

HEALTH & SAFETY CODE

SUBTITLE B. ALCOHOL AND SUBSTANCE ABUSE PROGRAMS

CHAPTER 461. TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE

Sec. 461.001. POLICY. Chemical dependency is a preventable and treatable illness and public health problem affecting the general welfare and the economy of the state. The legislature recognizes the need for proper and sufficient facilities, programs, and procedures for prevention, intervention, treatment, and rehabilitation. It is the policy of this state that a chemically dependent person shall be offered a continuum of services that will enable the person to lead a normal life as a productive member of society.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 168, eff. Sept. 1, 1991.

Sec. 461.002. DEFINITIONS. In this chapter:

(1) "Chemical dependency" means:
(A) abuse of alcohol or a controlled substance;
(B) psychological or physical dependence on alcohol or a controlled substance; or
(C) addiction to alcohol or a controlled substance.

(2) "Commission" means the Texas Commission on Alcohol and Drug Abuse.

(3) "Controlled substance" means a:
(A) toxic inhalant; or
(B) substance designated as a controlled substance by Chapter 481 (Texas Controlled Substances Act).

(4) "Intervention" means the interruption of the onset or progression of chemical dependency in the early stages.

(5) "Prevention" means the reduction of a person's risk of abusing alcohol or a controlled substance or becoming chemically dependent.

(6) "Rehabilitation" means the reestablishment of the social and vocational life of a person after treatment.

(7) "Toxic inhalant" means a gaseous substance that is inhaled by a person to produce a desired physical or psychological effect and that may cause personal injury or illness to the inhaler.

(8) "Treatment" means the initiation and promotion, in a planned, structured, and organized manner, of a person's chemical-free status or the maintenance of a person free of illegal drugs.

(9) "Treatment facility" means a public or private hospital, a detoxification facility, a primary care facility, an intensive care facility, a long-term care facility, an outpatient care facility, a community mental health center, a health maintenance organization, a recovery center, a halfway house, an ambulatory care facility, another facility that is required to be licensed and approved by the commission, or a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation. The term does not include an educational program for intoxicated drivers or the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.11(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 169, eff. Sept. 1, 1991.

Sec. 461.003. COMPOSITION OF COMMISSION. (a) The purpose of this chapter is to prevent broken homes and the loss of lives by creating the Texas Commission on Alcohol and Drug Abuse.

(b) The commission is composed of five members appointed by the governor with the advice and consent of the senate.

(c) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees.

(d) In appointing members to the commission under this section, the governor shall appoint not fewer than three members with experience in business management, financial management, auditing, contract management, or similar activities that are relevant to the commission's duties.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 876, Sec. 26.06, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 461.004. APPLICATION OF SUNSET ACT. The Texas

Commission on Alcohol and Drug Abuse is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.13, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 970, Sec. 1.01, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 2, eff. Sept. 1, 1997.

Sec. 461.005. RESTRICTIONS ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) A person is not eligible for appointment or service as a commission member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of chemical dependency;

(2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission.

(b) An officer, employee, or paid consultant of an association that is primarily interested in the provision of services or in other matters relating to chemical dependency may not be a member or employee of the commission.

(c) A person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of an association described by Subsection (b) may not be a commission member or a commission employee grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

(d) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a provider of chemical dependency services.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 170, eff. Sept. 1, 1991.

Sec. 461.0051. COMMISSION MEMBER TRAINING. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with Subsection (b).

(b) The training program required by Subsection (a) must provide information to the person regarding:

(1) the enabling legislation that created the commission and its policymaking body to which the member is appointed to serve;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict-of-interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program required by Subsection (a) as provided by the General Appropriations Act and as if the person were a member of the commission.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.006. TERMS. Commission members serve staggered six-year terms, with the terms of one or two members expiring

February 1 of each odd-numbered year.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 876, Sec. 26.07, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 1.02, eff. Sept. 1, 2003.

