.
- R3.4 Rehabilitation counselors will strive to eliminate attitudinal barriers, including stereotyping and discrimination, toward people with disabilities and will enhance their own sensitivity and awareness toward people with disabilities.
- R3.5 Rehabilitation counselors will remain aware of the actions taken by cooperating agencies on behalf of their clients and will act as advocates of clients to ensure effective service delivery.

Canon 4 - PROFESSIONAL RELATIONSHIPS

Rehabilitation counselors shall act with integrity in their relationships with colleagues, other organizations, agencies, institutions, referral sources, and other professions so as to facilitate the contribution of all specialists toward achieving optimum benefit for clients.

Rules of Professional Conduct

- R4.1 Rehabilitation counselors will ensure that there is fair mutual understanding of the rehabilitation plan by all agencies cooperating in the rehabilitation of clients and that any rehabilitation plan is developed with such mutual understanding.
- R4.2 Rehabilitation counselors will abide by and help to implement "team" decisions in formulating rehabilitation plans and procedures, even when not personally agreeing with such decisions, unless these decisions breach the ethical Rules.
- R4.3 Rehabilitation counselors will not commit receiving counselors to any prescribed courses of action in relation to clients, when transferring clients to other colleagues or agencies.
- R4.4 Rehabilitation counselors, as referring counselors, will promptly supply all information necessary for a cooperating agency or counselor to begin serving clients.
- R4.5 Rehabilitation counselors will not offer on-going professional counseling/case management services to clients receiving such services from other rehabilitation

counselors without first notifying the other counselor. File review and second opinion services are not included in the concept of professional counseling/case management services.

- R4.6 Rehabilitation counselors will secure from other specialists appropriate reports and evaluations, when such reports are essential for rehabilitation planning and/or service delivery.
- R4.7 Rehabilitation counselors will not discuss in a disparaging way with clients the competency of other counselors or agencies, or the judgments made, the methods used, or the quality of rehabilitation plans.
- R4.8 Rehabilitation counselors will not exploit their professional relationships with supervisors, colleagues, students, or employees sexually or otherwise. Rehabilitation counselors will not condone or engage in sexual harassment, defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature unwanted by recipients.
- R4.9 Rehabilitation counselors who know of an ethical violation by another rehabilitation counselor will informally attempt to resolve the issue with the counselor, when the misconduct is of a minor nature and/or appears to be due to lack of sensitivity, knowledge, or experience. If the violation does not seem amenable to an informal solution, or is of a more serious nature, rehabilitation counselors will bring it to the attention of the appropriate committee on professional ethics.
- R4.10 Rehabilitation counselors possessing information concerning an alleged violation of this Code, will, upon request, reveal such information to the Commission on Rehabilitation Counselor Certification or other authority empowered to investigate or act upon the alleged violation, unless the information is protected by law.
- R4.11 Rehabilitation counselors who employ or supervise other professionals or students will facilitate professional development of such individuals. They provide appropriate working conditions, timely evaluations, constructive consultation, and experience opportunities.

Canon 5 - PUBLIC STATEMENTS/FEES

Rehabilitation counselors shall adhere to professional standards in establishing fees and promoting their services.

Rules of Professional Conduct

- R5.1 Rehabilitation counselors will consider carefully the value of their services and the ability of clients to meet the financial burden in establishing reasonable fees for professional services.
- R5.2 Rehabilitation counselors will not accept for professional work a fee or any other form of remuneration from clients who are entitled to their services through an institution or agency or other benefits structure, unless clients have been fully informed of the availability of services from other such sources.
- R5.3 Rehabilitation counselors will neither give nor receive a commission or rebate or any other form of remuneration for referral of clients for professional services.
- R5.4 Rehabilitation counselors who describe rehabilitation counseling or the services of rehabilitation counselors to the general public will fairly and accurately present the material, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Rehabilitation counselors are guided by the primary obligation to aid the public in developing informed judgments, opinions, and choices.

