TEXAS DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 448
SUBSTANCE ABUSE
STANDARDS OF CARE RULES

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SUBCHAPTER A. DEFINITIONS.

§448.101. Definitions.
The words and terms used in this chapter shall have meanings set forth in 40 TEX. ADMIN. CODE ch. 141 (2004), of this title (relating to General Provisions) unless the context clearly indicates otherwise.

§448.102. Purpose.
The purpose of these rules is to ensure that individuals seeking substance abuse services are offered an efficient, effective, and appropriate continuum of services that will enable them to lead a normal life as a productive member of society. These rules further serve to protect the health, safety, and welfare of those receiving substance abuse services.

§448.103. Scope of Rule.
(a) All providers shall comply with the provisions of Subchapter B in all matters related to the provision of services.
(b) Providers who offer or purport to offer chemical dependency treatment and are not exempt from licensure under TEX. HEALTH & SAFETY CODE ANN. ch. 464 (Vernon 2001) are also required to comply with the provisions of Subchapter D through Subchapter N.
(c) Providers who engage in prevention or intervention activities shall also comply with the requirements of Subchapter C, and §448.703 of this title (relating to Abuse, Neglect and Exploitation).

SUBCHAPTER B. STANDARD OF CARE APPLICABLE TO ALL PROVIDERS.

§448.201. General Standard.
The provider shall provide adequate and appropriate services consistent with best practices and industry standards. The provider shall maintain objectivity. The provider shall respect each individual's dignity, and shall not engage in any action that may cause injury and shall always act with integrity in providing services.

§448.202. Scope of Practice.
The provider shall recognize the limitations of their ability and shall not offer services outside the provider's scope of practice or use techniques that exceed their professional competence. The provider shall not make any claim, directly or by implication, that they possess professional qualifications or affiliations that they do not possess.

§448.203. Competence and Due Care.
Providers shall plan, supervise adequately, and evaluate any activity for which they are responsible. Providers shall render services carefully and promptly. Providers shall follow the technical and ethical standards related to the provision of services, strive continually to improve personal competence and quality of service delivery, and discharge their professional responsibility to the

best of their abilities. Providers are responsible for assessing the adequacy of their own competence for the responsibility to be assumed. Services shall be designed and administered as to do no harm to recipients. The provider shall always act in the best interest of the individual being served. The provider shall terminate any professional relationship that is not beneficial, or is in any way detrimental, to the individual being served.

§448.204. Appropriate Services.
Services should be appropriate for the individual's needs and circumstances, including age and developmental level, and should be culturally sensitive. Providers shall possess an understanding of the cultural norms of the individuals receiving services. Services shall be respectful and non exploitative.

§448.205. Accuracy.
The provider shall report information fairly, professionally, and accurately when providing services and when communicating with other professionals, the Commission, and the general public. Each provider shall document and assign credit to all contributing sources used in published material or public statements. Providers shall not misrepresent either directly or by implication professional qualifications or affiliations.

§448.206. Documentation.
The provider shall maintain required documentation of services provided and related transactions including financial records.

§448.207. Discrimination.
The provider shall not discriminate against any individual on the basis of gender, race, religion, age, national origin, disability (physical or mental), sexual orientation, medical condition, including HIV diagnosis or because an individual is perceived as being HIV infected. The provider may consider economic condition and financial resources in admission criteria, but economic condition shall not affect the services once an individual is admitted.

§448.208. Access to Services.
The provider shall provide access to services, including providing information about other services and alternative providers, taking into account an individual's financial constraints and special needs.

§448.209. Location.
The provider shall not offer or provide services in settings or locations that are inappropriate or harmful to individuals served or others.

§448.210. Confidentiality.
The provider shall protect the privacy of individuals served and shall not disclose confidential information without express written consent, except as permitted by law. The provider shall remain knowledgeable of, and obey, all State and Federal laws and regulations relating to confidentiality of records relating to the provision of services. The provider shall not discuss or divulge information obtained in clinical or consulting relationships except in appropriate settings

and for professional purposes that demonstrably relate to the case. Confidential information acquired during delivery of services shall be safeguarded from illegal or inappropriate use, access and disclosure or from loss, destruction or tampering. These safeguards shall protect against verbal disclosure, prevent unsecured maintenance of records, or recording of an activity or presentation without appropriate releases.

§448.211. Environment.
The provider shall provide an appropriate, safe, clean, and well-maintained environment.

§448.212. Communications.
The provider shall inform the individual receiving services about all relevant and important aspects of the service relationship.

§448.213. Exploitation.
The provider shall not exploit relationships with individuals receiving services for personal or financial gain of the provider or its personnel. The provider shall not charge exorbitant or unreasonable fees for any service. The provider shall not pay or receive any commission, consideration, or benefit of any kind related to the referral of an individual for services.

§448.214. Duty to Report.
When a provider or its personnel have knowledge of unethical conduct or practice on the part of a person or provider, they have a responsibility to report the conduct or practices to appropriate funding or regulatory bodies or to the public. Any provider or provider personnel who receive an allegation or have reason to suspect that an individual has been, is, or will be subject to abuse, neglect or exploitation by any provider shall immediately inform TCADA's investigations division. The provider shall also take immediate action to prevent or stop the abuse, neglect, or exploitation and provide appropriate care and treatment. The provider shall report allegations of child abuse or neglect to the Texas Department of Protective and Regulatory Services as required by the TEX. FAM. CODE ANN. §261.101 (Vernon 2002 & Supp. 2004). The provider shall report allegations of abuse, neglect or exploitation of elderly or disabled individuals to the Texas Department of Protective and Regulatory Services as required by the TEX. HUM. RES. CODE ANN. §48.051 (Vernon 2001 & Supp. 2004). If the allegation involves sexual exploitation, the service provider shall comply with reporting requirements listed in the TEX. CIV. PRAC. & REM. CODE ANN. §81.006 (Vernon 1997 & Supp. 2004).

§448.215. Impaired Providers.
Providers should recognize the effect of impairment on professional performance and should be willing to seek needed treatment. Where there is evidence of impairment in a colleague, a provider should be supportive of assistance or treatment. An employer shall provide access to information regarding available services to impaired employees.

§448.216. Ethics.
Providers shall adhere to established professional codes of ethics. These codes of ethics define the professional context within which the provider works, in order to maintain professional standards

and safeguard the client or participant. Provider and all of its personnel shall protect consumers and act in an ethical manner at all times.

§448.217. Specific Acts Prohibited.

In addition to the provider's general duty to provide services in a professional manner, the following acts are specifically prohibited and shall constitute a violation of these rules:

(a) Providers shall not provide services, interact with individuals receiving services, or perform any job duties while under the influence or impaired by the use of alcohol, or mood altering substances, including prescription medications not used in accordance with a physician's order.

(b) Providers shall not commit an illegal, unprofessional or unethical act (including acts constituting abuse, neglect, or exploitation).

(c) Providers shall not assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act.

(d) Providers shall not falsify, alter, destroy or omit significant information from required reports and records or interfere with their preservation.

(e) Providers shall not retaliate against anyone who reports a violation of these rules or cooperates during a review, inspection, investigation, hearing, or other related activity.

(f) Providers shall not interfere with Commission reviews, inspections, investigations, hearings, or related activities. This includes taking action to discourage or prevent someone else from cooperating with the activity.

(g) Providers shall not enter into a personal or business relationship of any type with an individual receiving services until at least two years after the last date an individual receives services from the provider.

(h) Providers shall not discourage, intimidate, harass, or retaliate against individuals who try to exercise their rights or file a grievance.

(i) Providers shall not restrict, discourage, or interfere with any communication with law enforcement, an attorney, or with the Commission for the purposes of filing a grievance.

(j) Providers shall not allow unqualified persons or entities to provide services.

(k) Provider shall not hire or utilize known sex offenders in adolescent programs or programs that house children.

(l) Providers shall prohibit adolescent clients and participants from using tobacco products on the program site. Staff and other adults (volunteers, clients, participants and visitors) shall not use tobacco products in the presence of adolescent clients or participants.

§448.218. Standards of Conduct.

(a) The facility and all of its personnel shall protect clients' rights and provide competent services.

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

(c) The facility and its personnel shall comply with TEX. HEALTH & SAFETY CODE ANN. ch. 164 (Vernon 2001 & Supp. 2003)(relating to Treatment Facilities Marketing and Admission Practices).

(d) The facility shall have written policies on staff conduct that complies with this section.

SUBCHAPTER C. STANDARDS FOR EVIDENCE-BASED PREVENTION PROGRAMS.

§448.301. Standards for Evidence-Based Prevention Programs.

As is appropriate, prevention providers shall implement programs and provide services that incorporate the following principles:

(1) Programs are designed to enhance protective factors and move toward reversing or reducing known risk factors. Program providers are trained in risk factor and protective factor theory and research.

(2) Programs are provided in a way that preserves the protective factors inherent in each culture and individual.

(3) Prevention programs are age, developmentally and culturally appropriate.

(4) Programs determine the level of risk of the target population. More intense prevention programs are required for target populations with a recognized higher level of risk.

(5) Programs implement evidence-based prevention programs appropriate for the target population(s) using universal, selective and indicated criteria. Programs have proven outcomes for the target population and are implemented with integrity and fidelity.

(6) When an evidence-based program is adapted to address the specific nature of the drug use or abuse problem in the local community, care is taken to adapt the program appropriately. The adaptation does not affect the integrity and fidelity of the program as it was designed.

(7) Programs teach skills to resist drugs when offered, strengthen personal commitments against drug use, and increase social competency. Social competency skills, as they relate to reinforcement of attitudes against drug use, include skills related to communications, peer relationships, self-efficacy, and assertiveness.

(8) Programs for adolescents include interactive methods, such as peer discussion groups, in addition to lecture-style teaching techniques.

(9) Programs include a component which targets parents or caregivers. The parent/caregiver component reinforces what the youth participants are learning, such as facts about drugs and their harmful effects. This component opens opportunities for family discussions about use of legal and illegal substances and family policies related to their use.

(10) Programs are long-term, over the school career, including the repetition necessary to reinforce the original prevention goals. School-based efforts directed at elementary and middle school students, for example, include booster sessions to help with critical transitions from middle to high school.

(11) Community programs that include media campaigns and policy changes, such as new regulations that restrict access to alcohol, tobacco, or other drugs, are accompanied by school and family interventions.

(12) Community programs strengthen norms against drug use in all drug abuse prevention settings, including the family, the school, and the community.

(13) Schools offer opportunities to reach all populations and serve as important settings for specific sub-populations at risk for drug abuse, such as children with behavior problems or learning disabilities and those who are at risk of leaving school before graduation.

(14) Programs should use formal and informal structures to receive and incorporate input from service recipients in the development, implementation and evaluation of prevention services.
(15) Programs are evaluated to determine outcomes and impact on the participants.

SUBCHAPTER D. FACILITY LICENSURE INFORMATION.

§448.401. License Required.

(a) A facility providing or offering chemical dependency treatment in Texas shall have a license issued by the Commission unless it is:
(1) a facility maintained or operated by the Federal government or its agencies;
(2) a facility directly operated by the State of Texas;
(3) a chemical dependency treatment program approved by the Texas Department of Health within a licensed general hospital, specialty hospital, or private psychiatric facility;
(4) a pharmacotherapy program licensed by the Texas Department of Health;
(5) an educational program for intoxicated drivers;
(6) an individual who personally provides support services to chemically dependent individuals but does not offer or purport to offer chemical dependency treatment;
(7) the private practice of a licensed health care practitioner or licensed chemical dependency counselor who personally renders individual or group services within the scope of the practitioner's license and in the practitioner's office;
(8) a religious organization registered under Tex. Health & Safety Code Ann. §§ 464.051-.061 (Vernon 2001 & Supp. 2004);
(9) a 12-step or similar self-help chemical dependency recovery program:
(A) that does not offer or purport to offer a chemical dependency treatment program;
(B) that does not charge program participants; and
(C) in which program participants may maintain anonymity; or
(10) a substance abuse facility or program operating under the standards adopted by the Texas Board of Criminal Justice pursuant to Chapter 509 of the TEXAS GOV'T. CODE (Vernon 1998 & Supp. 2003)

(b) The facility shall have a license for each physical location at which it provides residential services or outpatient services.
(c) A license is not transferable to a separate legal entity or to a different physical address.

§448.402. Variances.

(a) The Commission's executive director or designee may grant a temporary variance to a facility or group of facilities.
(b) To be eligible for a variance, a facility shall show:
(1) an alternative method is used to meet the intent of the rule; and
(2) the variance will not jeopardize the health, safety, or welfare of clients or compromise substance abuse services.

(c) The Commission's executive director or designee will determine if an alternative is equivalent to the written rule and when it will be accepted during licensure reviews.
(d) A variance cannot be granted for a statutory requirement.
(e) The grounds for, and term of, the variance shall be set forth in writing.