Sec. 461.007. OFFICERS. (a) The governor shall annually appoint one commission member as chairman.

(b) The members of the commission shall annually elect one member as vice-chairman. The members may elect one member as secretary or designate the executive director of the commission as secretary.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.008. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

(1) is not eligible for appointment to the commission at the time of appointment as provided by Section 461.005(a);

(2) is not eligible to serve on the commission as provided by Section 461.005(a);

(3) violates a prohibition established by Section 461.005(b), (c), or (d);

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the commission of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.009. PER DIEM; REIMBURSEMENT FOR EXPENSES. A commission member is entitled to receive:

(1) the compensatory per diem authorized by the General Appropriations Act for each day spent in performing the member's official duties; and

(2) reimbursement for travel expenses and other necessary expenses incurred in performing official duties.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.010. MEETINGS; TRAVEL. (a) The commission shall meet at least quarterly at the call of the chairman or at the request of five members. The commission may not meet for more than 24 days in a fiscal year.

(b) The commission may authorize its members to travel in this state and in other states to perform commission duties under this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.011. PERSONNEL. (a) The commissioner of health and human services shall employ an executive director in accordance with Section 531.0056, Government Code. The executive director shall hire other necessary employees.

(b) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(c) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(d) The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.

The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission work force that meets federal and state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(f) A policy statement prepared under Subsection (e) must:

(1) cover an annual period;

(2) be updated annually and reviewed by the Texas Commission on Human Rights for compliance with Subsection (e); and

(3) be filed with the governor's office.

(g) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (f). The report may be made separately or as a part of other biennial reports made to the legislature.

(h) The commission shall develop and implement policies that clearly separate the respective responsibilities of the commission and the staff of the commission.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.149, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1460, Sec. 2.19, eff. Sept. 1, 1999.

Sec. 461.0115. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.20, eff. Sept. 1, 1999.

Sec. 461.012. POWERS AND DUTIES. (a) The commission shall:

(1) provide for research and study of the problems of chemical dependency in this state and seek to focus public attention on those problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement constructive methods and programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency in cooperation with federal and state agencies, local governments, organizations, and persons, and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) cooperate with and enlist the assistance of:

(A) other state, federal, and local agencies;

(B) hospitals and clinics;

(C) public health, welfare, and criminal justice system authorities;

(D) educational and medical agencies and organizations; and

(E) other related public and private groups and persons;

(4) expand chemical dependency services for children when funds are available because of the long-term benefits of those services to the state and its citizens;

(5) sponsor, promote, and conduct educational programs on the prevention and treatment of chemical dependency, and maintain a public information clearinghouse to purchase and provide books, literature, audiovisuals, and other educational material for the programs;

(6) sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify chemically dependent persons and their families in need of service;

(7) require programs rendering services to chemically dependent persons to safeguard those persons' legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(8) maximize the use of available funds for direct services rather than administrative services;

(9) consistently monitor the expenditure of funds and the provision of services by all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this chapter;

(10) make the monitoring reports prepared under Subdivision (9) a matter of public record;

(11) license treatment facilities under Chapter 464;

(12) use funds appropriated to the commission to carry out this chapter and maximize the overall state allotment of federal funds;

(13) develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction;

(14) establish minimum criteria that peer assistance programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing and disciplinary authorities to establish or approve peer assistance programs for impaired professionals;

(15) adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs;

(16) plan, develop, coordinate, evaluate, and implement constructive methods and programs to provide healthy alternatives for youth at risk of selling controlled substances;

(17) submit to the federal government reports and strategies necessary to comply with Section 1926 of the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Pub. L. 102-321 (42 U.S.C. Section 300x-26); reports and strategies are to be coordinated with appropriate state governmental entities;

(18) regulate, coordinate, and provide training for alcohol awareness courses required under Section 106.115, Alcoholic Beverage Code, and may charge a fee for an activity performed by the commission under this subdivision; and

(19) contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

(b) The commission may establish regional alcohol advisory committees consistent with the regions established under Section 531.024, Government Code.

