

HEALTH & SAFETY CODE
CHAPTER 464. FACILITIES TREATING ALCOHOLICS AND DRUG-DEPENDENT
PERSONS

SUBCHAPTER A. REGULATION OF CHEMICAL DEPENDENCY TREATMENT
FACILITIES

Sec. 464.001. DEFINITIONS. In this subchapter:

- (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" has the meaning assigned by Chapter 481 (Texas Controlled Substances Act).
- (4) "Treatment" means a planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs.
- (5) "Treatment facility" means:
 - (A) a public or private hospital;
 - (B) a detoxification facility;
 - (C) a primary care facility;
 - (D) an intensive care facility;
 - (E) a long-term care facility;
 - (F) an outpatient care facility;
 - (G) a community mental health center;
 - (H) a health maintenance organization;
 - (I) a recovery center;
 - (J) a halfway house;
 - (K) an ambulatory care facility; or
 - (L) any other facility that offers or purports to offer treatment.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 180, eff. Sept. 1, 1991.

Sec. 464.002. LICENSE REQUIRED. A person may not offer or purport to offer chemical dependency treatment without a license issued under this subchapter, unless the person is exempted under Subchapter C or is working for or providing counseling with a program exempted under Subchapter C.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 180, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 663, Sec. 3, eff. Sept. 1, 1997.

Sec. 464.003. EXEMPTIONS. This subchapter does not apply to:

- (1) a facility maintained or operated by the federal government;
- (2) a facility directly operated by the state;
- (3) a facility licensed by the Texas Department of Health ;
- (4) an educational program for intoxicated drivers;
- (5) 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;
- (6) an individual who personally provides counseling or support services to a chemically dependent person but does not offer or purport to offer a chemical dependency treatment program; or
- (7) a 12-step or similar self-help chemical dependency recovery program:
 - (A) that does not offer or purport to offer a chemical dependency treatment program;
 - (B) that does not charge program participants; and
 - (C) in which program participants may maintain anonymity.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 180, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 410, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 8, eff. Sept. 1, 1997.

Sec. 464.004. LICENSE APPLICATION AND ISSUANCE. (a) To receive a license to operate a treatment facility to treat chemically dependent persons, a person must:

(1) file a written application on a form prescribed by the commission;

(2) cooperate with the review of the facility; and

(3) comply with the licensing standards.

(b) The commission shall issue a license to an applicant:

(1) whose application meets the content requirements of the commission; and

(2) who receives approval of the facility after the commission's review; and

(3) who timely complies with the licensing standards.

(c) The license is issued only for the person named in the license and not the legal successors of that person.

(d) The license expires two years after the date on which the license is issued.

(e) A license may be issued without prior notice and an opportunity for a hearing. A person other than the applicant and commission may not contest the issuance of a license.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 181, eff. Sept. 1, 1991.

Sec. 464.005. LICENSE RENEWAL. (a) The commission shall provide renewal application forms and information relating to renewal procedures to each license holder.

(b) The commission may require an inspection before renewing a license.

(c) The commission may establish deadlines for receiving and acting on renewal applications.

(d) A license may be renewed without prior notice and an opportunity for a hearing. A person other than the applicant and commission may not contest the renewal of a license.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 181, eff. Sept. 1, 1991.

Sec. 464.006. INSPECTIONS. The commission or its representative may without notice enter the premises of a treatment facility at reasonable times, including any time treatment services are provided, to conduct an inspection or investigation the commission considers necessary.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 182, eff. Sept. 1, 1991.

Sec. 464.007. APPLICATION AND INSPECTION FEES. (a) The commission shall charge nonrefundable application and review fees for a license or renewal license. The commission may charge a fee for approving a facility to treat court committed clients.

(b) If the General Appropriations Act does not specify the amount of the fee, the commission shall establish reasonable fees to administer this subchapter in amounts necessary for the fees to cover at least 50 percent of the costs of the licensing program.

(c) The commission may not maintain unnecessary fund balances.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 183, eff. Sept. 1, 1991.

Sec. 464.008. ALCOHOL AND DRUG ABUSE TREATMENT LICENSURE FUND. All application and inspection fees collected by the commission under this subchapter are subject to Subchapter F, Chapter 404, Government Code .

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 577, Sec. 8, eff. Sept. 1, 1997.

Sec. 464.009. RULES AND STANDARDS. (a) The commission shall license treatment facilities in a manner consistent with state and federal law and rules, including commission licensing standards.