§448.403. New Licensure Application.
(a) An applicant for initial licensure shall submit a complete licensure application, operational plan as described in §448.502 of this title (relating to Operational Plan, Policies and Procedures), items outlined on the new applicant checklist, proof of liability insurance, and an application fee.
(b) Within 45 days of receipt of the application, the Commission will notify the applicant that the application is materially complete or specify the additional information required.
(c) The applicant shall submit all requested materials and correct any deficiencies identified by the Commission within specified time frames.
(d) If an on-site inspection is necessary, the Commission will conduct the inspection within 45 days of receiving a materially complete application packet. The Commission will notify the provider of any deficiencies identified during an on-site inspection within 30 days, and the provider shall provide evidence of sufficient corrective action within the timeframe specified in the inspection report.
(e) The Commission will issue the license within 45 days of receiving all required evidence of compliance and all required fees.
(f) If an applicant fails to provide evidence of compliance within six months from the date the application is received, the application will be denied. Six months after the date of denial, the applicant may reapply by submitting a new application and application fee.
(g) The applicant shall not provide chemical dependency treatment before receiving written notice of licensure approval.
(h) The facility shall display its licensure certificate prominently at each outpatient location and each approved residential site.

§448.404. Licensure Renewal.
(a) A license issued by the Commission expires two years from the date of issuance.
(b) The licensee shall file a request for renewal and pay the renewal fee at least 60 days before the license expires. Failure to file the required renewal and pay the renewal fee as specified may delay approval.
(c) The facility shall not provide services after the license expiration date unless it has submitted the application update and fee by the date of expiration.

§448.405. Changes in Status.
(a) A facility shall submit the appropriate application and fees and receive written approval before:
(1) adding a new detoxification service;
(2) adding a new residential site;
(3) moving to a new residential site; or
(4) increasing the number of beds in a residential program.
(b) If the facility fails to provide the information the Commission requires to process the change in status application within six months from the date of application, the application may be denied. The facility shall not reapply for six months from the date of denial.

(c) A facility shall also notify the Commission's licensure department in writing before adding a new residential service, day treatment service or outpatient service; adding a new outpatient site or moving an outpatient site to a new location; or providing services to a new age group or gender.
(d) A facility shall notify the Commission's facility licensure department prior to, or immediately after, a change in the organization's name, closure of a residential or outpatient location, decrease in the number of residential beds or discontinuance of a service.

§448.406. Inactive Status and Closure.
(a) Inactive Status. The Commission will automatically retire the license of a facility site in which services are suspended or not provided for more than 60 days, unless the facility sends a written request to place the license on inactive status. To be eligible for inactive status, the facility must be in good standing with no pending legal actions or investigations.

(1) If granted, inactive status is limited to 60 days. The licensee is responsible for all licensure fees and for proper maintenance of client records while on inactive status.

(2) To reactivate the license, the facility shall submit a written request to reactivate the license no later than the date the inactivation period expires.

(3) If the license is not reactivated, it will be automatically retired at the end of the 60 day deactivation period.

(b) Closure. The facility shall notify the Commission's facility licensure department in writing prior to or immediately upon closure of a chemical dependency treatment program.

(1) A license becomes invalid when a program closes. The licensure certificate shall be returned to the Commission's licensure department within 30 days.

(2) When a facility closes, the provider shall ensure that all clients are appropriately discharged or transferred before the program closes and make appropriate arrangements for properly maintaining client records in compliance with Federal and State law and Commission rules.

§448.407. Licensure Inspection.
The Commission may conduct a scheduled or unannounced inspection or request materials for review at reasonable times, including any time treatment services are provided. The facility shall allow Commission staff to access the facility's grounds, buildings, and records. The facility shall allow Commission staff to interview members of the governing body, staff, and clients. The facility shall make all property, records, and documents available upon request for examination, copy, or reproduction, on or off premises.

§448.408. Licensure Fees.
(a) A facility shall pay the full licensure fee for any licensure period during which it provides chemical dependency treatment. Failure to notify the Commission's licensure department of closure does not excuse a licensee from paying fees.
(b) Fees shall be paid in full by cashier's check, or money order.
*(c) The schedule for licensure fees is:

(1) base fee--$1,200;

(2) fee per residential and outpatient site--$125;

(3) fee per bed--$35;

* Reflects Fee Change Effective 2/1/2006

(d) A $25 fee is charged for a printed list of licensed facilities, a set of mailing labels for licensed facilities, or a replacement certificate.
(e) Licensure fees are not refundable.

§448.409. Action Against a License.
(a) The Commission may take action as described herein against an applicant for licensure or a facility if the applicant, licensee, owner, member of the governing body, administrator, or clinical staff member, or any other personnel associated with the applicant or licensee:

(1) has a documented history of client abuse, exploitation, or neglect;
(2) violates any provision of TEX. HEALTH & SAFETY CODE ANN. ch. 464 (Vernon 2001 & Supp. 2004), or any other applicable statute, or a Commission rule; or
(3) owes the Commission money.

(b) Action taken may include:

(1) suspending or revoking a license;
(2) refusing to issue or renew a license;
(3) placing a facility on probation when the facility's license has been suspended;
(4) imposing an administrative penalty; and
(5) any other action allowed under the law or these rules.

(c) The Commission will determine the length of probation or suspension. The Commission may hold a hearing at any time and revoke probation or suspension.
(d) Surrender or expiration of a license does not interrupt an investigation or action taken against a license. The facility is not eligible to regain the license until all outstanding investigations, disciplinary proceedings, or hearings are resolved and the licensee is found to have acted in compliance with these rules.
(e) If a facility has its license revoked, its governing body, administrators, and management are not eligible to apply for, or be associated with an application for facility licensure until they have petitioned the Commission and demonstrated the following:

(1) they were not directly involved in, aware of, or responsible for the acts or omissions that were the basis of the revocation; or
(2) sufficient time has passed to allow the events that led to the revocation to no longer serve as the basis of denial of application for licensure.

(f) After an investigation has been initiated by the Commission, or a facility's license has been revoked or surrendered, a facility is not eligible to receive a faith-based exemption under Subchapter O of this title (relating to Faith-Based Chemical Dependency Programs) until two years have elapsed.

SUBCHAPTER E. FACILITY REQUIREMENTS.

§448.501. Facility Organization.
(a) Governing Body. If incorporated, the facility shall have a governing body and shall have legal authority to operate in the State of Texas. If the organization is governed by a board of directors, the board shall meet with sufficient frequency to monitor the quality of care provided and maintain

minutes for each meeting. The governing body shall ensure that members are provided training regarding their responsibilities and liabilities.
(b) Organizational Structure. The facility shall maintain current documentation of the organization's staffing structure, including lines of supervision and the number of staff members for each position.
(c) Facility Contact Information. The facility shall provide the Commission's facility licensure department with a current mailing address, electronic mail address (if any), contact name, and contact phone number in writing or through electronic mail and shall update that information in writing or through electronic mail when there are changes. The facility is deemed to have received any correspondence or notice mailed to the address provided.

§448.502. Operational Plan, Policies and Procedures.
(a) The facility shall operate according to an operational plan. The operational plan shall reflect:
(1) program purpose or mission statement;
(2) services and how they are provided;
(3) description of the population to be served; and
(4) goals and objectives of the program.
(b) The facility shall adopt and implement written policies and procedures as deemed necessary by the facility and as required herein. The policies and procedures shall contain sufficient detail to ensure compliance with all applicable Commission rules.
(c) The policy and procedure manual shall be current, consistent with program practices, individualized to the program, and easily accessible to all staff at all times.

§448.503. Reporting Measures.
Facilities shall submit the following information annually, electronically or in paper form, in a format provided by the Commission, unless a current contract with TCADA is in effect:
(1) total number of clients served by diagnosis;
(2) gender of clients served;
(3) ethnicity of clients served;
(3) ages of clients served;
(4) primary and secondary drug at admission;
(5) discharge reason per treatment episode, including length of stay at time of discharge; and
(6) average percent of occupancy for each residential program.

§448.504. Quality Management.
The facility shall develop procedures and implement a quality management process. The procedures shall address at a minimum:
(1) goals and objectives that relate to the program purpose or mission statement;
(2) methods to review the progress toward the goals and a documented process to implement corrections or changes;
(3) a mechanism to review and analyze incident reports, monitor compliance with rules and other requirements, identify areas where quality is not optimal and procedures to analyze identified issues, implement corrections, and evaluate and monitor their ongoing effectiveness;

(4) methods of utilization review to ensure appropriate client placement, adequacy of services provided and length of stay; and
(5) documentation of the activities of the quality management process.

§448.505. General Environment.
(a) The facility shall comply with applicable requirements of the Americans with Disabilities Act (ADA). The facility shall maintain documentation that it has conducted a self-inspection to evaluate compliance and implemented a corrective action plan, as necessary, with reasonable time frames to address identified deficiencies.
(b) The facility shall have a certificate of occupancy from the local authority that reflects the current use by the occupant or documentation that the locality does not issue occupancy certificates.
(c) The site, including grounds, buildings, electrical and mechanical systems, appliances, equipment, and furniture shall be structurally sound, in good repair, clean, and free from health and safety hazards.
(d) The facility shall provide a safe, clean, well-lighted and well-maintained environment.
(e) The facility shall have adequate space, furniture, and supplies.
(f) The facility shall have private space for confidential interactions, including all group counseling sessions.
(g) The facility shall prohibit smoking inside facility buildings and vehicles and during structured program activities. If smoking areas are permitted, they shall be clearly marked as designated smoking areas and shall not be less than 15 feet from any entrance to any building(s) and comply with local codes and ordinances. Staff shall not provide or facilitate client access to tobacco products.
(h) The facility shall prohibit firearms and other weapons, alcohol, illegal drugs, illegal activities, and violence on the program site or at or during the course of any program activity, except as provided for in paragraphs (1) and (2) of this subsection. The facility shall be responsible for any noncompliance with this subsection.
(1) The facility may allow a clergy member to bring four ounces or less of alcohol on site or to a program activity for purposes of presiding over a religious or spiritual rite, as long as the alcohol remains in the possession, custody, or control of the presiding clergy member at all times while on the program site or at the program activity, is not distributed, and is consumed only by the presiding clergy member, if at all.
(2) The facility shall inform any clergy member bringing alcohol on site or to a program activity under paragraph (1) of this subsection of the requirements of this subsection. The facility shall create and maintain documentation, which shall be available to staff of the Department of State Health Services upon request, reflecting each date and time when alcohol is permitted to be brought onto the program site or to a program activity pursuant to this subsection. The documentation shall include the name, address, and title of the clergy member, and shall document staff verification that the clergy member was self-identified as such, that alcohol was brought on site or to a program activity and that it was thereafter either removed from the site or program activity, or represented by the presiding clergy member to have been personally consumed.

(i) Animals shall be properly vaccinated and supervised.

§448.506. Required Postings.
(a) The facility shall post a legible copy of the following documents in a prominent public location that is readily available to clients, visitors, and staff:
(1) the Client Bill of Rights;
(2) the Commission's current poster on reporting complaints and violations; and
(3) the client grievance procedure.
(b) These documents shall be displayed in English and in a second language(s) appropriate to the population(s) served at every location where services are provided.

§448.507. General Documentation Requirements.
(a) The facility shall keep complete, current documentation.
(b) All documents shall be factual and accurate.
(c) All documents and entries shall be dated and authenticated by the person responsible for the content.
(1) Authentication of paper records shall be an original signature that includes at least the first initial, last name, and credentials. Initials may be used if the client record includes a

document that identifies all individuals initialing entries, including the full printed name, signature, credentials, and initials.

(2) Authentication of electronic records shall be by a digital authentication key.

(d) Documentation shall be permanent and legible.

(e) When it is necessary to correct a client record, incident report, or other document, the error shall be marked through with a single line, dated, and initialed by the writer.

(f) Records shall contain only those abbreviations included on the facility's list of approved abbreviations.

§448.508. Client Records.

(a) The facility shall establish and maintain a single record for every client beginning at the time of admission. The content of client records shall be complete, current, and well organized.

(b) The facility shall protect all client records and other client-identifying information from destruction, loss, tampering, and unauthorized access, use or disclosure.

(1) All active client records shall be stored at the facility. Inactive records, if stored off-site, shall be fully protected. All original client records shall be maintained in the State of Texas.

(2) Information that identifies those seeking services shall be protected to the same degree as information that identifies clients.

(3) Electronic client information shall be protected to the same degree as paper records and shall have a reliable backup system.

(c) Only personnel whose job duties require access to client records shall have such access.

(d) Personnel shall keep records locked at all times unless authorized staff is continuously present in the immediate area.

(e) The facility shall ensure that all client records can be located and retrieved upon request at all times.

(f) The facility shall comply with Federal and State confidentiality laws and regulations, including 42 C.F.R pt. 2 (Federal regulations on the Confidentiality of Alcohol and Drug Abuse Patient Records), TEX. HEALTH & SAFETY CODE ANN. ch. 611 (Vernon Supp. 2004)(relating to Mental Health Records) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The facility shall also protect the confidentiality of HIV information as required in TEX. HEALTH & SAFETY CODE ANN. § 81.103 (Vernon 2001)(relating to Confidentiality; Criminal Penalty).