(c) The commission may appoint advisory committees to assist the commission in performing its duties. State advisory committee members are entitled to receive the per diem and travel expense allowance authorized by the General Appropriations Act for state employees.

(d) The commission shall comply with federal and state laws related to program and facility accessibility.

(1) that does not offer or purport to offer an alcohol dependency treatment program;

(2) that does not charge program participants; and

(3) in which program participants may maintain anonymity.

(e) The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

(f) Subsection (a)(18) does not apply to a 12-step or similar self-help alcohol dependency recovery program:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 171, eff. Sept. 1, 1991; Acts

1993, 73rd Leg., ch. 637, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 671, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 577, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 825, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(67), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 198, Sec. 2.133, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.04, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 4.02, eff. June 14, 2005.

Sec. 461.0121. EMERGENCY TREATMENT RESOURCES. The executive director may develop emergency treatment resources for persons who appear to be:

- (1) chemically dependent;
- (2) under the influence of alcohol or a controlled substance and in need of medical attention; or
- (3) undergoing withdrawal or experiencing medical complications related to a chemical dependency.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 172, eff. Sept. 1, 1991.

Sec. 461.0122. REFERRAL SERVICES FOR PERSONS FROM CRIMINAL JUSTICE SYSTEM. (a) The executive director may establish programs for the referral, treatment, or rehabilitation of persons from the criminal justice system within the terms of bail, probation, conditional discharge, parole, or other conditional release.

(b) A referral may not be inconsistent with medical or clinical judgment or conflict with this chapter or Chapter 462 or applicable federal regulations.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 172, eff. Sept. 1, 1991.

Sec. 461.0123. REPORTING OF CHILDREN INVOLVED IN SUBSTANCE ABUSE OR FROM A FAMILY INVOLVED IN SUBSTANCE ABUSE. (a) The Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, the Texas Youth Commission, and the Texas Juvenile Probation Commission shall:

(1) attempt to determine whether a child under the agency's jurisdiction is involved in substance abuse or is from a substance-abusing family;

(2) record its determination in the case record of the child; and

(3) record the information for statistical reporting purposes.

(b) The agencies shall revise their assessment forms, as needed, to include a determination under this section.

(c) The commission shall coordinate the efforts of the agencies described by Subsection (a) in complying with this section.

Added by Acts 1991, 72nd Leg., ch. 627, Sec. 4, eff. Sept. 1, 1991.

Sec. 461.0124. STATEWIDE SERVICE DELIVERY PLAN. (a) The commission shall develop and adopt a statewide service delivery plan. The commission shall update the plan not later than February 1 of each even-numbered year. The plan must include:

(1) a statement of the commission's mission, goals, and objectives regarding chemical dependency prevention, intervention, and treatment;

(2) a statement of how chemical dependency services and chemical dependency case management services should be organized, managed, and delivered;

(3) a comprehensive assessment of:
(A) chemical dependency services available in this state at the time the plan is prepared; and

(B) future chemical dependency services needs;

(4) a service funding process that ensures equity in the availability of chemical dependency services across this state and within each service region established under Section 531.024, Government Code;

(5) a provider selection and monitoring process that emphasizes quality in the provision of services;

(6) a description of minimum service levels for each region;

(7) a mechanism for the commission to obtain and consider local public participation in identifying and assessing regional needs for chemical dependency services;

(8) a process for coordinating and assisting administration and delivery of services among federal, state, and local public and private chemical dependency programs that provide similar services; and

(9) a process for coordinating the commission's activities with those of other state health and human services

agencies and criminal justice agencies to avoid duplications and inconsistencies in the efforts of the agencies in chemical dependency prevention, intervention, treatment, rehabilitation, research, education, and training.

(b) The commission shall gather information needed for the development of the plan through systematic methods designed to include local, regional, and statewide perspectives.