Canon 6 - CONFIDENTIALITY

Rehabilitation counselors shall respect the confidentiality of information obtained from clients in the course of their work.

Rules of Professional Conduct

- R6.1 Rehabilitation counselors will inform clients at the onset of the counseling relationship of the limits of confidentiality.
- R6.2 Rehabilitation counselors will take reasonable personal action, or inform responsible authorities, or inform those persons at risk, when the conditions or actions of clients indicate that there is clear and imminent danger to clients or others after advising clients that this must be done. Consultation with other professionals may be used where appropriate. The assumption of responsibility for clients must be taken only after careful deliberation and clients must be involved in the resumption of responsibility as quickly as possible.
- R6.3 Rehabilitation counselors will not forward to another person, agency, or potential employer, any confidential information without the written permission of clients or their legal guardians.

- R6.4 Rehabilitation counselors will ensure that there are defined policies and practices in other agencies cooperatively serving rehabilitation clients which effectively protect information confidentiality.
- R6.5 Rehabilitation counselors will safeguard the maintenance, storage, and disposal of the records of clients so that unauthorized persons shall not have access to these records. All non-professional persons who must have access to these records will be thoroughly briefed concerning the confidential standards to be observed.
- R6.6 Rehabilitation counselors, in the preparation of written and oral reports, will present only germane data and will make every effort to avoid undue invasion of privacy.
- R6.7 Rehabilitation counselors will obtain written permission from clients or their legal guardians prior to taping or otherwise recording counseling sessions. Even with guardians' written consent, rehabilitation counselors will not record sessions against the expressed wishes of clients.
- R6.8 Rehabilitation counselors will persist in claiming the privileged status of confidential information obtained from clients, where communications are privileged by statute for rehabilitation counselors.
- R6.9 Rehabilitation counselors will provide prospective employers with only job relevant information about clients and will secure the permission of clients or their legal guardians for the release of any information which might be considered confidential.

Canon 7 - ASSESSMENT

Rehabilitation counselors shall promote the welfare of clients in the selection, utilization, and interpretation of assessment measures.

Rules of Professional Conduct

- R7.1 Rehabilitation counselors will recognize that different tests demand different levels of competence for administration, scoring, and interpretation, and will recognize the limits of their competence and perform only those functions for which they are trained.
- R7.2 Rehabilitation counselors will consider carefully the specific validity, reliability, and appropriateness of tests, when selecting them for use in a given situation or with particular clients. Rehabilitation counselors will proceed with caution when attempting to evaluate and

interpret the performance of people with disabilities, minority group members, or other persons who are not represented in the standardized norm groups. Rehabilitation counselors will recognize the effects of socioeconomic, ethnic, disability, and cultural factors on test scores.

- R7.3 Rehabilitation counselors will administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions, as may be necessary to accommodate modifications for clients with disabilities or when unusual behavior or irregularities occur during the testing session, those conditions will be noted and taken into account at the time of interpretation.
- R7.4 Rehabilitation counselors will ensure that instrument limitations are not exceeded and that periodic reassessments are made to prevent stereotyping of clients.
- R7.5 Rehabilitation counselors will make known the purpose of testing and the explicit use of the results to clients prior to administration. Recognizing the right of clients to have test results, rehabilitation counselors will give explanations of test results in language clients can understand.
- R7.6 Rehabilitation counselors will ensure that specific interpretation accompanies any release of individual data. The welfare and explicit prior permission of clients will be the criteria for determining the recipients of the test results. The interpretation of assessment data will be related to the particular goals of evaluation.
- R7.7 Rehabilitation counselors will attempt to ensure, when utilizing computerized assessment services, that such services are based on appropriate research to establish the validity of the computer programs and procedures used in arriving at interpretations. Public offering of an automated test interpretation service will be considered as a professional-to-professional consultation. In this instance, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to clients.
- R7.8 Rehabilitation counselors will recognize that assessment results may become obsolete. They make every effort to avoid and prevent the misuse of obsolete measures.