(b) The commission shall adopt rules for:

(1) a treatment facility's organization and structure, policies and procedures, and minimum staffing requirements;

(2) the services to be provided by a facility, including:

(A) the categories of services the facility may provide;

(B) the client living environment the facility requires; and

(C) the requirement that a facility provide discharge planning and client follow-up contact;

(3) client rights and standards for medication, nutrition, and emergency situations;

(4) the client records kept by a facility;

(5) the general physical plant requirements for a facility, including environmental considerations, fire protection,

safety, and other conditions to ensure the health and comfort of the clients;

(6) standards necessary to protect the client, including standards required or authorized by federal or other state law; and

(7) the approval of a facility to treat adult or minor clients who are referred by the criminal justice system or by a court order for involuntary civil or criminal commitment or detention.

(c) The commission shall adopt rules to protect the rights of individuals receiving services from a treatment facility and to maintain the confidentiality of client records as required by state and federal law.

(d) The commission by rule may not restrict competitive bidding or advertising by a facility regulated by the commission except to prohibit false, misleading, or deceptive practices by the facility. However, those rules may not:

(1) restrict the facility's use of any medium for advertising;

(2) restrict in an advertisement the personal appearance of a person representing the facility or the use of that person's voice;

(3) regulate the size or duration of an advertisement by the facility; or

(4) restrict the facility's advertisement under a trade name.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 184, eff. Sept. 1, 1991.

Sec. 464.0095. RESTRAINT AND SECLUSION. A person providing services to a client at a treatment facility shall comply with Chapter 322 and the rules adopted under that chapter.

Added by Acts 2005, 79th Leg., ch. 698, Sec. 5, eff. Sept. 1, 2005.

Sec. 464.010. REPORTS OF ABUSE OR NEGLECT. (a) A person, including treatment facility personnel, who believes that a client's physical or mental health or welfare has been, is, or will be adversely affected by abuse or neglect caused by any person shall report the facts underlying that belief to the commission. This requirement is in addition to the requirements prescribed by Chapter 261, Family Code, and Chapter 48, Human Resources Code.

(b) The commission shall prescribe procedures for the investigation of reports under Subsection (a) and for coordination with law enforcement agencies or other agencies.

(c) An individual who in good faith reports to the commission under this section is immune from civil or criminal liability based on the report. That immunity extends to participation in a judicial proceeding resulting from the report but does not extend to an individual who caused the abuse or neglect.

(d) The commission may request the attorney general's office to file a petition for temporary care and protection of a client of a residential treatment facility if it appears that immediate removal of the client is necessary to prevent further abuse.

(e) All records made by the commission during its investigation of alleged abuse or neglect are confidential and may not be released except that the release may be made:

(1) on court order;

(2) on written request and consent of the person under investigation or that person's authorized attorney; or

(3) as provided by Section 464.011.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 185, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 7.44, eff. Sept. 1, 1997.

Sec. 464.011. DISCLOSURE OF COMMISSION RECORDS. Unless prohibited or limited by federal or other state law, the commission may make its licensing and investigatory records that identify a client available to a state or federal agency or law enforcement authority on request and for official purposes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 186, eff. Sept. 1, 1991.

Sec. 464.012. HIV INFECTION EDUCATION, TESTING, AND COUNSELING. (a) A treatment facility licensed under this chapter shall provide to employees of the facility education regarding methods of transmitting and preventing human immunodeficiency virus infection based on the model education program developed by

the Texas Department of Health and shall make the education available to facility clients.

(b) Employees of the facility who counsel clients shall provide counseling in accordance with the model protocol for counseling related to HIV infection developed by the Texas Department of Health.

(c) A treatment facility licensed under this chapter shall make available or make referrals to voluntary, anonymous, and affordable counseling and testing services concerning human immunodeficiency virus infection.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 187, eff. Sept. 1, 1991.

Sec. 464.013. COMMISSION INTERACTION WITH TEXAS DEPARTMENT OF HEALTH AND OTHER AGENCIES. (a) Sections 464.007, 464.008, and 464.009 do not affect the powers and duties of the Texas Department of Health under Chapter 466. The commission by rule may recognize and defer to rules adopted by the Texas Board of Health under Chapter 466. The commission and the Texas Department of Health may enter into any agreements necessary to implement this subsection.

(b) The commission may enter into interagency agreements necessary to prevent duplication in regulatory activities by other agencies and to conserve state resources in relation to its on-site inspections under this subchapter.