(c) In developing the plan, the commission shall analyze the costs of implementation of proposed features of the plan by both the commission and service providers. The commission shall use the analysis to maximize the efficiency of service delivery under the final plan.

(d) The plan must provide a priority for obtaining treatment services for individuals in need of treatment who are parents of a child in foster care.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0125. CLIENT SERVICE CONTRACT STANDARDS. (a) In each contract for the purchase of chemical dependency program-related client services, the commission shall include:

(1) clearly defined contract goals, outputs, and measurable outcomes that relate directly to program objectives;

(2) clearly defined sanctions or penalties for failure to comply with or perform contract terms or conditions; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) Contract goals must include a standard developed by the commission that is based on a percentage of program clients who maintain long-term recovery for an extended period as defined by the commission.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0126. CONTRACT MONITORING. The commission shall establish a formal program to monitor program-related client services contracts made by the commission. The commission must:

(1) monitor compliance with financial and performance requirements using a risk assessment methodology; and

(2) obtain and evaluate program cost information to ensure that each cost, including an administrative cost, is reasonable and necessary to achieve program objectives.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0127. TECHNICAL ASSISTANCE PROGRAM. The commission shall adopt technical assistance policies and procedures for a technical assistance program that:

(1) is clearly separate from the commission's contract monitoring activities;

(2) has a single office for technical assistance requests; and

(3) includes explicit response time frames.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0128. STATE AGENCY SERVICES STANDARDS. (a) The commission by rule shall develop model program standards for substance abuse services for use by each state agency that provides or pays for substance abuse services. The commission shall provide the model standards to each agency that provides substance abuse services as identified by the Health and Human Services Commission.

(b) Model standards developed under Subsection (a) must be designed to improve the consistency of substance abuse services provided by or through a state agency.

(c) Biennially the commission shall review the model standards developed under Subsection (a) and determine whether each standard contributes effectively to the consistency of service delivery by state agencies.

Added by Acts 1999, 76th Leg., ch. 1187, Sec. 17, eff. Sept. 1, 1999.

Sec. 461.0129. LOCAL BEHAVIORAL HEALTH AUTHORITIES. The commission may designate and provide services through local behavioral health authorities as provided by Section 533.0356 and rules adopted jointly with the Texas Board of Mental Health and Mental Retardation.

Added by Acts 1999, 76th Leg., ch. 1187, Sec. 18, eff. Sept. 1, 1999.

Sec. 461.013. EDUCATION AND RESEARCH PROGRAMS CONCERNING CONTROLLED SUBSTANCES. (a) In this section, "controlled substances" means those substances designated as controlled substances by Chapter 481 (Texas Controlled Substances Act).

(b) The commission, in cooperation with other appropriate state agencies, shall carry out educational programs designed to prevent or deter misuse and abuse of controlled substances. In connection with those programs the commission may:

(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) consult with interested groups and organizations to aid those groups in solving administrative and organizational problems;

(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of problems that exist and ways to combat those problems; and

(6) assist in educating and training state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(c) The commission shall encourage research on misuse and abuse of controlled substances. In connection with research, and in furtherance of the enforcement of Chapter 481 (Texas Controlled Substances Act), the executive director may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of Chapter 481 (Texas Controlled Substances Act);

(B) determine patterns and social effects of misuse and abuse of controlled substances; and

(C) improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances; and

(3) contract with public agencies, institutions of higher education, and private organizations or individuals to conduct research, demonstrations, or special projects that bear directly on misuse and abuse of controlled substances.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.0131. OUTREACH PROGRAMS FOR INTRAVENOUS DRUG USERS. (a) The commission may fund community outreach programs that have direct contact with intravenous drug users.

(b) An outreach program funded by the commission must:

(1) provide education on HIV infection based on the model education program developed by the Texas Department of Health;

(2) encourage behavior changes to reduce the possibility of HIV transmission;

(3) promote other HIV risk reduction activities; and

(4) encourage behavior consistent with state criminal laws.