(g) The facility shall not deny clients access to the content of their records except as provided by TEX. HEALTH & SAFETY CODE ANN. § 611.0045 (Vernon Supp. 2004) and HIPAA.

(h) Client records shall be maintained for at least six years. Records of adolescent clients shall be maintained for at least five years after the client turns 18.

(i) If client records are microfilmed, scanned, or destroyed, the facility shall take steps to protect confidentiality. The facility shall maintain a record of all client records destroyed on or after September 1, 1999, including the client's name, record number, birth date, and dates of admission and discharge.

§448.509. Incident Reporting.

(a) The facility shall report to the Commission's investigations division, all allegations of client abuse, neglect, and exploitation. Acts constituting client abuse, neglect and exploitation are specifically described in §448.703 of this title (relating to Abuse, Neglect, and Exploitation).

(b) The facility shall complete an internal incident report for all client incidents, including:

(1) a violation of a client rights, including but not limited to, allegations of abuse, neglect and exploitation;
(2) accidents and injuries;
(3) medical emergencies;
(4) psychiatric emergencies;
(5) medication errors;
(6) illegal or violent behavior;
(7) loss of a client record;
(8) personal or mechanical restraint or seclusion;
(9) release of confidential information without client consent;
(10) fire;
(11) death of an active outpatient or residential client (on or off the program site);
(12) clients absent without permission from a residential program;
(13) suicide attempt by an active client (on or off the program site);
(14) medical and psychiatric emergencies that result in admission to an inpatient unit of a medical or psychiatric facility; and
(15) any other significant disruptions.

(c) The incident report shall be completed within 24 hours of the occurrence of an incident on-site, or within 24 hours of when the facility became aware of, or reasonably should have known of an incident that occurred off-site. The incident report shall provide a detailed description of the event, including the date, time, location, individuals involved, and action taken.
(d) The individual writing the report shall sign it and record the date and time it was completed.
(e) All incident reports shall be stored in a single, separate file.
(f) The facility shall have a designated individual responsible for reviewing incident reports and all incidents should be evaluated through the quality management process to determine opportunities to improve or address program and staff performance.

§448.510. Client Transportation.

(a) The facility shall have a written policy on the use of facility vehicles and/or staff to transport clients.
(b) If the facility allows the use of facility vehicles and/or staff to transport clients, it shall adopt transportation procedures which include the following.

(1) Any vehicle used to transport a client must have appropriate insurance coverage for business use with a current safety inspection sticker and license.
(2) All vehicles used to transport clients must be maintained in safe driving condition.
(3) Drivers must have a valid driver's license.
(4) Drivers and passengers must wear seatbelts at all times the vehicle is in operation as required by law.
(5) A vehicle shall not be used to transport more passengers than designated by the manufacturer.
(6) Drivers shall not use cell phones while driving.
(7) Use of tobacco products shall not be allowed in the vehicle.
(8) Every vehicle used for client transportation shall have a fully stocked first aid kit and an A:B:C fire extinguisher that are easily accessible.

SUBCHAPTER F. PERSONNEL PRACTICES AND DEVELOPMENT.

§448.601. Hiring Practices.

(a) A facility whose personnel includes counselor interns shall be registered with the Commission as a clinical training institution and comply with all applicable requirements.
(b) The facility shall verify by Internet, telephone or letter and document the current status of all required credentials with the credentialing authority.
(c) The facility shall be aware of its obligations under TEX. CIV. PRAC. & REM. CODE ANN. § 81.003 (Vernon 1997 & Supp. 2004).
(d) The facility shall obtain and assess the results of a criminal background check from the Department of Public Safety on all staff within four weeks of the hiring date. Individuals hired may not have any client contact until the results of the criminal background check are assessed. The facility shall use the criteria listed in TEX. OCC. CODE ANN. § 53.022, § 53.023 (Vernon 2004) to evaluate criminal history reports and make related employment decisions.
(e) The facility shall not hire an individual who has not passed a pre-employment drug test that meets criteria established by the Commission. This requirement does not restrict facilities from implementing random drug testing of its staff as permitted by law.
(f) The facility shall develop a job description which outlines job duties and minimum qualifications for all personnel.
(g) The facility shall maintain a personnel file for each employee, and all contractors, students and volunteers with any direct client contact which contains documentation demonstrating compliance with this section.

§448.602. Students and Volunteers.

(a) The facility shall ensure that students and volunteers comply with all applicable rules.
(b) Students and volunteers shall be qualified to perform assigned duties.
(c) Students and volunteers shall receive orientation and training appropriate to their qualifications and responsibilities.
(d) Students and volunteers shall be appropriately supervised.

§448.603. Training.

(a) Unless otherwise specified, video, manual, or computer-based training is acceptable if the supervisor discusses and documents the material with the staff person in a face-to-face session to highlight key issues and answer questions.
(b) The facility shall maintain documentation of all required training.
    (1) Documentation of external training shall include:
        (A) date;
        (B) number of hours;
        (C) topic;
        (D) instructor's name; and
        (E) signature of the instructor (or equivalent verification).
    (2) The facility shall maintain documentation of all internal training. For each topic, the file shall include:
        (A) an outline of the contents;

(B) the name, credentials, relevant qualifications of the person providing the training, and

(C) the method of delivery.

(3) For each group training session, the facility shall maintain on file a dated attendee sign-in sheet.

(c) Prior to performing their duties and responsibilities, the facility shall provide orientation to staff, volunteers, and students. This orientation shall include information addressing:

(1) TCADA rules;

(2) facility policies and procedures;

(3) client rights;

(4) client grievance procedures;

(5) confidentiality of client-identifying information (42 C.F.R. pt. 2; HIPAA);

(6) standards of conduct; and

(7) emergency and evacuation procedures.

(d) The following initial training(s) must be received within the first 90 days of employment and must be completed before the employee can perform a function to which the specific training is applicable. Subsequent training must be completed as specified.

(1) Abuse, Neglect, and Exploitation. All residential program personnel with any direct client contact shall receive eight hours of face-to-face training as described in Figure: 40 TAC §448.603(d)(1) which is attached hereto and incorporated herein as if set forth at length. All outpatient program personnel with any direct client contact shall received two hours of abuse, neglect and exploitation training.

(2) HIV, Hepatitis B and C, Tuberculosis and Sexually Transmitted Diseases. All personnel with any direct client contact shall receive this training. The training shall be based on the Texas Commission on Alcohol and Drug Abuse Workplace and Education Guidelines for HIV and Other Communicable Diseases.

(A) The initial training shall be three hours in length.

(B) Staff shall receive annual updated information about these diseases.

(3) Cardio Pulmonary Resuscitation (CPR).

(A) All direct care staff in a residential program shall maintain current CPR and First Aid certification.

(B) Licensed health professionals and personnel in licensed medical facilities are exempt if emergency resuscitation equipment and trained response teams are available 24 hours a day.

(4) Nonviolent Crisis Intervention. All direct care staff in residential programs and outpatient programs shall receive this training. The face-to-face training shall teach staff how to use verbal and other non-physical methods for prevention, early intervention, and crisis management. The instructor shall have documented successful completion of a course for crisis intervention instructors or have equivalent documented training and experience.

(A) The initial training shall be four hours in length.

(B) Staff shall complete two hours of annual training thereafter.

(5) Restraint and/or Seclusion. All direct care staff in residential programs and programs accepting court commitments that use or authorize the use of restraint or seclusion shall have face-to-face training and demonstrate competency in the safe methods of the specific procedures before assuming job duties involving direct care responsibilities. This includes programs that accept adolescent residential and emergency detentions.

(A) The initial training must be four hours in length.
(B) Staff shall complete four hours of annual training thereafter.
(C) The training shall include hands-on practice under the supervision of a qualified instructor.
(D) The training program shall include:
(i) identifying the underlying causes of threatening behaviors exhibited by the clients receiving services;
(ii) identifying aggressive or threatening behavior;
(iii) explaining how the behavior of personnel can affect the behaviors of clients;
(iv) using de-escalation, mediation, self-protection, and other techniques;
(v) recognizing and responding to signs of physical distress in clients who are being restrained, if the facility uses or authorizes the use of restraint;
(vi) identifying the risks associated with positional, compression, or restraint asphyxiation and with prone and supine holds, if the facility uses or authorizes the use of restraint;
(vii) the initiation of seclusion, if the facility uses or authorizes the use of seclusion;
(viii) the application of personal restraint, if the facility uses or authorizes the use of personal restraint;
(ix) the application of approved restraint devices, if the facility has on premises, authorizes the use of, or uses any mechanical restraint devices;
(x) monitoring cardiac and respiratory status and interpreting their relevance to the physical safety of the client in restraint, if the facility uses or authorizes the use of restraint, or seclusion, if the facility uses or authorizes the use of seclusion;
(xi) addressing physical and psychological status and comfort, including signs of distress;
(xii) assisting clients in meeting behavioral criteria for the discontinuation of restraint, if the facility uses or authorizes the use of restraint, or seclusion, if the facility uses or authorizes the use of seclusion;
(xiii) recognizing readiness for the discontinuation of restraint, if the facility uses or authorizes the use of restraint, or seclusion, if the facility uses or authorizes the use of seclusion; and
(xiv) recognizing when to contact emergency medical services to evaluate and/or treat a client for an emergency medical condition.

(6) Intake, Screening and Admission Authorization. All staff who conduct intake, screening and authorize admission for applicants to receive program services shall complete training in the program's screening and admission procedures. The training shall include two hours of DSM diagnostic criteria for substance-related disorders, and other mental health diagnoses.

(A) The initial training shall be eight hours in length.
(B) Staff shall complete eight hours of annual training thereafter.
(C) The training shall be completed before staff screen or authorize applicants for admission.

(7) Self-administration of Medication. All personnel responsible for supervising clients in self-administration of medication, who are not credentialed to administer medication, shall complete this training before performing this task.

(A) Staff shall complete two hours initial one time training.
(B) The training shall be provided by a physician, pharmacist, physician assistant, or registered nurse before administering medication and shall include:

(i) prescription labels;
(ii) medical abbreviations;
(iii) routes of administration;
(iv) use of drug reference materials;
(v) storage, maintenance, handling, and destruction of medication;
(vi) documentation requirements; and
(vii) procedures for medication errors, adverse reactions, and side effects.

Reflects Rule Change Effective 6/1/2006

SUBCHAPTER G. CLIENT RIGHTS.

§448.701. Client Bill of Rights.

(a) The facility shall respect, protect, implement and enforce each client right required to be contained in the facility's Client Bill of Rights. The Client Bill of Rights for all facilities shall include:

(1) You have the right to accept or refuse treatment after receiving this explanation.
(2) If you agree to treatment or medication, you have the right to change your mind at any time (unless specifically restricted by law).
(3) You have the right to a humane environment that provides reasonable protection from harm and appropriate privacy for your personal needs.
(4) You have the right to be free from abuse, neglect, and exploitation.
(5) You have the right to be treated with dignity and respect.
(6) You have the right to appropriate treatment in the least restrictive setting available that meets your needs.
(7) You have the right to be told about the program's rules and regulations before you are admitted, including, without limitation, the rules and policies related to restraints and seclusion. Your legally authorized representative, if any, also has the right to be and shall be notified of the rules and policies related to restraints and seclusion.
(8) You have the right to be told before admission:
(A) the condition to be treated;
(B) the proposed treatment;
(C) the risks, benefits, and side effects of all proposed treatment and medication;
(D) the probable health and mental health consequences of refusing treatment;
(E) other treatments that are available and which ones, if any, might be appropriate for you; and
(F) the expected length of stay.
(9) You have the right to a treatment plan designed to meet your needs, and you have the right to take part in developing that plan.
(10) You have the right to meet with staff to review and update the plan on a regular basis.
(11) You have the right to refuse to take part in research without affecting your regular care.
(12) You have the right not to receive unnecessary or excessive medication.
(13) You have the right to have information about you kept private and to be told about the times when the information can be released without your permission.

(14) You have the right to be told in advance of all estimated charges and any limitations on the length of services of which the facility is aware.

(15) You have the right to receive an explanation of your treatment or your rights if you have questions while you are in treatment.

(16) You have the right to make a complaint and receive a fair response from the facility within a reasonable amount of time.

(17) You have the right to complain directly to the Texas Commission on Alcohol and Drug Abuse at any reasonable time.

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

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

(b) For residential sites, the Client Bill of Rights shall also include:

(1) You have the right not to be restrained or placed in a locked room by yourself unless you are a danger to yourself or others.

(2) You have the right to communicate with people outside the facility. This includes the right to have visitors, to make telephone calls, and to send and receive sealed mail. This right may be restricted on an individual basis by your physician or the person in charge of the program if it is necessary for your treatment or for security, but even then you may contact an attorney or the Texas Commission on Alcohol and Drug Abuse at any reasonable time.