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

Sec. 464.014. DENIAL, REVOCATION, SUSPENSION, OR NONRENEWAL OF LICENSE. (a) The commission shall deny, revoke, suspend, or refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a license holder if the applicant or license holder or the owner, director, administrator, or a clinical staff member of the facility:

(1) has a documented history of client abuse or neglect; or

(2) violates this subchapter or a rule of the commission.

(b) If a license suspension is probated, the commission may establish the conditions for completion or violation of the probation.

(c) The denial, revocation, suspension, probation, or nonrenewal takes effect on the 30th day after the date on which the notice was mailed unless:

(1) the commission secures an injunction under Section 464.015; or

(2) an administrative appeal is requested.

(d) The commission may restrict attendance at an appeals hearing to the parties and their agents. A license holder whose license is suspended or revoked may not admit new clients until the license is reissued.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 705, Sec. 3.06, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 9, eff. Sept. 1, 1997.

Sec. 464.0145. DISCIPLINARY ACTION HEARING. (a) If the commission proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) Procedures for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code.

(c) Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Added by Acts 1997, 75th Leg., ch. 577, Sec. 11, eff. Sept. 1, 1997.

Sec. 464.015. INJUNCTION. (a) The commission may petition a district court to restrain a person or facility that violates the rules, standards, or licensing requirements provided under this subchapter in a manner that causes immediate threat to the health and safety of individual clients.

(b) A suit for injunctive relief, civil penalties authorized by Section 464.017, or both, must be brought in Travis County or the county in which the violation occurs.

(c) A district court, on petition of the commission, the attorney general, or a district or county attorney, and on a finding by the court that a person or facility is violating or has violated this subchapter or a standard adopted under this subchapter, shall grant any prohibitory or mandatory injunctive relief warranted by

the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) The court granting injunctive relief shall order the person or facility to reimburse the commission and the party bringing the suit for all costs of investigation and litigation, including reasonable attorney's fees, reasonable investigative expenses, court costs, witness fees, deposition expenses, and civil administrative costs.

(e) At the request of the commission, the attorney general or the appropriate district or county attorney shall institute and conduct a suit authorized by Subsection (a) in the name of this state.

(f) On his own initiative, the attorney general or a district attorney or county attorney may maintain an action for injunctive relief in the name of the state for a violation of this subchapter or a standard adopted under this subchapter.

(g) The injunctive relief and civil penalty authorized by this section and Section 464.017 are in addition to any other civil, administrative, or criminal penalty provided by law.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 188, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 705, Sec. 3.07, eff. Sept. 1, 1993.

Sec. 464.016. CRIMINAL PENALTY. (a) A person commits an offense if the person establishes, conducts, manages, or operates a treatment facility without a license. Each day of violation constitutes a separate offense.

(b) A person commits an offense if the person intentionally, maliciously, or recklessly makes a false report under Section 464.010.

(c) A person commits an offense if the person has reasonable grounds to suspect that abuse or neglect of a client may have occurred and does not report the suspected or possible abuse or neglect.

(d) An offense under this section is a Class A misdemeanor. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 189, eff. Sept. 1, 1991.

Sec. 464.017. CIVIL PENALTY. (a) A person or facility is subject to a civil penalty of not more than \$25,000 for each day of violation and for each act of violation of this subchapter or a rule adopted under this subchapter. In determining the amount of the civil penalty, the court shall consider:

- (1) the person's or facility's previous violations;
- (2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (3) whether the health and safety of the public was threatened by the violation;
- (4) the demonstrated good faith of the person or facility; and
- (5) the amount necessary to deter future violations.

(b) The commission may:

(1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section 464.015; or

(2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief

(c) At the request of the commission, the attorney general or the appropriate district or county attorney shall institute and conduct the suit authorized by Subsection (b) in the name of this state. The commission and the party bringing the suit may recover reasonable expenses incurred in obtaining civil penalties, including investigation costs, court costs, reasonable attorney fees, witness fees, and deposition expenses.

(d) The civil penalty authorized by this section is in addition to any other civil, administrative, or criminal penalty provided by law.

(e) On his own initiative, the attorney general, a district attorney, or a county attorney may maintain an action for civil penalties in the name of the state for a violation of this subchapter or a standard adopted under this subchapter.

(f) Penalties collected under this section by the attorney general shall be deposited to the credit of the alcohol and drug abuse treatment licensure fund account. Penalties collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

(g) The commission and the party bringing the suit may recover reasonable expenses incurred in obtaining civil penalties, including investigation costs, court costs, reasonable attorney fees, witness fees, and deposition expenses.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 705, Sec. 3.08, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 577, Sec. 10, eff. Sept. 1, 1997.