Canon 8 - RESEARCH ACTIVITIES

Rehabilitation counselors shall assist in efforts to expand the knowledge needed to more effectively serve people with disabilities.

Rules of Professional Conduct

- R8.1 Rehabilitation counselors will ensure that data for research meet rigid standards of validity, honesty, and protection of confidentiality.
- R8.2 Rehabilitation counselors will be aware of and responsive to all pertinent guidelines on research with human subjects. When planning any research activity dealing with human subjects, rehabilitation counselors will ensure that research problems, design, and execution are in full compliance with such guidelines.
- R8.3 Rehabilitation counselors presenting case studies in classes, professional meetings, or publications will confine the content to that which can be disguised to ensure full protection of the identity of clients.
- R8.4 Rehabilitation counselors will assign credit to those who have contributed to publications in proportion to their contribution.
- R8.5 Rehabilitation counselors recognize that honesty and openness are essential characteristics of the relationship between rehabilitation counselors and research participants. When methodological requirements of a study necessitate concealment or deception, rehabilitation counselors will ensure that participants understand the reasons for this action.

Canon 9 - COMPETENCE

Rehabilitation counselors shall establish and maintain their professional competencies at such a level that their clients receive the benefit of the highest quality of service the profession is capable of offering.

Rules of Professional Conduct

- R9.1 Rehabilitation counselors will function within the limits of their defined role, training, and technical competency and will accept only those positions for which they are professionally qualified.
- R9.2 Rehabilitation counselors will continuously strive through reading, attending professional meetings, and taking courses of instruction to keep abreast of new developments, concepts, and practice that are essential to providing the highest quality of services to their clients.
- R9.3 Rehabilitation counselors, recognizing that personal problems and conflicts may interfere with their

professional effectiveness, will refrain from undertaking an activity in which their personal problems are likely to lead to inadequate performance. If they are already engaged in such activity when they become aware of their personal problems, they will seek competent professional assistance to determine whether they should suspend, terminate or limit the scope of their professional activities.

- R9.4 Rehabilitation counselors who are educators will perform their duties based on careful preparation so that their instruction is accurate, up-to-date and scholarly.
- R9.5 Rehabilitation counselors who are educators will ensure that statements in catalogs and course outlines are accurate, particularly in terms of subject matter covered, bases for grading, and nature of classroom experiences.
- R9.6 Rehabilitation counselors who are educators will maintain high standards of knowledge and skill by presenting rehabilitation counseling information fully and accurately, and by giving appropriate recognition to alternative viewpoints.

Canon 10 - CRC CREDENTIAL

Rehabilitation counselors holding the Certified Rehabilitation Counselor (CRC) designation shall honor the integrity and respect the limitations placed upon its use.

Rules of Professional Conduct

- R10.1 Certified Rehabilitation Counselors will use the Certified Rehabilitation Counselor (CRC) designation only in accordance with the relevant GUIDELINES promulgated by the Commission on Rehabilitation Counselor Certification.
- R10.2 Certified Rehabilitation Counselors will not attribute to the mere possession of the designation depth or scope of knowledge, skill, and professional capabilities greater than those demonstrated by achievement of the CRC designation.
- R10.3 Certified Rehabilitation Counselors will not make unfair comparisons between a person who holds the Certified Rehabilitation Counselor (CRC) designation and one who does not.
- R10.4 Certified Rehabilitation Counselors will not write, speak, nor act in ways that lead others to believe Certified Rehabilitation Counselors are officially representing the Commission on Rehabilitation Counselor Certification, unless such written permission has been granted by the said Commission.

- R10.5 Certified Rehabilitation Counselors will make no claim to unique skills or devices not available to others in the profession unless the special efficacy of such unique skills or device has been demonstrated by scientifically accepted evidence.
- R10.6 Certified Rehabilitation Counselors will not initiate or support the candidacy of an individual for certification by the Commission on Rehabilitation Counselor Certification if the individual is known to engage in professional practices which violate this Code.