(3) If you consented to treatment, you have the right to leave the facility within four hours of requesting release unless a physician determines that you pose a threat of harm to yourself and others.

(c) If a client's right to free communication is restricted under the provisions of paragraph (b)(2) of this section, the physician or program director shall document the clinical reasons for the restriction and the duration of the restriction in the client record. The physician or program director shall also inform the client, and, if appropriate, the client's consenter of the clinical reasons for the restriction and the duration of the restriction.

Reflects Rule Change Effective 6/1/2006

§448.702. Client Grievances.

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

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

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

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

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

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

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

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

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

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

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

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

(f) The facility shall not:

(1) retaliate against clients who try to exercise their rights or file a grievance; or

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

§448.703. Abuse, Neglect, and Exploitation.

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

(1) The person shall also report allegations of child abuse or neglect to the Texas Department of Protective and Regulatory Services as required by TEX. FAM. CODE ANN. § 261.101 (Vernon 2002 & Supp. 2004).

(2) The person shall also report allegations of abuse or neglect of an elderly or disabled individual to the Texas Department of Protective and Regulatory Services as required by TEX. HUM. RES. CODE ANN. § 48.051 (Vernon 2001 & Supp. 2004).

(b) If the allegation involves sexual exploitation, the chief executive officer or designee shall comply with reporting requirements listed in TEX. CIV. PRAC. & REM. CODE ANN. § 81.006 (Vernon 1997 & Supp. 2004).

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

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

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

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

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

(2) the information required in the incident report or a copy of the incident report; and

(3) other individuals, organizations, and law enforcement notified.

(g) The chief executive officer or designee shall also notify the consenter. If the client is the consenter, family members may be notified only if the client gives written consent. If the consenter is not the client, the chief executive officer may withhold notification to the the consenter if this action may place the client at additional risk. In this situation, the chief executive officer will notify the Commission’s investigations division in writing of this decision.

(h) The provider shall investigate the complaint and take appropriate action unless otherwise directed by the Commission's investigations division. The investigation and the results shall be documented.

(i) The governing body or its designee shall take action needed to prevent any confirmed incident from recurring.
(j) The provider shall:

(1) document all investigations and resulting actions and keep the documentation in a single, segregated file;

(2) have a written policy that clearly prohibits the abuse, neglect, and exploitation of clients and/or participants;

(3) enforce appropriate sanctions for confirmed violations; including, but not limited to, termination of personnel with confirmed violations of client or participant physical or sexual abuse or instances of neglect that result in client or participant harm.

§448.704. Program Rules.
(a) The facility shall establish therapeutically sound written program rules addressing client behavior designed to protect their health, safety, and welfare.
(b) The consequences for violating program rules shall be defined in writing and shall include clear identification of violations that may result in discharge. The consequences shall be reasonable, take into account the client's diagnosis and progress in treatment, and shall not include:

(1) physical discipline or measures involving the denial of food, water, sleep, or bathroom privileges; or

(2) discipline that is authorized, supervised, or carried out by clients.

(c) At the time of admission, every client shall be informed verbally, and in writing, of the program rules and consequences for violating the rules.
(d) The facility shall enforce the rules fairly and objectively and shall not implement consequences for the convenience of staff.

§448.705. Client Labor and Interactions.
(a) The facility shall not hire or utilize clients to fill staff positions. Former clients are not eligible for employment at the facility until at least two years after documented discharge from active treatment from the facility.
(b) The facility shall not require clients to participate in any fund raising or publicity activities for the facility.
(c) The facility and its personnel shall not enter into a business or personal relationship with a client, give a personal gift to a client, or accept a personal gift of value from a client until at least two years after services to the client cease.

§448.706. Restraint and Seclusion.
(a) A small residential facility is defined as a treatment facility with less than eight licensed beds.
(b) The governing body shall adopt a policy to either authorize or prohibit the use of personal restraint, mechanical restraint, and seclusion. Any facility authorizing use of restraint or seclusion shall comply with and have a written procedure that ensures compliance with Health and Safety Code, Chapter 322, including its definition of seclusion; the rules adopted under that chapter; and this section. Outpatient programs shall prohibit the use of restraint or seclusion, except as it relates to court commitment clients.
(c) In programs authorizing use of restraint or seclusion, direct care staff shall be trained as described in the applicable provisions of §448.603 of this title (relating to Training). Staff sufficient in number and who have the training required by §448.603 of this title to safely implement any permitted restraint or seclusion shall be on duty at all times.

(d) Staff shall not use restraint or seclusion unless it is necessary to intervene to prevent imminent probable death or substantial bodily harm to the client or imminent physical harm to another and less restrictive methods have been tried and failed.
(e) Staff shall not use more force than is necessary to prevent imminent harm and shall ensure the safety, well-being, and dignity of clients who are restrained or secluded, including attention for personal needs. Staff shall not deny bathroom privileges, water, sleep, or regularly scheduled meals and snacks.
(f) Staff shall obtain authorization from the supervising Qualified Credentialed Counselor (QCC) before starting restraint or seclusion or as soon as possible after initiation or implementation.

(1) The facility shall not use standing authorizations for restraint or seclusion.
(2) Authorization for mechanical restraint or seclusion shall be based on a face-to-face evaluation by the authorizing QCC, if on site or reasonably available, or by the direct care staff initiating or implementing the procedure.
(3) Each authorization shall include a specific time limit, not to exceed 12 hours.
(4) The QCC must take into consideration information that could contraindicate or otherwise affect the use of restraint or seclusion, including information obtained during the initial assessment of each client at the time of admission or intake. This information includes, but is not limited to:

(A) techniques, methods, or tools that would help the client effectively cope with his or her environment;
(B) pre-existing medical conditions or any physical disabilities and limitations, including substance use disorders, that would place the client at greater risk during restraint or seclusion;
(C) any history of sexual or physical abuse that would place the client at greater psychological risk during restraint or seclusion; and
(D) any history that would contraindicate seclusion, the type of restraint (personal or mechanical), or a particular type of restraint devise.

(g) When the client has been safely restrained or secluded, staff shall tell the client what behavior and timeframes are required for release and shall release the client as soon as the criteria are met.
(h) Clinical staff shall review and document alternative strategies for dealing with behaviors necessitating the use of restraint or seclusion for an individual client two or more times in any 30-day period.
(i) The chief executive officer of the facility or designee shall review all incident reports involving restraint or seclusion and take action to address unwarranted use of these measures.
(j) A client held in restraint shall be under continuous direct observation. The facility shall ensure adequate breathing and circulation during restraint and shall only use devices designed for therapeutic restraint. An acceptable hold is one that engages one or more limbs close to the body to limit or prevent movement and is performed in a manner consistent with the requirements set forth in this section.
(k) Seclusion rooms shall be constructed to prevent clients from harming themselves and shall allow staff to observe clients easily in all parts of the room. When a client is in seclusion, staff shall conduct a visual check at least every 15 minutes.
(l) Staff shall record the following information in the client record within 24 hours:

(1) the circumstances leading to the use of restraint or seclusion;
(2) the specific behavior necessitating the restraint or seclusion and the behavior required for release;
(3) less restrictive interventions that were tried before restraint or seclusion began;
(4) the signed authorization of the supervising QCC;

(5) the names of the staff members who implemented the restraint or seclusion;
(6) the date and time the procedure began and ended;
(7) the behavior and timeframes required for release;
(8) the client's response;
(9) observations made, including the 15 minute checks; and
(10) attention given for personal needs.

(m) A prone or supine hold shall not be used except as a last resort when other less restrictive interventions have proven to be ineffective. The hold shall be used only to transition a client into another position, and shall not exceed one minute in duration. Except in small residential facilities, when the prone or supine hold is used, an observer, who is trained to identify the risks associated with positional, compression, or restraint asphyxiation and with prone and supine holds, and who is not involved in the restraint, shall ensure the client's breathing is not impaired.

(n) No intervention, voluntary or involuntary, shall be used:
(1) as a means of discipline, retaliation, punishment, or coercion;
(2) for the purpose of convenience of staff members or other individuals; or
(3) as a substitute for effective treatment.

(o) A restraint shall not be used that:
(1) secures a client to a stationary object while the client is in a standing position;
(2) causes pain to restrict a client's movement (pressure points or joint locks);
(3) restricts circulation;
(4) obstructs a client's airway, including a procedure that places anything in, on, or over a client's mouth or nose or puts pressure on the torso;
(5) impairs a client's breathing;
(6) interferes with a client's ability to communicate; or
(7) is inconsistent with training received in compliance with §448.603 of this title (relating to Training).

(p) Use of chemical restraint is prohibited.

(q) Use of restraint or seclusion solely as a behavior therapy program or as part of a behavior therapy program is prohibited.

(r) Immediately following the release of a client from restraint or seclusion, a direct care staff must:
(1) take appropriate action to facilitate the client's reentry into the facility environment by providing the client with transition activities and an opportunity to return to ongoing activities;
(2) observe the client for at least 15 minutes; and
(3) document observations of the client's behavior during this transition period in the client's record.

(s) As soon as possible after an episode of restraint or seclusion, staff members involved in the episode, supervisory staff, the client, the legally authorized representative, if any, and, with the consent of the client, family members must meet to discuss the episode. The purpose of the debriefing is to:
(1) identify what led to the episode and what could have been handled differently;
(2) identify strategies to prevent future restraint or seclusion, taking into consideration suggestions from the client;
(3) ascertain whether the client's physical well-being, psychological comfort, and right to privacy were addressed;
(4) counsel the client in relation to any trauma that may have resulted from the episode;
(5) when indicated, identify appropriate modifications to the client's treatment plan; and

(6) when clinically indicated or upon request of individuals who witnessed the restraint debrief persons who witnessed the restraint.

Reflects Rule Change Effective 6/1/2006

§448.707. Responding to Emergencies.
(a) The facility shall ensure that staff have the training and resources necessary to protect the health and safety of clients and other individuals during medical and psychiatric emergencies.
(b) The facility shall have written procedures for responding to medical and psychiatric emergencies.
(c) Emergency numbers shall be posted by all telephones.
(d) The facility shall have fully stocked first aid supplies that are visible, labeled and easy to access.

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

SUBCHAPTER H. SCREENING AND ASSESSMENT.

§448.801. Screening.
(a) To be eligible for admission to a treatment program, an individual shall meet the DSM criteria for substance abuse or dependence (or substance withdrawal or intoxication in the case of a detoxification program). The facility shall use a screening process appropriate for the target population, individual's age, developmental level, culture and gender which includes the Texas Department of Insurance (TDI) criteria to determine eligibility for admission or referral including an assessment of the client's financial resources and insurance benefits.
(b) The screening process shall collect other information as necessary to determine the type of services that are required to meet the individual's needs. This may necessitate the administration of all or part of validated assessment instruments.
(c) TDI criteria shall guide referral and treatment recommendations as well as placement decisions.
(d) Sufficient documentation shall be maintained in the client record to support the diagnosis and justify the referral/placement decision. Documentation shall include the date of the screening and

the signature and credentials of the Qualified Credentialed Counselor (QCC) supervising the screening process.
(e) For admission to a detoxification program, the screening will be conducted by a physician, physician assistant, nurse practitioner, registered nurse, or licensed vocational nurse (LVN). An LVN may conduct a screening under the following conditions:

(1) the LVN has completed detoxification training and demonstrated competency in the detoxification process;
(2) the training and competency verification is documented in the LVN's personnel file;
(3) the LVN shall convey the medical data obtained during the screening process to a physician in person or via telephone. The physician shall determine the appropriateness of the admission and authorize the admission or give instructions for an alternative course of action; and
(4) the physician shall examine the client in person and sign the admission order within 24 hours of authorizing admission.

(f) For admission to all other treatment programs, the screening will be conducted by a counselor or counselor intern.

§448.802. Admission Authorization and Consent to Treatment.
(a) A QCC shall authorize each admission in writing and specify the level of care to be provided. If the screening counselor or intern is not qualified to authorize admission, the QCC shall review the results of the screening with the applicant, directly or indirectly, before authorizing admission. The authorization shall be documented in the client record and shall contain sufficient documentation to support the diagnosis and the placement decision.
(b) The facility shall obtain written authorization from the consenter before providing any treatment or medication. The consent form shall be dated and signed by the client, the consenter, and the staff person providing the information, and shall document that the client and consenter have received and understood the following information:

(1) the specific condition to be treated;
(2) the recommended course of treatment;
(3) the expected benefits of treatment;
(4) the probable health and mental health consequences of not consenting;
(5) the side effects and risks associated with the treatment;
(6) any generally accepted alternatives and whether an alternative might be appropriate;
(7) the qualifications of the staff that will provide the treatment;
(8) the name of the primary counselor;
(9) the client grievance procedure;
(10) the Client Bill of Rights as specified in §448.701 of this title;
(11) the program rules, including rules about visits, telephone calls, mail, and gifts, as applicable;
(12) violations that can lead to disciplinary action or discharge;
(13) any consequences or searches used to enforce program rules;
(14) the estimated daily charges, including an explanation of any services that may be billed separately to a third party or to the client, based on an evaluation of the client’s financial resources and insurance benefits;
(15) the facility's services and treatment process; and
(16) opportunities for family to be involved in treatment.