Sec. 464.018. NOTICE OF SUIT. Not later than the seventh day before the date on which the attorney general intends to bring suit on his own initiative under Section 464.015 or 464.017, the attorney general shall provide to the commission notice of the suit. The attorney general is not required to provide notice of a suit if the attorney general determines that waiting to bring suit until the notice is provided will create an immediate threat to the health and safety of a client. This section does not create a requirement that the attorney general obtain the permission of or a referral from the commission before filing suit. Added by Acts 1993, 73rd Leg., ch. 705, Sec. 3.09, eff. Sept. 1, 1993.

Sec. 464.019. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty against a person licensed or regulated under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty for a violation may be in an amount not to exceed \$25,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) enforcement costs relating to the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) If the executive director determines that a violation has occurred, the director may issue to the commission a report that states the facts on which the determination is based and the director's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the commissioner or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the commissioner, the board by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the commissioner shall set a hearing and give notice of the hearing to the person. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the board's order given to the person under Chapter 2001, Government Code must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the board's order is final as provided by Subchapter F, Chapter 2001, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition

for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commissioner by certified mail.

(1) The commissioner on receipt of a copy of an affidavit under Subsection (k)(2) may file with the court within five days after the date the copy is received a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commissioner may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the board:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 3.09, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), (53), (59), eff. Sept. 1, 1995.

Sec. 464.0195. RECOVERY OF COSTS. If the attorney general brings an action to enforce an administrative penalty assessed under Section 464.019 and the court orders the payment of the penalty, the attorney general may recover reasonable expenses incurred in the investigation, initiation, or prosecution of the enforcement suit, including investigative costs, court costs, reasonable attorney fees, witness fees, and deposition expenses. Added by Acts 1993, 73rd Leg., ch. 705, Sec. 2.091, eff. Sept. 1,

1993.

Sec. 464.020. ADDITIONAL REQUIREMENTS FOR DISCIPLINARY ALTERNATIVE EDUCATION TREATMENT PROGRAMS. (a) A disciplinary alternative education program under Section 37.008, Education Code, may apply for a license under this chapter to offer chemical dependency treatment services.

(b) The board of trustees of a school district with a disciplinary alternative education program, or the board's designee, shall employ a mental health professional, as defined by Section 164.003, to provide the services authorized by a license issued under this chapter to the disciplinary alternative education program.

(c) The commission may not issue a license that authorizes a disciplinary alternative education program to provide detoxification or residential services.

(d) The board of trustees of a school district with a disciplinary alternative education program, or the board's designee, may contract with a private treatment facility or a person employed by or under contract with a private treatment facility to provide chemical dependency treatment services. The contract may not permit the services to be provided at a site that offers detoxification or residential services. Section 164.006 applies to a contract made under this section.

Added by Acts 1999, 76th Leg., ch. 1112, Sec. 2, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 29, eff. June 20, 2003.

SUBCHAPTER B. COUNTY CONTRACTS WITH ALCOHOLISM PROGRAMS AND CENTERS

Sec. 464.031. DEFINITIONS. In this subchapter:

(1) "Alcoholism program or center" means a public or private alcoholism prevention, intervention, treatment, or rehabilitation program or center.

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

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

Sec. 464.032. COUNTY CONTRACTS WITH ALCOHOLISM PROGRAMS OR CENTERS. (a) A county or a group of counties acting together may contract with an alcoholism program or center to provide prevention, treatment, and rehabilitation services to persons suffering from alcoholism or at risk of becoming alcoholics.

(b) The county or group of counties may contract only with a program or center included in a list submitted under Section 464.034.

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

Sec. 464.033. APPLICATION FOR CONTRACT. (a) To be eligible to contract with a county, an alcoholism program or center providing prevention or intervention services must submit an application to the regional alcoholism advisory committee established by the commission to serve the area in which the program or center is located or in which the program or center will provide services.

(b) To be eligible to contract with a county, an alcoholism program or center providing treatment or rehabilitation services must:

(1) submit an application as provided by Subsection (a); and

(2) be licensed by the commission.

(c) A regional alcoholism advisory committee shall adopt rules governing the procedure for submitting an application.