(c) In this section, "HIV" means human immunodeficiency virus.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 173, eff. Sept. 1, 1991.

Sec. 461.0132. MINIMUM PROGRAM REQUIREMENTS. (a) A chemical dependency intensive intervention, outpatient, residential treatment, or rehabilitation program that is provided by the commission or that is funded in whole or part by funds allocated through the commission must include:

(1) coping skills training;

(2) education regarding the manifestations and dynamics of dysfunctional relationships within the family; and

(3) support group opportunities for children and adults.

(b) This section does not apply to:

(1) a detoxification program or that part of a program that provides detoxification; or

(2) a program provided by the Texas Youth Commission.

(c) In this section, "coping skills training" means

instruction in the elements and practice of and reasons for the skills of communication, stress management, problem solving, daily living, and decision making.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 173, eff. Sept. 1, 1991.

Sec. 461.0133. RELAPSE RATE REPORTING. (a) A treatment program provided or funded by the commission shall report to the commission on the effectiveness of the chemical dependency treatment program.

(b) The report must show to the extent possible, without violating the confidentiality of information received by the program, the rate of relapse of persons who have received treatment services.

(c) The commission by rule may provide for the content of a report and the procedure for reporting under this section. Reports must be uniform in classifications of persons receiving treatment according to the severity of addiction, substance abused, age of person treated, and modality of treatment. A report may not reveal the name of an individual subject to treatment or of a family member or acquaintance of an individual treated and may not describe circumstances from which any of those individuals may be identified.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 173, eff. Sept. 1, 1991.

Sec. 461.014. FINANCES. (a) The commission may accept gifts and grants.

(b) All money paid to the commission under this chapter is subject to Subchapter F, Chapter 404, Government Code.

(c) The commission shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(d) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(e) The commission is the state agency to:

(1) receive and administer federal funds for alcohol and drug abuse, including applying for, administering, and disbursing funds under the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. Section 1101 et seq.); and

(2) prescribe all necessary policies relating to alcohol and drug abuse.

(f) An organization or other entity is not eligible for a grant of state funds from the commission unless the organization or entity provides matching funds in either cash or in-kind contributions equal to at least five percent of the total grant of state funds from the commission. The commission may waive that requirement if the commission determines that the requirement may jeopardize the provision of needed services.

(g) In allocating grant funds, the commission shall consider the state facility hospitalization rate of substance abusers who are from the service area of the entity requesting the grant. An organization or other entity is not eligible for a grant of state funds for a treatment or rehabilitation program unless the program will, at a minimum, reduce state facility hospitalization of substance abusers by a percentage established by the commission.

(h) As a condition to receiving contract or grant funds under this chapter, a public or private organization or entity must provide to the commission information relating to:

(1) the number of chemically dependent persons the organization or entity served, if any, during the preceding year, the municipalities and counties of residence of those persons, and the number of persons served from each municipality and county; and

(2) the number of chemically dependent persons the organization or entity expects to serve during the term of the requested grant or contract, the expected municipalities and counties of residence for those persons, and the expected number of persons served from each municipality and county.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 174, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 788, Sec. 1, eff. June 16, 1991; Acts 1997, 75th Leg., ch. 577, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 591, Sec. 1, eff. Sept. 1, 2001.

Sec. 461.0141. SERVICES FUNDING. (a) The commission by rule shall adopt a system of funding the provision of chemical dependency services that includes competitive and noncompetitive

procedures to:

- (1) maximize the range of treatment services available in each service region;
- (2) provide reasonable access in each region to available services; and
- (3) include local public participation in making regional funding decisions and formal funding recommendations.

(b) The system must require that the commission award each proposed chemical dependency services contract to the applicant that the commission determines has made the bid that provides the best value.