(c) This information shall be explained to the client and consenter in simple, non-technical terms. If an emergency or the client's physical or mental condition prevents the explanation from being

given or understood by the client within 24 hours, staff shall document the circumstances in the client record and present the explanation as soon as possible. Documentation of the explanation shall be dated and signed by the client, the consenter, and the staff person providing the explanation.
(d) The client record shall include a copy of the Client Bill of Rights dated and signed by the client and consenter.
(e) If possible, all information shall be provided in the consenter's primary language.
(f) If an individual is not admitted, the program shall refer and assist the applicant to obtain appropriate services.
(g) When an applicant is screened and determined to be eligible for services but denied admission, the facility shall maintain documentation signed by the examining QCC which includes the reason for the denial and all referrals made.

§448.803. Assessment.
(a) A counselor or counselor intern shall conduct and document a comprehensive psychosocial assessment with the client admitted to the facility. The assessment shall document and elicit enough information about the client's past and present status to provide a thorough understanding of the following areas:
(1) presenting problems resulting in admission;
(2) alcohol and other drug use;
(3) psychiatric and chemical dependency treatment;
(4) medical history and current health status, to include an assessment of Tuberculosis (TB), HIV and other sexually transmitted disease (STD) risk behaviors as permitted by law;
(5) relationships with family;
(6) social and leisure activities;
(7) education and vocational training;
(8) employment history;
(9) legal problems;
(10) mental/ emotional functioning; and
(11) strengths and weaknesses.
(b) The assessment shall result in a comprehensive listing of the client's problems, needs, and strengths.
(c) The assessment shall result in a comprehensive diagnostic impression. The
diagnostic impression shall include all DSM Axes I, IV, and V at a minimum, and Axes II and III, as allowed by the QCC's license and scope of practice.
(d) If the assessment identifies a potential mental health problem, the facility shall obtain a mental health assessment and seek appropriate mental health services when resources for mental health assessments and/or services are available internally or through referral at no additional cost to the program. These services shall be provided by a facility or person authorized to provide such services or a qualified professional as described in §448.901 of this title (relating to Requirements Applicable to all Treatment Services).
(e) The assessment shall be signed by a QCC and filed in the client record within three individual service days of admission.
(f) The program may accept an evaluation from an outside source if:
(1) it meets the criteria set forth herein;
(2) it was completed during the 30 days preceding admission or is received directly from a facility that is transferring the client; and
(3) a counselor reviews the information with the client and documents an update.

(g) For residential clients, a licensed health professional shall conduct a health assessment of the client's physical health status within 96 hours of admission. The facility may accept a health assessment from an outside source completed no more than 30 days before admission or received directly from a transferring facility. If the client has any physical complaints or indications of medical problems, the client shall be referred to a physician, physician assistant, or nurse practitioner for a history and physical examination. The examination, if needed, shall be completed within a reasonable time frame and the results filed in the client record.

§448.804. Treatment Planning, Implementation and Review.

(a) The counselor and client shall work together to develop and implement an individualized, written treatment plan that identifies services and support needed to address problems and needs identified in the assessment. When appropriate, family shall also be involved.

(1) When the client needs services not offered by the facility, appropriate referrals shall be made and documented in the client record. When feasible, other QCCs or mental health professionals serving the client from a referral agency should participate in the treatment planning process.

(2) The client record shall contain justification when identified needs are temporarily deferred or not addressed during treatment.

(b) The treatment plan shall include goals, objectives, and strategies.

(1) Goals shall be based on the client's problems/needs, strengths, and preferences.

(2) Objectives shall be individualized, realistic, measurable, time specific, appropriate to the level of treatment, and clearly stated in behavioral terms.

(3) Strategies shall describe the type and frequency of the specific services and interventions needed to help the client achieve the identified goals and shall be appropriate to the level of intensity of the program in which the client is receiving treatment.

(c) The treatment plan shall identify discharge criteria and include initial plans for discharge. The Texas Department of Insurance criteria shall be used as a general guideline for determining when clients are appropriate for transfer or discharge, but individualized criteria shall be specifically developed for each client.

(d) A treatment plan shall include a projected length of stay.

(e) The treatment plan shall identify the client's primary counselor, and shall be dated and signed by the client, and the counselor. When the treatment plan is conducted by an intern or graduate, a QCC shall review and sign the treatment plan.

(f) The treatment plan shall be completed and filed in the client record within five individual service days of admission.

(g) The treatment plan shall be evaluated on a regular basis and revised as needed to reflect the ongoing reassessment of the client's problems, needs, and response to treatment.

(h) The primary counselor shall meet with the client to review and update the treatment plan at appropriate intervals defined in writing by the program. At a minimum, treatment plans shall be reviewed midway through the projected duration of treatment, and no less frequently than monthly in residential programs.

(i) The treatment plan review shall include:

(1) an evaluation of the client's progress toward each goal and objective;

(2) revision of the goals, objectives; and

(3) justifications of continued length of stay.

(j) Treatment plan reviews shall be dated and signed by the client, the counselor and the supervising QCC, if applicable.

(k) When a client’s intensity of service is changed, the client record shall contain:

(1) clear documentation of the decision signed by a QCC, including the rationale and the effective date;

(2) a revised treatment plan; and

(3) documentation of coordination activities with receiving treatment provider.

(l) Program staff shall document all treatment services (counseling, chemical dependency education, and life skills training) in the client record within 72 hours, including the date, nature, and duration of the contact, and the signature and credentials of the person providing the service.

(1) Education, life skills training, and group counseling notes shall also include the topic/issue addressed.

(2) Individual counseling notes shall include the goals addressed, clinical observation and new issues or needs identified during the session.

§448.805. Discharge.

(a) The counselor and client/consenter shall develop and implement an individualized discharge plan.

(b) Discharge plans shall be updated as the client progresses through treatment and shall address the continued appropriateness of the current treatment level.

(c) The discharge plan shall address continuity of services to the client.

(1) When a client is referred or transferred to another chemical dependency or mental health service provider for continuing care, the facility shall contact the receiving program before the client is discharged to make arrangements for the transfer.

(2) Coordination activities shall be documented in the client record, including timeframe for client being able to access needed services and any constraints associated with the referral.

(3) With proper client consent, the facility shall provide the receiving program with copies of relevant parts of the client's record.

(d) The program shall involve the client's family or an alternate support system in the discharge planning process when appropriate.

(e) Discharge planning shall be completed before the client's scheduled discharge.

(f) A written discharge plan shall be developed to address ongoing client needs, including:

(1) individual goals or activities to sustain recovery;

(2) referrals; and

(3) recovery maintenance services, if applicable.

(g) The completed discharge plan shall be dated and signed by the counselor, the client, and the consenter (if applicable).

(h) The program shall give the client and consenter a copy of the plan, and file the original signed plan in the client record.

(i) The program shall complete a discharge summary for each client within 30 days of discharge. The discharge summary shall be signed by a QCC and shall include:

(1) dates of admission and discharge;

(2) needs and problems identified at the time of admission, during treatment, and at discharge;

(3) services provided;

(4) assessment of the client's progress towards goals;

(5) reason for discharge; and

(6) referrals and recommendations, including arrangements for recovery maintenance.

(j) The facility shall contact each client no sooner than 60 days and no later than 90 days after discharge from the facility and document the individual's current status or the reason the contact was unsuccessful.

SUBCHAPTER I. TREATMENT PROGRAM SERVICES.

§448.901. Requirements Applicable to All Treatment Services.

(a) Each client's treatment shall be based on a treatment plan developed from the client's comprehensive assessment.

(b) Group counseling sessions are limited to a maximum of 16 clients. Group education and life skills training sessions are limited to a maximum of 35 clients. This limit does not apply to multi-family educational groups, seminars, outside speakers, or other events designed for a large audience.

(c) Chemical dependency education and life skills training shall follow a written curriculum. All educational sessions shall include client participation and discussion of the material presented.

(d) The program shall provide education about Tuberculosis (TB), HIV, Hepatitis B and C, and sexually transmitted diseases (STDs) based on the Texas Commission on Alcohol and Drug Abuse Workplace and Education Guidelines for HIV and Other Communicable Diseases.

(e) The program shall provide education about the health risks of tobacco products and nicotine addiction.

(f) The program shall provide access to screening for TB and testing for HIV antibody, Hepatitis C, and STDs.

(1) HIV antibody testing shall be carried out by an entity approved by the Texas Department of Health.

(2) If a client tests positive, the program shall refer the client to an appropriate health care provider.

(g) The program shall facilitate access to physical health, mental health, and ancillary services if those services are not available through the program and are necessary to meet treatment goals and shall document these efforts.

(h) Individuals shall not be denied admission or discharged from treatment because they are taking prescribed medication.

(i) The facility shall maintain an adequate number of qualified staff to comply with licensure rules, provide appropriate and individualized treatment, and protect the health, safety, and welfare of clients.

(j) All personnel shall receive the training and supervision necessary to ensure compliance with Commission rules, provision of appropriate and individualized treatment, and protection of client health, safety and welfare.

(k) Direct care staff shall be awake and on site during all hours of program operation.

(l) Residential direct care staff included in staff-to-client ratios shall not have job duties that prevent ongoing and consistent client supervision.

(m) Residential programs shall have at least one counselor on duty at least eight hours a day, six days a week.

(n) Clients in residential programs shall have an opportunity for eight continuous hours of sleep each night. Staff shall conduct and document at least three checks while clients are sleeping.

(o) Individuals responsible for planning, directing, or supervising treatment programs shall be QCCs. The clinical program director must have at least two years of post-licensure experience providing chemical dependency treatment.

(p) Chemical dependency counseling must be provided by a qualified credentialed counselor (QCC), graduate, or counselor intern. Chemical dependency education and life skills training shall be provided by counselors or individuals who have the specialized education and expertise.

(q) All counselor interns shall work under the direct supervision of a QCC as required in 40 TEX. ADMIN. CODE ch. 150 of this title (relating to Counselor Licensure).

§448.902. Requirements Applicable to Detoxification Services.

(a) A facility providing detoxification services shall ensure every individual admitted to a detoxification program meets the DSM criteria for substance intoxication or withdrawal.

(b) All detoxification programs shall ensure continuous access to emergency medical care.

(c) The program shall have a medical director who is a licensed physician. The medical director shall be responsible for admission, diagnosis, medication management, and client care.

(d) The medical director or his/her designee (physician assistant, or nurse practitioner) shall approve all medical policies, procedures, guidelines, tools, and the medical content of all forms, which shall include:

(1) screening instruments and procedures;

(2) protocol or standing orders for each major drug category of abusable drugs (opiates, alcohol and other sedative-hypnotic/anxiolytics, inhalants, stimulants, hallucinogens) that are consistent with guidelines published by nationally recognized organizations (e.g., Substance Abuse and Mental Health Services Administration, American Society of Addiction Medicine, American Academy of Addiction Psychology);

(3) procedures to deal with medical emergencies;

(4) medication and monitoring procedures for pregnant women that address effects of detoxification and medications used on the fetus; and

(5) special consent forms for pregnant women identifying risks inherent to mother and fetus.

(e) The medical director or his/her designee (physician assistant, nurse practitioner) shall authorize all admissions, conduct a face-to-face examination, to include both a history and physical examination of each applicant for services to establish the Axis I diagnosis, assess level of intoxication or withdrawal potential, and determine the need for treatment and the type of treatment to be provided to reach a placement decision.

(1) The examination shall identify potential physical and mental health problems and/or diagnoses that warrant further assessment.

(2) The authorization and examination shall be documented in the client record and shall contain sufficient documentation to support the diagnoses and the placement decision. If the physician determines an admission was not appropriate, the client shall be transferred to an appropriate service provider.

(3) The face-to-face examination (history and physical examination) and signed orders of admission shall occur within 24 hours of admission.

(4) The program may accept an examination completed during the 24 hours preceding admission if it is approved by the program's medical director or designee and includes the elements of (e)(1)-(2)of this section. The program may not require a client to obtain a history and physical as a condition of admission.

(5) Detoxification programs shall have a licensed vocational nurse or registered nurse on duty for at least eight hours every day and a physician or designee on call 24 hours a day.[1]

[1] Clarification: "**Residential** detoxification programs shall have a licensed vocational nurse or registered nurse on duty for at least eight hours every day and a physician or designee on call 24 hours a day. **Ambulatory** detoxification programs shall have a licensed vocational nurse or registered nurse on duty for at least two hours every day and a physician or designee on call 24 hours a day".

(6) Detoxification programs shall ensure that detoxification services are accessible at least 16 hours per day, seven days per week.