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

Sec. 464.034. REVIEW OF CONTRACT APPLICATIONS; LIST. (a) A regional alcoholism advisory committee shall:

(1) review each application received; and

(2) rank the applications using guidelines established by the commission for reviewing funding applications.

(b) At least twice each year, each regional alcoholism advisory committee shall submit a ranked list of all applications received during the preceding six months to each county in the region the committee serves.

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

Sec. 464.035. PAYMENT OF CONTRACT AMOUNTS. To pay for services provided under a contract with an alcoholism program or center, the commissioners court by order may dedicate for payment to the program or center a percentage of the money received by the county as fines for alcohol-related offenses committed while operating a motor vehicle under Sections 49.04 and 49.07, Penal

Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.41, eff. Sept. 1, 1995.

SUBCHAPTER C. FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAMS

Sec. 464.051. DEFINITIONS. In this subchapter:

(1) "Chemical dependency" has the meaning assigned by Section 464.001.

(2) "Commission" has the meaning assigned by Section 464.001.

(3) "Religious organization" means a church, synagogue, mosque, or other religious institution:

(A) the purpose of which is the propagation of religious beliefs; and

(B) that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed as an exempt organization under Section 501(c) of that code (26 U.S.C. Section 501(c)).

(4) "Treatment" has the meaning assigned by Section 464.001.

(5) "Treatment facility" has the meaning assigned by Section 464.001.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.052. EXEMPTION FOR FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAM. (a) Subchapter A does not apply to a chemical dependency treatment program that:

(1) is conducted by a religious organization;

(2) is exclusively religious, spiritual, or ecclesiastical in nature;

(3) does not treat minors; and

(4) is registered under Section 464.053.

(b) The commission may not prohibit the use, by a program exempted under this subchapter, of the term "counseling," "treatment," or "rehabilitation."

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.053. EXEMPT PROGRAM REGISTRATION. The commission by rule shall establish a simple procedure for a faith-based chemical dependency treatment program to register the program's exemption under Section 464.052.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.054. MEDICAL SERVICES PROHIBITED. A program exempted under this subchapter may not provide medical care, medical detoxification, or medical withdrawal services.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.055. REPRESENTATIONS IN PROGRAM ADVERTISING OR LITERATURE. A program exempted under this subchapter shall conspicuously include in any advertisement or literature that promotes or describes the program or the program's chemical dependency treatment services the following statement:

"The treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Texas Commission on Alcohol and Drug Abuse. This program offers only nonmedical treatment and recovery methods such as prayer, moral guidance, spiritual counseling, and scriptural study."

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.056. DECLARATION ON ADMISSION. (a) A program exempted under this subchapter may not admit a person unless the person signs the following statement on admission:

"DECLARATION:

"I understand that:

(1) the treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Texas Commission on Alcohol and Drug Abuse; and

(2) (name of program) offers only nonmedical treatment and recovery methods, such as prayer, moral guidance, spiritual counseling, and scriptural study."

signed _____ date _____

(b) The program shall:

(1) keep the original signed statement on file; and

(2) provide a copy of the signed statement to the person admitted.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.057. REVOCATION OF EXEMPTION. The commission may revoke the exemption after notice and hearing if:

(1) the organization conducting the program fails to timely inform the commission of any material change in the program's registration information;

(2) any program advertisement or literature fails to include the statements required by Section 464.055; or

(3) the organization violates this subchapter or a commission rule adopted under this subchapter.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.058. GENERAL DIRECTIVE TO STATE AGENCIES. A state agency may not deny to an individual a state or federal social service benefit on the basis that the individual is participating in a faith-based residential chemical dependency treatment program.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.059. RELIGION NOT ENDORSED. This subchapter is not intended to aid religion. This subchapter is intended to aid chemically dependent persons by supporting programs that serve the valid public purpose of combating chemical dependency, regardless of whether the programs are religious, spiritual, or ecclesiastical in nature. The exemption of faith-based chemical dependency treatment programs from licensure and regulation is not an endorsement or sponsorship by the state of the religious character, expression, beliefs, doctrines, or practices of the treatment programs.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.060. DIRECT PUBLIC FUNDING PROHIBITED. A program exempted under this subchapter is not eligible to compete against a licensed program for direct federal or state treatment funding.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.

Sec. 464.061. EFFECT ON HEALTH AND SAFETY DUTIES OR POWERS. This subchapter does not affect the authority of a local, regional, or state health department official, the state fire marshal, or a local fire prevention official to inspect a facility used by a program exempted under this subchapter.

Added by Acts 1997, 75th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1997.