(c) In determining the best value bid for a contract under this section, the commission shall consider:

- (1) the quality of the proposed service;
- (2) cost;
- (3) the applicant's ability to:
 - (A) perform the contract;
 - (B) provide the required services; and
 - (C) provide continuity of service;
- (4) whether the applicant can perform the contract or provide the services within the period required, without delay or interference;
- (5) the applicant's history of:
 - (A) contract performance; and
 - (B) compliance with the laws relating to the applicant's business operations and the affected services;
- (6) whether the applicant's financial resources are sufficient to perform the contract and to provide the services;
- (7) whether necessary or desirable support and ancillary services are available to the applicant;
- (8) the degree of community support for the applicant;
- (9) the quality of the facilities and equipment available to or proposed by the applicant;
- (10) the ability of the applicant to meet all applicable written commission policies, principles, and regulations;
- (11) state investment in the applicant; and
- (12) other factors the commission determines relevant.

(d) Rules adopted under this section must set out the commission's provider selection processes, including:

- (1) service purchase methods;
- (2) eligibility criteria;
- (3) provider selections criteria; and
- (4) selection determination procedures.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0142. FUNDING POLICY MANUAL. (a) The commission shall publish a funding policy manual that explains:

- (1) the commission's funding priorities and provider selection criteria; and
- (2) the methods the commission used to develop funding policies.

(b) The commission shall update the manual annually.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.0143. UNIT RATE REIMBURSEMENT. (a) The commission shall study the procurement of and payment for chemical dependency treatment services on a unit rate reimbursement basis.

(b) If the commission determines, after consideration of the study, that procurement of and payment for chemical dependency treatment services on a unit rate reimbursement basis in appropriate areas of the state would result in obtaining the highest quality treatment services at the best price and the lowest administrative cost to the commission, the commission shall adopt a unit rate reimbursement system for those services. The system must:

- (1) include competitive procurement;
- (2) monitor provider performance;
- (3) monitor the reasonableness of provider costs and expenditures;
- (4) verify provider costs before and after a contract term to ensure rates are set appropriately;
- (5) ensure accountability of providers; and
- (6) contain costs.

(c) The commission may procure and pay for chemical dependency prevention and intervention services under a unit rate

reimbursement system when the commission determines it is appropriate.

(d) In this section, "unit rate reimbursement" means reimbursement for a service paid at a specified rate for a unit of the service provided to a client multiplied by the number of units provided.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 7, eff. Sept. 1, 1997.

Sec. 461.015. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission by rule shall establish methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notification:

(1) on each registration form, application, or written contract for services of a person or entity regulated or authorized by this chapter;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this chapter; or

(3) in a bill for service provided by a person or entity regulated or authorized by this chapter.

(c) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and to the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the complainant and each person or entity complained about of the status of the complaint unless notice would jeopardize an undercover investigation.

(d) The commission shall keep information about each complaint filed with the commission. The information must include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint;

(6) an explanation of the reason the complaint was closed without action, for complaints on which the commission took no action.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 577, Sec. 5, eff. Sept. 1, 1997.

Sec. 461.016. COOPERATION WITH COMMISSION. (a) Each department, agency, officer, and employee of the state, when requested by the commission, shall cooperate with the commission in appropriate activities to implement this chapter.

(b) This section does not give the commission control over existing facilities, institutions, or agencies or require the facilities, institutions, or agencies to serve the commission in a manner that is inconsistent with their functions, the authority of their offices, or the laws and rules governing their activities.

(c) This section does not authorize the commission to use a private institution or agency without its consent or to pay a private institution or agency for services that a public institution or agency is willing and able to provide.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 461.017. ADVISORY COMMITTEE ON REDUCING DRUG DEMAND. (a) The Drug Demand Reduction Advisory Committee is composed of the following members:

(1) five representatives of the public from different geographic regions of the state who have knowledge and expertise in issues relating to reducing drug demand and who are appointed by the executive director of the Texas Commission on Alcohol and Drug Abuse; and

(2) one representative of each of the following agencies or offices who is appointed by the executive director or commissioner of the agency or office and who is directly involved in

the agency's or office's policies, programs, or funding activities relating to reducing drug demand:

- (A) the criminal justice division of the governor's office;
- (B) the Criminal Justice Policy Council;
- (C) the Department of Protective and Regulatory Services;
- (D) the Department of Public Safety of the State of Texas;
- (E) the Health and Human Services Commission;
- (F) the Texas Alcoholic Beverage Commission;
- (G) the Texas Commission on Alcohol and Drug Abuse;
- (H) the Texas Council on Offenders with Mental Impairments;
- (I) the Texas Department of Criminal Justice;
- (J) the Texas Department of Health;
- (K) the Texas Department of Human Services;
- (L) the Texas Department of Mental Health and Mental Retardation;
- (M) the Texas Education Agency;
- (N) the Texas Juvenile Probation Commission;
- (O) the Texas Youth Commission;
- (P) the Texas Rehabilitation Commission;
- (Q) the Texas Workforce Commission;
- (R) the Texas Department of Transportation;
- (S) the comptroller of public accounts; and
- (T) the adjutant general's department.

(b) The representative of the Texas Commission on Alcohol and Drug Abuse shall serve as the presiding officer of the Drug Demand Reduction Advisory Committee. The commission may provide administrative support to the committee.

(c) The Drug Demand Reduction Advisory Committee shall meet at least once in each quarter of each calendar year on dates determined by the committee.

(d) The Drug Demand Reduction Advisory Committee shall serve as a single source of information for the governor, the legislature, and the public about issues relating to reducing drug demand, including available prevention programs and services.

(e) The Drug Demand Reduction Advisory Committee shall develop a statewide strategy to reduce drug demand. The strategy must:

(1) incorporate multidisciplinary approaches using current empirical research;

(2) include performance-based measurement and accountability standards, short-term objectives, and ten-year targets for reducing drug demand;

(3) coordinate, to the extent possible, the efforts of private sector entities and local, state, and federal agencies, including the Office of National Drug Control Policy and the United States Drug Enforcement Administration, to reduce drug demand; and

(4) provide opportunities for representatives from the public and private sectors to comment on the committee's activities and make recommendations related to the strategy.

(f) The Drug Demand Reduction Advisory Committee shall identify lead or contributing agencies or offices that shall implement the strategy described in Subsection (e). The committee shall coordinate the implementation of the strategy by those agencies or offices.

(g) The Drug Demand Reduction Advisory Committee may establish additional advisory committees composed of representatives from governmental entities and the private sector to assist the committee in carrying out its duties.

(h) Not later than January 15 of each odd-numbered year, the Drug Demand Reduction Advisory Committee shall present to the governor, the lieutenant governor, and the speaker of the house of representatives a report that states:

(1) the committee's progress in developing and coordinating the strategy described in Subsection (e);

(2) the status and funding of state programs relating to reducing drug demand; and

(3) recommendations for legislation to address issues involved in reducing drug demand.

Added by Acts 2001, 77th Leg., ch. 239, Sec. 1, eff. May 22, 2001.
Amended by Acts 2003, 78th Leg., ch. 862, Sec. 1, eff. June 20,

2003.

Sec. 461.018. COMPULSIVE GAMBLING PROGRAM. (a) The commission shall establish a program for:

(1) public education, research, and training regarding problem or compulsive gambling; and

(2) the treatment and prevention of problem or compulsive gambling.

(b) The commission's program under Subsection (a) must include:

(1) establishing and maintaining a list of webpages and toll-free "800" telephone numbers of nonprofit entities that provide crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling;

(2) promoting public awareness regarding the recognition and prevention of problem or compulsive gambling;

(3) facilitating, through in-service training and other means, the availability of effective assistance programs for problem or compulsive gamblers; and

(4) conducting studies to identify adults and juveniles in this state who are, or who are at risk of becoming, problem or compulsive gamblers.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 11. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.72(a), eff. Sept. 1, 2003.