(f) Providers shall develop and implement a mechanism to ensure that all direct care staff in detoxification programs have the knowledge, skills, abilities to provide detoxification services, as they relate to the individual's job duties. Providers must be able to demonstrate through documented training, credentials and/or experience that all direct care staff are proficient in areas pertaining to detoxification, including but not limited to areas regarding:

(1) signs of withdrawal;

(2) observation and monitoring procedures;

(3) pregnancy-related complications (if the program admits women);

(4) complications requiring transfer;

(5) appropriate interventions; and

(6) frequently used medications including purpose, precautions, and side effects.

(g) Residential and ambulatory (outpatient) detoxification programs shall provide monitoring to manage the client's physical withdrawal symptoms. Monitoring shall be conducted at a frequency consistent with the degree of severity of the client's withdrawal symptoms, the drug(s) from which the client is withdrawing, and/or the level of intoxication of the client. This information will be documented in the client's record and reflected in the client's orders.

(1) Monitoring shall include:

(A) changes in mental status;

(B) vital signs; and

(C) response of the client's symptoms to the prescribed detoxification medications

(2) Use of instruments such as the Clinical Institute Withdrawal Assessment-Alcohol, revised (CIWA-Ar) for alcohol and sedative hypnotic withdrawal and the "clinician's assessment" in the Behavioral Health Integrated Provider System (BHIPS) is recommended.

(3) More intensive monitoring is required for clients with a history of severe withdrawal symptoms (e.g. a history of hallucinosis, delirium tremors, seizures, uncontrolled vomiting/dehydration, psychosis, inability to tolerate withdrawal symptoms, self harming attempts), or the presence of current severe withdrawal symptoms and/or co-occurring medical and psychiatric disorders.

(4) At a minimum, monitoring should be done every four hours in residential detoxification programs for the first 72 hours and as ordered by the medical director or designee thereafter, dependent on the client's signs and symptoms.

(5) Medication should be available to manage withdrawal/intoxication from all classes of abusable drugs.

(6) Medication "regimens", "protocols" or standing orders can be used, but detoxification should be tailored to each client's need based on vital signs and symptom severity (objective and subjective) and noted in the client's record.

(7) Ambulatory detoxification should have clear documentation by the physician or designee that the client's symptoms are or are expected to be of a severity that necessitates a minimum of once a day monitoring.

(h) In addition to the management of withdrawal and intoxicated states, detoxification programs shall provide services, including counseling, which are designed to:

(1) assess the client's readiness for change;

(2) offer general and individualized information on substance abuse and dependency;

(3) enhance client motivation;

(4) engage the client in treatment; and

(5) include a detoxification plan that contains the goals of successful and safe detoxification as well as transfer to another intensity of treatment. At least one daily individual session by a registered nurse, QCC or counselor intern with the client will be conducted.

(i) Ambulatory detoxification shall not be a stand alone service and services shall be provided in conjunction with outpatient treatment services. When treatment services are not available in conjunction with ambulatory detoxification services, the ambulatory detoxification program shall arrange for them.

(j) Bunk beds shall not be used in residential detoxification programs.

(k) In residential programs, direct care staff shall be on duty where the clients are located 24 hours a day.

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

(2) At night, at least one staff member with detoxification training shall be on duty for the first 12 clients with one more staff on duty for each additional one to 16 clients.

(l) Clients who are not in withdrawal but meet the DSM criteria for substance dependence may be admitted to detoxification services for 72 hours for crisis stabilization.

(m) Crisis stabilization is appropriate for clients who have diagnosed conditions that result in current emotional or cognitive impairment in clients such that they would not be able to participate in a structured and rigorous schedule of formal chemical dependency treatment.

(1) The specific client signs and symptoms that meet the DSM or other medical criteria for the disorder must be documented in the client record.

(2) Documentation must also include what symptoms are precluding the client from participating in treatment and the manner in which they are to be resolved.

§448.903. Requirements Applicable to Residential Services.

(a) Residential treatment provides 24-hour per day, 7 days per week multidisciplinary professional clinical support to facilitate recovery from addiction. Clients are housed in a residential site. Comprehensive chemical dependency treatment services offer a structured therapeutic environment.

(b) The facility shall ensure access to the full continuum of treatment services and will ensure sufficient treatment intensity to achieve treatment plan goals. Intensity and content of treatment shall be appropriate to the client's needs and consistent with generally accepted placement guidelines and standards of care.

(c) Each individual admitted to intensive residential services shall be appropriate for this treatment setting, with written justification to support the admission.

(d) Intensive residential shall provide an average of at least 30 hours of services per week for each client, comprised of at least:

(1) ten hours of chemical dependency counseling, (one hour of which shall be individual counseling);

(2) ten hours of additional counseling, chemical dependency education, life skills training, relapse prevention education; and

(3) ten hours of planned, structured activities monitored by staff. Five hours of these services shall occur on weekends and evenings.

(e) In adult intensive residential programs, the direct care staff-to-client ratio shall be at least 1:16 when clients are awake and 1:32 during sleeping hours.

(f) In intensive residential programs counselor caseloads shall not exceed ten clients for each counselor.

(g) Supportive residential shall provide at least six hours of treatment services per week for each client, comprised of at least :

(1) three hours of chemical dependency counseling (one hour per month of which shall be individual counseling); and

(2) three hours of additional counseling, chemical dependency education, life skills training, and relapse prevention education.

(h) In adult supportive residential programs, the direct care staff-to-client ratio shall be at least 1:20 when clients are awake and 1:50 during sleeping hours.

(i) Each supportive residential program shall set limits on caseload size that ensure effective, individualized treatment. The program shall justify the caseload size in writing based on the program design, characteristics and needs of the population served, and any other relevant factors.

§448.904. Requirements for Outpatient Treatment Programs.

(a) Outpatient programs are designed for clients who do not require the more structured environment of residential treatment to maintain sobriety.

(b) Outpatient programs shall ensure access to full continuum of care and ensure sufficiency of treatment intensity to achieve treatment plan goals. Intensity and content of treatment shall be appropriate to the client's needs and consistent with generally accepted placement guidelines and standards of care.

(c) Each individual admitted to an outpatient program shall be appropriate for this treatment setting, with written justification to support the admission.

(d) Treatment includes individualized treatment planning based on a comprehensive assessment, educational and process groups, and individual counseling.

(e) Each client's progress is assessed regularly by clinical staff to help determine the length and intensity of the program for that client.

§448.905. Additional Requirements for Adolescent Programs.

(a) Facilities providing adolescent residential services shall:

(1) maintain separation between adults and adolescents;

(2) have separate sleeping areas, bedrooms, and bathrooms for adults and adolescents, and for males and females;

(3) provide access to education approved by the Texas Education Agency within three school days of admission when treatment is expected to last more than 14 days;

(4) in addition to the service requirements set forth in §448.903(d)(3), provide 5 hours of planned, structured activities during evenings and weekends in addition to the required treatment services. Recreational and leisure activities shall be included in the structured time. The total number of hours of planned, structured activities must be at least 15. Attendance in school may be counted toward this requirement;

(5) ensure the direct care staff-to-client ratio is at least 1:8 during waking hours (including program-sponsored activities away from the facility) and 1:16 during sleeping hours;

(6) ensure clients are under direct supervision at all times. During sleeping hours, staff shall conduct and document hourly bed checks;

(7) facilitate regular communication between an adolescent client and the client's family and shall not arbitrarily restrict any communications without clear individualized clinical justification documented in the client record; and

(8) have written procedures addressing notification of parents or guardians in the event an adolescent leaves a residential program without authorization.

(b) Facilities providing outpatient services shall:

(1) maintain separation between adults and adolescents; and

(2) provide access to education approved by the Texas Education Agency within three school days of admission when treatment is expected to last more than 14 days, if required by law.

(c) Facilities providing day treatment shall provide at least 15 hours of services per week, comprised of at least:

(1) one hour of individual counseling; and

(2) 14 hours of additional counseling, chemical dependency education, life skills training, and relapse prevention education. Attendance in school may not be counted toward this requirement.

(d) All facilities shall:

(1) ensure the program's treatment services, lectures, and written materials are age-appropriate and easily understood by clients;

(2) involve the client's family or an alternate support system in the treatment process or document why this is not possible; and

(3) develop and implement a mechanism to ensure that all direct care staff in adolescent programs have the knowledge, skills, and abilities to provide services to adolescents, as they relate to the individual's job duties. Providers must be able to demonstrate through documented training, credentials and/or experience that all direct care staff are proficient in areas pertaining to adolescent services, including but not limited to areas regarding:

(A) chemical dependency problems specific to adolescent treatment;

(B) appropriate treatment strategies, including family engagement strategies; and

(C) emotional, developmental, and mental health issues for adolescents.

(e) Adolescent programs may serve children 13 to 17 years of age. However, young adults aged 18 to 21 may be admitted to an adolescent program when the screening process indicates the individual's needs, experiences, and behavior are similar to those of adolescent clients.

(f) Adult programs serve individuals 18 years of age or older. However, adolescents aged 17 may be admitted to an adult program when they are referred by the adult criminal justice system or when the screening process indicates the individual's needs, experiences, and behavior are similar to those of adult clients.

(g) Every exception to the general age requirements shall be clinically justified and documented and approved in writing by a QCC.

§448.906. Access to Services for Co-Occurring Psychiatric and Substance Use Disorders (COPSD) Clients.

(a) In determining an individual's initial and ongoing eligibility for any service, an entity may not exclude an individual based on the following factors:

(1) the individual's past or present mental illness;

(2) medications prescribed to the individual in the past or present;

(3) the presumption of the individual's inability to benefit from treatment; or

(4) the individual's level of success in prior treatment episodes.

(b) Providers must ensure that a client's refusal of a particular service does not preclude the client from accessing other needed mental health or substance abuse services.

(c) Providers must establish and implement procedures to ensure the continuity between screening, assessment, treatment and referral services provided to clients.

§448.907. Additional Requirements for COPSD Programs.

(a) The services provided to a client with co-occurring psychiatric and substance use disorders (COPSD) must:

(1) address both psychiatric and substance use disorders;

(2) be provided within established practice guidelines for this population; and

(3) facilitate individuals in accessing available services they need and choose, including self-help groups.

(b) The services provided to a client with COPSD must be provided by staff who are competent in the areas identified in §448.908 of this title (relating to Specialty Competencies of Staff Providing Services to Clients with COPSD).

§448.908. Specialty Competencies of Staff Providing Services to Clients with COPSD.

(a) Providers must ensure that services to clients are age-appropriate and are provided by staff within their scope of practice who have the following minimum knowledge, technical, and interpersonal competencies prior to providing services.

(1) Knowledge competencies:

(A) knowledge of the fact that psychiatric and substance use disorders are potentially recurrent relapsing disorders, and that although abstinence is the goal, relapses can be opportunities for learning and growth;

(B) knowledge of the impact of substance use disorders on developmental, social, and physical growth and development of children and adolescents;

(C) knowledge of interpersonal and family dynamics and their impact on individuals;

(D) knowledge of the current Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnostic criteria for psychiatric disorders and substance use disorders and the relationship between psychiatric disorders and substance use disorders;

(E) knowledge regarding the increased risks of self-harm, suicide, and violence in individuals;

(F) knowledge of the elements of an integrated treatment plan and community support plan for individuals;

(G) basic knowledge of pharmacology as it relates to individuals with a mental disorder;

(H) basic understanding of the neurophysiology of addiction;

(I) knowledge of the phases of recovery for individuals;

(J) knowledge of the relationship between COPSD and DSM Axis III disorders; and

(K) knowledge of self-help in recovery.

(2) Technical competencies:

(A) ability to perform age-appropriate assessments of clients; and

(B) ability to formulate an individualized treatment plan and community support plan for clients.

(3) Interpersonal competencies:

(A) ability to tailor interventions to the process of recovery for clients;

(B) ability to tailor interventions with readiness to change; and

(C) ability to engage and support clients who choose to participate in 12-step recovery programs.

(b) Within 90 days of the effective date of this rule, providers must ensure that staff who provide services to clients with COPSD have demonstrated the competencies described in subsection (a) of this section. These competencies may be evidenced by compliance with current licensure

requirements of the governing or supervisory boards for the respective disciplines involved in serving clients with COPSD or by documentation regarding the attainment of the competencies described in subsection (a) of this section.

§448.909. Treatment Planning of Services to Clients with COPSD.
(a) The treatment plan must identify services to be provided and must include measurable outcomes that address COPSD.
(b) The treatment plan must identify the family members' need for education and support services related to the client's mental illness and substance abuse and a method to facilitate the family members' receipt of the needed education and support services.
(c) The client and, if requested, family member, must be given a copy of the treatment plan as permitted by law.

§448.910. Treatment Services for Women and Children.
(a) Clients shall receive gender-specific services in female-only specialized programs.
(b) When appropriate, pre-admission service coordination shall be provided to reduce barriers to treatment, enhance motivation, stabilize life situations, and facilitate engagement in treatment.
(c) Services shall address relationship issues, including past or current experience with sexual, physical, and emotional abuse.
(d) Providers shall develop and implement a mechanism to ensure that all direct care staff in programs that treat women and children have the knowledge, skills, abilities to provide services to women and children, as they relate to the individual's job duties. Providers must be able to demonstrate through documented training, credentials and/or experience that all direct care staff are proficient in areas pertaining to the needs of and provision of services to women and children.
(e) Individuals responsible for the planning and supervision of the program shall participate in at least 15 clock hours of training annually in understanding children, child development, and/or early childhood education.
(f) Clients shall receive access to appropriate primary medical care, including prenatal care and reproductive health education and services.
(g) Pregnant clients, women with children in custody, and women with dependent children shall receive parenting education and support services.
(h) Women and their dependent children shall be treated as a unit, and both the woman and her children will be admitted into treatment when appropriate.
(i) Children shall receive services to address their needs and support healthy development, including primary pediatric care, early childhood intervention services, substance abuse prevention services, and/or other therapeutic interventions.
(j) Facilities housing children shall comply with the provisions of 40 TEX. ADMIN. CODE ch. 746 (2003)(relating to Minimum Standards for Child-Care Centers) set forth below:

(1) Subchapter B, Administration and Communication §§ 746.307(a)(b), 746.405(a)(1)(2)(3) and 746.501(6-16)
(2) Subchapter C, Record Keeping, §§ 746.603(a)(3)-(6), 746.605-627, 746.801(22) and 746.901(3)
(3) Subchapter D, Personnel §§ 746.1105(2) and 746.1303(2)(3)
(4) Subchapter E, Child/Caregiver Ratios and Group Sizes §§ 746.1501-2117
(5) Subchapter G, Basic Care Requirements for Children with Special Care Needs § 746.2301
(6) Subchapter H, Basic Care Requirements for Infants §§ 746.2401- 2429
(7) Subchapter I, Basic Care Requirements for Toddlers §§ 746.2501-2509

(8) Subchapter J, Basic Care Requirements for Pre-Kindergarten Age Children §§ 746.2601-2607
(9) Subchapter K, Basic Care Requirements for School-age Children §§ 746.2701-2707
(10) Subchapter L, Discipline and Guidance §§ 746.2801-2813
(11) Subchapter N, Field Trips § 746.3001(1)(8)
(12) Subchapter Q, Nutrition and Food Service §§ 746.3301, 746.3307 and 746.3311
(13) Subchapter R, Health Practices §§ 746.3407, 746.3423, 746.3501 and 746.3503
(14) Subchapter S, Safety Practices §§ 746.3701, 746.3709 and 746.3901-4101
(15) Subchapter T, Physical Facilities §§ 746.4201, 746.4217, 746.4301, 746.4305-4309, 746.4419-4501, 746.4505 and 746.4509
(16) Subchapter U, Outdoor Safety and Play Equipment §§ 746.4601-4913
(17) Subchapter V, Swimming Pools and Wading/Splashing Pools §§ 746.5001-5015

(k) The facility shall adopt program specific rules regarding child care.
(1) These program rules will include provisions addressing:
(A) clients supervising the children of other clients, and
(B) opportunities for indoor and outdoor activities for the children.
(2) The facility shall not allow a client to supervise more than two additional children at any time.
(3) The facility shall provide each client with a copy of these program rules within 24 hours of admission.
(4) Off-site contracted daycare providers shall be licensed by the Texas Department of Protective and Regulatory Services.
(5) If a program has an attendance of more than 30 children at lunch or dinner time, staff shall be provided for meal preparation, serving and cleanup. The staff providing meal services shall not be included in staff to child ratios during this time.

(l) The program shall assist the parent/guardian as necessary to ensure educational opportunities for school age children in accordance with the requirements of the Texas Education Agency.
(m) School age children shall have access and transport to school.
(n) The program shall document any services provided to children, including daycare and community support. The record shall document the child's developmental, physical, emotional, social, and educational needs, and family background and current status.

§448.911. Treatment Services Provided by Electronic Means.

(a) A licensed treatment program may provide outpatient chemical dependency treatment program services by electronic means provided the criteria outlined in this section are addressed.
(1) Services shall be provided to adult clients only; and
(2) Services shall be provided by a QCC.

(b) All treatment sessions shall have two forms of access control as follows:
(1) all on-line contact between a QCC and clients must begin with a verification of the client through a name, password or pin number; and
(2) security as detailed in HIPAA.

(c) All data, including audio, video, text and presentation materials shall be transferred using 128 bit-Encryption.
(d) Programs shall maintain compliance with HIPAA and 42 C.F.R. pt. 2.
(e) Programs shall not use e-mail communications containing client identifying information.
(f) Programs shall use audio and video in real time.
(g) Programs shall ensure timely access to individuals qualified in the technology as backup for systems problems.

(h) Programs shall maintain a toll-free telephone number for technical support.
(i) Programs shall develop a contingency plan for clients when technical problems occur during the provision of services.
(j) Programs shall provide a description of all services offered.
(k) Programs shall provide develop criteria, in addition to DSM, to assess clients for appropriateness of utilizing electronic services.
(l) Programs shall provide appropriate referrals for clients who do not meet the criteria for services.
(m) Programs shall develop a grievance procedure and provide a link to the Commission for filing a complaint when using the Internet or the Commission's toll-free number when counseling by telephone.
(n) Prior to clients engaging in Internet services, programs shall describe and provide in writing the potential risks to clients. The risks shall address at a minimum these areas:

(1) clinical aspects;
(2) security; and
(3) confidentiality.

(o) Programs shall create safeguards to ensure appropriate age and identification of the client.
(p) Programs shall maintain information on statutes and regulations of the governing area in which the client resides or is receiving services by electronic means.
(q) Programs shall provide emergency contact information to the client.
(r) Programs shall maintain resource information for the local area of the client.
(s) Programs shall provide reasonable ADA accommodations for clients upon request.
(t) Programs must reside and perform services in Texas.
(u) The Commission maintains the authority to regulate the program regardless of the location of the client.
(v) The Program shall maintain information on statutes and regulations of the governing area in which the client resides or is receiving the Internet services.
(w) Facility shall provide emergency contact information to the client.
(x) Facility shall maintain resource information for the local area of the client.

SUBCHAPTER J. MEDICATION.

§448.1001. General Provisions for Medication.

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

§448.1002. Medication Storage.

(a) Prescription and over-the-counter medications, syringes, and needles shall be kept in locked storage and accessible only to staff who are authorized to provide medication.

(b) Clients may keep prescription or over-the-counter medication in their personal possession on site with written authorization from the program director. Staff shall ensure that authorized clients keep medication on their persons or safely stored and inaccessible to other clients.
(c) The program shall store all medications, syringes, and needles in their original containers under appropriate conditions. Medications requiring refrigeration shall not be stored with food and other items.
(d) The facility shall ensure that stock prescription medications are stored in a licensed pharmacy or physician's office and dispensed by a pharmacist or physician as required by TEX. OCC. CODE ANN. ch. 551 (Vernon 2004).
(e) The facility shall ensure that prescription medication is in a container labeled by the pharmacy.
(f) Sample medications provided by physicians must be stored with client specific labeling information, including dosing instructions.

§448.1003. Medication Inventory and Disposal.
(a) The program shall use an effective system to track and account for all prescription medication.
(b) Staff shall inventory and inspect all stored DEA Schedule II, III, and IV prescription medication at least daily using a centralized medication inventory form.
(c) The staff member conducting the inventory shall sign and date the inventory sheet. When a discrepancy exists between the administration record and the inventory count form, a note explaining the reason for the discrepancy or action taken to reconcile/correct the discrepancy shall be signed by the staff member conducting the inventory and kept with the medication inventory forms.
(d) Staff shall separate unused and outdated medication immediately and dispose of it within 30 days.
(e) Methods used for disposal shall prevent medication from being retrieved, salvaged, or used. Two staff members shall witness and document disposal, including amount of medication disposed and method used.

§448.1004. Administration of Medication.
(a) Staff shall provide and discontinue medication exactly as prescribed.
(b) Prescription medication shall be administered only by nurses and other staff who are legally authorized to administer medication.
(c) Clients may self-administer medication under the supervision of staff who are trained as described in §448.603 of this title (relating to Training).
(d) Each dose of prescription and over-the-counter medication taken by the client shall be documented in the client's medication record.
(e) The medication record shall include:
(1) the client's name;
(2) drug allergies (or the absence of known allergies);
(3) the name and dose of each medication;
(4) the frequency and route of each medication;
(5) the date and time of each dose; and

(6) the signature of the staff person who administered or supervised each dose.

(f) The facility shall document the circumstances and reason for any missed doses.

(g) When a client appears to have an adverse reaction to medication, a staff member shall:

(1) notify the prescribing professional or another physician, dentist, podiatrist, physician assistant or nurse practitioner (preferably the prescribing professional);

(2) complete an incident report; and

(3) document the facts in the client record, including the date and time of notification and any other action taken.

SUBCHAPTER K. FOOD AND NUTRITION.

§448.1101. Meals in Outpatient Programs.

(a) Programs shall provide a meal break after five consecutive hours of scheduled activities.

(b) If the facility prepares meals in a centralized kitchen on site, it shall pass an annual kitchen health inspection as required by law.

§448.1102. Meals in Residential Programs.

(a) The residential program shall provide wholesome, well-balanced meals, according to posted weekly approved menus.

(b) The program shall provide modified diets to residents who medically require them as determined by a licensed health professional. Special diets shall be prepared in consultation with a licensed dietitian.

(c) All food shall be selected, stored, prepared, and served in a safe and healthy manner.

(d) The program shall provide at least three meals daily. The program shall provide packaged meals or make other arrangements for clients who are scheduled to be away from the facility during meal time.

(e) A licensed dietitian shall approve menus and written guidelines for substitutions in advance; or

(1) approve a meal planning manual with sample menus and guidelines for substitutions;

(2) approve menus prepared by new staff before they plan meals independently;

(3) review a sample of menus served at least annually; and

(4) provide staff training as needed.

§448.1103. Meals Prepared by Clients.

(a) Staff shall provide training and supervision needed to ensure compliance with the rules in §448.1102 of this title (relating to Meals in Residential Programs).

(b) The program shall define duties in writing and have written instructions posted or easily accessible to clients.

(c) If menu planning and independent meal preparation are part of the clients' treatment program, a licensed dietitian shall:

(1) approve the client training curriculum; and

(2) provide training or approve a training program for staff that instruct and supervise clients in meal preparation.

§448.1104. Meals Provided by a Food Service.

(a) When meals are provided by a food service, a written contract shall require the food service to:

(1) comply with the rules in §448.1102 of this title (relating to Meals in Residential Programs); and

(2) pass an annual kitchen health inspection as required by law.

(b) The facility shall ensure the meals are transported to the facility in temperature controlled containers to ensure the food remains at the temperature at which it was prepared.

(c) The facility shall ensure that at least one staff, at a minimum, maintains a current food handler's permit.

SUBCHAPTER L. RESIDENTIAL PHYSICAL PLANT REQUIREMENTS.

§448.1201. General Physical Plant Provisions.

(a) Physical plant requirements apply only to residential programs.

(b) The water supply shall be of safe, sanitary quality, suitable for use, and adequate in quantity and pressure. The water shall be obtained from a water supply system approved by the Texas Natural Resource Conservation Commission (TNRCC).

(c) Sewage shall be discharged into a State-approved sewage system or septic system; otherwise, the sewage must be collected, treated, and disposed of in a manner which is approved by TNRCC.

(d) Mobile homes, recreational vehicles, and campers shall not be used for client sleeping areas.

§448.1202. Required Inspections.

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

(1) annual inspection by the local certified fire inspector or the State fire marshal;

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

(3) annual kitchen inspection by the local health authority or the Texas Department of Health;

(4) gas pipe pressure test once every three years by the local gas company or a licensed plumber;

(5) annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and

(6) annual inspection of liquefied petroleum gas systems by an inspector certified by the Texas Railroad Commission.

§448.1203. Emergency Evacuation.

Every residential program shall:

(1) have emergency evacuation procedures that include provisions for individuals with disabilities;

(2) hold fire drills on each shift at least quarterly and correct identified problems promptly;

(3) post exit diagrams conspicuously throughout the program site (except in small one-story buildings where all exits are obvious); and
(4) be able to clear the building safely and in a timely manner at all times.

§448.1204. Exits.
(a) Every building shall have at least two well-separated exits on each story.
(b) Every route of exit shall be free of hazards and obstructions, well lit, and marked clearly with illuminated exit signs at all times.
(c) Rooms for 50 or more people shall have exit doors that swing out.
(d) No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and approved by the fire marshal.

§448.1205. Space, Furniture and Supplies.
(a) The facility shall have areas for leisure and dining with adequate space for the number of residents.
(b) Sleeping areas shall have at least:
(1) 80 usable square feet per individual in single-occupancy rooms;
(2) 60 usable square feet per individual in multiple-occupancy rooms (or 50 square feet per individual if bunk beds are used); and
(3) 40 usable square feet for each child 18 months and older and 30 usable square feet per infant under 18 months.
(c) The facility shall provide adequate personal storage space for each client, including space for hanging clothes.
(d) The program shall make at least one phone available to clients.
(e) Each client shall have a separate bed of solid construction with a mattress. Clean bed linen, towels, and soap shall be available at all times and in quantity sufficient to meet the needs of the residents.
(f) All clients shall have access to laundry services or properly maintained laundry facilities equivalent to one washer and dryer per 25 clients.

§448.1206. Fire Systems.
(a) A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.
(b) Electrical fire alarm systems shall be installed by agents registered with the State fire marshal's office. The facility shall maintain a copy of the fire alarm installation certificate.
(c) Quarterly fire alarm system tests shall be conducted and documented by facility staff.
(d) Alarms shall be loud enough to be heard above normal noise levels throughout the building.
(e) Fire extinguishers shall be mounted throughout the facility as required by code and approved by the fire marshal.
(1) Each laundry and walk-in mechanical room shall have at least one portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.
(2) Each extinguisher shall have the required maintenance service tag attached.
(f) Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

§448.1207. Other Physical Plant Requirements.
(a) Occupied parts of the building shall be kept between 65 degrees and 85 degrees Fahrenheit, including kitchens and laundry areas. Cooling and heating shall be provided, as necessary, for resident comfort.
(b) Portable electric heaters and open-flame heating devices are prohibited. All fuel-burning devices shall be vented.
(c) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination. Windows used regularly for ventilation shall be screened.
(d) Bedrooms and bathrooms with windows shall have appropriate window coverings for privacy.
(e) The facility shall have adequate internal and external lighting to provide a safe environment and meet user needs.
(f) There shall be at least one sink, one tub or shower, and one toilet for every eight residents. All of the fixtures must be in good working order and have the appropriate drain and drain trap to prevent sewage gas escape back into the facility.
(g) The facility shall provide an adequate supply of hot water for the number of residents and the program schedule.
(h) Showers and tubs shall have no-slip surfaces and curtains or other safe enclosures for privacy.
(i) Clean drinking water shall be readily available to all residents.
(j) Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.
(k) The facility shall be kept free of insects, rodents, and vermin.
(l) Poisonous, toxic, and flammable materials shall be labeled, stored, and used safely.

SUBCHAPTER M. COURT COMMITMENT SERVICES.

§448.1301. Court Commitment Services.
(a) Facilities accepting court commitments shall be licensed to provide the appropriate level of service:
(1) emergency detention: residential detoxification or intensive residential services;
(2) adult inpatient involuntary commitments: intensive residential or residential services for adults;
(3) adult outpatient involuntary commitments: day treatment or outpatient services;
(4) juvenile inpatient commitments: intensive residential services for adolescents; and
(5) juvenile outpatient commitments: day treatment or outpatient services for adolescents.
(b) The facility's court commitment program shall comply with the TEX. HEALTH & SAFETY CODE ANN. ch. 462 (Vernon Supp. 2004).
(c) The facility shall report unauthorized departures to the referring courts. Verbal reports shall be made immediately, with written confirmation within 24 hours.
(d) The program shall provide the judiciary with sufficient written information about its program design, treatment methods, admission processes, lengths of stay and continuum of care to assist the judiciary in committing appropriate clients to the facility.

(e) The program shall accept all chemical dependency clients brought to the facility under an emergency detention warrant, order of protective custody, or civil court order for treatment. A formal screening and assessment is not required before admission.
(f) A program that accepts emergency detentions shall adopt a written policy authorizing use of restraint and/or seclusion and implement procedures that conform with §448.706 of this title (relating to Restraint and Seclusion).
(g) The client record shall contain documentation of the conditions and/or behaviors that caused the client's entry into the civil court commitment process.
(h) The client record shall also contain copies of the legal documents required for civil court commitment as specified by TEX. HEALTH & SAFETY CODE ANN. ch. 462 (Vernon 2001 & Supp. 2004).
(i) The facility shall provide training for at least two designated staff to ensure they understand and comply with court commitment statutes, regulations, and procedures.

SUBCHAPTER N. THERAPEUTIC COMMUNITIES.

§448.1401. Therapeutic Communities.

(a) Programs that conduct adult residential treatment services using the therapeutic community (TC) methodology are required to comply with this section in addition to all other rules regarding health, safety and physical plant requirements in this chapter. This section of the rules does not apply to those programs serving adolescents. Adolescent programs shall follow the minimum service and staffing requirements in the other sections of this chapter.
(b) A TC methodology to treatment is distinguished from other models of care by the following:

(1) TCs are highly structured residential programs intended to treat criminal and antisocial behaviors occurring with substance abuse or dependence.

(2) This model views recovery from these disorders as a developmental learning process in which the social and psychological characteristics of the client must be changed to one of "right living" and the client must adopt appropriate morals and values promoted by the program as opposed to solely recovering from an illness.

(3) The model utilizes the community itself and TC specific group-type meetings as the primary modality of change. Confrontation amongst clients regarding their behaviors, a carefully orchestrated consequence-reward system and hierarchical privilege system are the primary approaches utilized instead of the counseling and therapy utilized in other models of treatment.

(4) Counselors act primarily as role models and rational authorities rather than as counselors or therapists.

(5) The model expects the client length of stay to be a minimum of 90 days in order to achieve positive outcomes.

(6) The program is divided into 3 phases: The Orientation Phase (Information Dissemination), Primary Treatment Phase (Personal Application), and Re-Entry/Relapse Prevention Phase (Social Application).

(c) Treatment programs using the TC methodology are required to comply with Subchapter H. of this title (relating to Screening and Assessment).

(d) If the comprehensive psychosocial assessment identifies a potential mental health problem, the program shall arrange for the client to obtain a mental health evaluation by a Qualified Mental Health Professional.

(1) If the mental health evaluation reflects the client currently has a diagnosis, or has been diagnosed during the last year with an Axis I diagnosis or post traumatic stress disorder, and/or moderate to severe mental retardation, the program shall obtain written authorization from a licensed psychiatrist or licensed physician experienced in treating chemical dependency, for the client to receive TC treatment services prior to providing TC program services.

(2) A QCC, with at least one year documented experience in treating individuals with mental illness, shall act as the primary counselor and confer at least monthly with the authorizing psychiatrist or physician.

(e) The admission authorization process shall follow the rules as outlined in §448.802 of this title (relating to Admission Authority and Consent to Treatment). In addition to the elements outlined in §448.802(b)(1)-(16), the consent to treatment form shall contain the information in (b)(1)-(6), above. The client shall voluntarily agree to participate in the TC program.

(1) If the client is pregnant at the time of admission, the program shall obtain written authorization from a licensed physician for the client to receive TC treatment services prior to providing TC program services. If the pregnancy is determined after admission, the program shall obtain written authorization from a licensed physician for the client to receive TC treatment services.

(2) A physician or physician assistant shall monitor the client's response to treatment at least monthly or more often as needed.

(f) The TC Program shall ensure that all staff receive training in the TC methodology. All staff members shall receive 16 hours of training in TC theory, TC methods, and TC intervention techniques. This training is in addition to the applicable training requirements outlined in §448.603 of this title (relating to Training), and must take place within the first ninety days of employment.

(g) Intensive residential TC programs shall provide a minimum of 20 hours of services per week, which shall include:

(1) Six hours of counseling (which shall include two hours of individual counseling per month);

(2) Six hours of additional counseling, CD education, and life skills training; and

(3) Eight hours of TC groups, such as cognitive restructuring, AM/PM development, and encounter-confrontation groups. A counselor shall be present to supervise or monitor the activity and maintain structure in the TC groups.

(h) In addition to the 20 hours outlined above, the program shall provide ten additional hours of peer driven activities, such as community meetings, house meetings, peer support, recreation, seminars, and self help groups.

(i) Attendance shall be documented for peer driven activities. Documentation shall contain date, duration and type of activity. There is no size limitation or staffing requirement for peer driven activities.

(j) Ten hours of the above services shall be in provided in the evenings and on weekends.

(k) Adult Supportive TC Residential Programs shall provide at least six hours of treatment services per week for each client, comprised of at least:

(1) two hours of chemical dependency counseling (one hour per month of which shall be individual counseling);

(2) two hours of additional counseling, chemical dependency education, and life skills training; and

(3) two hours of TC groups such as cognitive restructuring, AM/PM development, and encounter- confrontation groups. A counselor shall be present to supervise or monitor the activity and maintain structure in the TC groups.

(l) Group counseling size is limited to 16 clients. Chemical dependency education and life skills classes are limited to 35 clients.

(m) The TC program shall set limits on counselor caseload size that ensures effective, individualized treatment. The TC program shall justify the caseload size in writing based on the program design, characteristics and needs of the population served, and the minimum client service hours as indicated in this section.

(n) In intensive residential TC programs the direct care staff to client ratio shall be 1:16 while awake and 1:32 during sleeping hours.

(o) In supportive residential TC programs the direct care staff to client ratio shall be 1:20 while awake and 1:50 during sleeping hours.

(p) In addition to the other requirements of this subchapter, the TC program's policy and procedure manual shall contain the following:

(1) written program description explaining how the therapeutic community functions;

(2) program structure, including rules, methods, and service schedule;

(3) overview of the TC treatment process;

(4) a description of consequences and rewards system; and

(5) policy stating that interventions are not used as punishment and that access to medical and psychiatric care will not be denied.

SUBCHAPTER O. FAITH BASED CHEMICAL DEPENDENCY PROGRAMS.

§448.1501. Definitions.

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

(1) Medical Care - Diagnosis or treatment of a physical or mental disorder.

(2) Medical Detoxification Services - Chemical dependency treatment designed to systematically reduce the amount of alcohol and other toxic chemicals in a client's body, manage withdrawal symptoms, and encourage the client to seek ongoing treatment for chemical dependency.

(3) Medical Withdrawal Service - See Medical Detoxification Services.

(4) Program - For the purposes of this subchapter, program means a system of care delivered to chemically dependent individuals.

(5) Religious Organization--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. § 501(a), by being listed as an exempt organization under § 501(c) of that code, 26 U.S.C. § 501(c).

§448.1502. Exemption for Faith-Based Programs.

(a) A chemical dependency treatment program is exempt from licensure under TEX. HEALTH & SAFETY CODE ANN. §§ 464.051-.061 (Vernon 2001 & Supp. 2004) if it:

(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 this chapter.

(b) An exempt program registered under this section may not provide medical care, medical detoxification, or medical withdrawal services.

§448.1503. Registration for Exempt Faith-Based Programs.

(a) To register its exemption, the religious organization shall complete and submit these documents to the Commission:

(1) a registration application;

(2) a copy of the determination letter from the Internal Revenue Service documenting the organization's tax exempt status under the Internal Revenue Code (26 U.S.C. § 501(c)(3); and

(3) a copy of the organization's articles of incorporation documenting that the primary purpose of the organization is the propagation of religious beliefs or a letter from the State of Texas Comptroller's Office documenting the organization's religious tax exemption status.

(b) The Commission shall issue a letter documenting the organization's registered exemption if the application packet satisfies the requirements in this section.

(c) An exempt organization registered under this section shall notify the Commission in writing within ten working days of any change affecting the program's exemption.

(d) Incomplete applications shall be returned to the applicant.

§448.1504. Admission to Faith-Based Programs.

(a) An exempt program registered under this section may not admit an individual unless the individual signs the admission statement at the time of admission.

(b) The program shall keep the original signed admission statement and give a copy of it to the individual admitted.

§448.1505. Advertisement.

(a) An exempt program registered under this section must include a notice in any advertisements or literature that promotes or describes the program or its chemical dependency treatment services.

(b) This statement shall reflect the following: 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 non-medical treatment and recovery methods, such as prayer, moral guidance, spiritual counseling, and scriptural study.

§448.1506. Revocation of Exemption.

(a) The Commission may revoke the exemption after notice and hearing if:

(1) the organization conducting the program fails to inform the Commission of any material changes in the program's registration information in a timely manner;

(2) any program advertisement or literature fails to include the statements required under this section; or

(3) the organization violates TEX. HEALTH & SAFETY CODE ANN. §§ 464.051-.061 (Vernon 2001 & Supp. 2004) or any Commission rule adopted under the subchapter.

(b) The Commission shall notify the organization in writing of its intent to revoke the exemption and offer the organization the opportunity for an informal hearing.

(c) The organization shall have 15 calendar days from the postmark date of the notice to submit a written request for an informal hearing.

(d) If the organization does not request an informal hearing, the revocation shall go into effect 30 calendar days from the postmark date of the notice of intent.

(e) If the organization requests an informal hearing, the Commission shall schedule the informal hearing within 15 calendar days of the postmark date of the request.

(f) At the hearing, the organization shall have opportunity to show compliance.

(g) If the organization does not show compliance, the Commission's governing board shall consider the information received at the hearing and determine whether or not to revoke the organization's exemption.

(h) The Commission shall send the organization written notification of its decision within 30 calendar days of the date of the hearing.

(i) The revocation shall take effect 30 calendar days from the postmark date of the written notice of decision.

(j) An organization whose exemption has been revoked may apply to reinstate the exemption one year after the effective date of the revocation.