

Licensed Chemical Dependency Counselor Handbook



**Counselor Licensure Rules
Counselor Intern Handbook of
Helpful Information, Forms, and
Examination Information**

Helpful Numbers

Texas Department of State Health Services
Professional Licensing and Certification Unit – MC1982
1100 West 49th Street Austin, Texas 78756-3199

Web site: www.dshs.state.tx.us

LCDC Licensure Information (800) 832-9623
Applications
Rules
Fingerprint cards
Clinical Training Institutions
Initial Licensure
LCDC Renewal
Reciprocity
Continuing Education
Open Records
Complaints/Investigations

Offender Education Program (800) 832-9623

Facility Licensure (512) 834-6700

Annual Institute (866) 378-8440

Drug and Alcohol Treatment Help Line (877) 966-3784

Texas Certification Board of Addiction Professionals (TCBAP) (512) 708-0629
or online at
Testing Administrator and ADC Certification www.tcbap.org

Examination dates, locations, fees and deadlines, as well as information on submitting your case presentation may be obtained by contacting the Texas Certification Board of Addiction Professionals (TCBAP)

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RULES

SUBCHAPTER A. DEFINITIONS.

§441.101. Definitions.

The following words and terms, when used in 40 TEX. ADMIN. CODE chs. 441, 442, 444, 447, 448, 450, and 453 of this title shall have the following meanings, unless the context clearly indicates otherwise:

(1) **Abuse**--An intentional, knowing, or reckless act or omission by provider personnel, a counselor, applicant for counselor licensure, or counselor intern that causes or may cause death, emotional harm or physical injury to a participant or client. Abuse includes without limitation the following:

- (A) any sexual activity between provider personnel, a counselor, applicant for counselor licensure, or counselor intern and a participant or client;
- (B) corporal punishment;
- (C) nutritional deprivation or sleep deprivation;
- (D) efforts to cause fear;
- (E) the use of any form of communication to threaten, curse, shame, or degrade a participant or client;
- (F) restraint that does not conform with chapter 448 of this title (relating to Standard of Care);
- (G) coercive or restrictive actions taken in response to a participant or client's request for discharge or refusal of medication or treatment that are illegal or not justified by the participant or client's condition; and
- (H) any other act or omission classified as abuse by Texas law, including but not limited to, TEX. FAMILY CODE ANN. §261.001 (Vernon 1996) and TEX. HUM. RES. CODE ANN. §48.002 (Vernon Supp. 2004).

(2) **Administrative Discharge**--A discharge report processed by the Commission for a client whose last admission date and/or last billing end date exceeds 50 days.

(3) **Administrative Follow-up**--A report processed by the Commission if 90 days for non-detoxification clients or 40 days for detoxification clients have elapsed from the client's last discharge date and the client has not been readmitted to the same provider within 60 days (non-detoxification clients) or ten days (detoxification clients).

(4) **Administrative Hearing**--An appeals hearing conducted by the State Office of Administrative Hearings (SOAH).

(5) **Administrative Law Judge (ALJ)**--An individual appointed by the chief administrative law judge of SOAH under TEX. GOV'T CODE ANN. §2003.041 (Vernon 2004) to preside over a contested case proceeding.

(6) **Administrative Procedure Act (APA)**—TEX. GOV'T CODE ANN. ch. 2001 (Vernon 2000 & Supp. 2004), as amended.

(7) **Adolescent**--An individual 13 through 17 years of age whose disabilities of minority have not been removed by marriage or judicial decree.

(8) **Adult**--An individual 18 years of age or older, or an individual under the age of 18 whose disabilities of minority have been removed by marriage or judicial decree.

(9) **Agency**--TCADA.

(10) **Alternative Activities**--A strategy that gives participants and their families the opportunity to take part in educational, cultural, recreational, skill-building, and work-oriented substance-free activities. Activities under this strategy are designed to encourage and foster bonding with peers, family and community.

(11) **Applicant**--A person who has submitted an application for an initial license to provide chemical dependency counseling or treatment, renewal of a license, or certification or approval for provision of an offender education program. For funding purposes, an applicant is a person who has submitted a proposal or application to provide substance abuse services in response to a solicitation issued by the Commission.

(12) **Assessment**--An ongoing process through which the counselor collaborates with the client and others to gather and interpret information necessary for developing and revising a treatment plan and evaluating client progress toward achievement of goals identified in the treatment plan, resulting in comprehensive identification of the client's strengths, weaknesses, and problems/needs.

(13) **ATOD**--Alcohol, tobacco and other drugs collectively.

(14) **Authorized Representative**--An attorney authorized to practice law in the State of Texas or, if authorized by applicable law, a person designated in writing by a party to represent the party.

(15) **Behavioral Health Integrated Provider System (BHIPS)**--The Commission's Internet-based computer system for contracted service providers that offers contractors the tools to meet State and Federal requirements for reporting, including capturing required client and billing data.

(16) **Block Grant**--Substance Abuse Prevention and Treatment Block Grant, 42 U.S.C. 300x-21, et seq.

(17) **Brief Interventions**--Brief interventions are short counseling sessions that can be as short as five minutes or long as an hour for "at risk" or "harmful" users that are not chemically dependent. These interventions are for the purpose of goal setting within safe limits, giving self care instruction and referral to other sources that are appropriate. For those clients that are dependent or for whom the position along the stage of change spectrum of alcohol or drug problems is uncertain,

the brief intervention is a negotiation process to seek further assessment and referral to an appropriate level of care. The brief intervention is summarized by the acronym FRAMES: feedback, responsibility, advice, menu of strategies, empathy and self-efficacy.

(18) **Brief Therapy**--A systematic, focused process that relies on client engagement, and rapid implementation of change strategies. Brief therapies are described in "Brief Interventions and Brief Therapies for Substance Abuse" (Treatment Improvement Protocol 34), published by CSAT.

(19) **Business Day**--A weekday on which State offices are open.

(20) **Center for Substance Abuse Prevention (CSAP) Prevention Strategies**--

(A) **Community-Based Process**--A strategy designed to enhance the ability of the community to provide effective prevention, intervention, and treatment services for ATOD problems and HIV infection through community mobilization and empowerment. Activities include multi-agency coordination and collaboration, networking, and development of written agreements among community organizations.

(B) **Environmental and Social Policy**--A strategy designed to establish or change written and unwritten community standards, codes, and attitudes, thereby influencing incidence and prevalence of substance abuse in the general population. It includes activities that center on legal and regulatory initiatives and those that relate to the service and action-oriented initiatives.

(C) **Information Dissemination**--A strategy that provides awareness and knowledge of ATOD problems and/or HIV infection and their harmful effects on individuals, families, and communities. It also gives the general population information about available programs and services. Information dissemination is characterized by one-way communication from the source to the audience, with limited contact between the two. Information is disseminated through written communications and/or in-person community presentations.

(D) **Prevention Education and Skills Training**--A curriculum-based strategy designed to develop decision-making, problem solving, and other life skills. It also provides accurate information about the harmful effects of ATOD use, abuse and addiction pertinent to the needs of the target population. The basis of activities under this strategy is interaction between the educator/facilitator and the participants. These activities are aimed to increase protective factors, foster resiliency, decrease risk factors and affect critical life and social skills relative to substance abuse and/or HIV risk of the participant and/or family members.

(E) **Problem Identification and Referral**--A strategy that provides services designed to ensure access to appropriate levels and types of services needed by youth or adult participants.

(F) **Alternative Activities**--A strategy that gives participants and their families the opportunity to take part in educational, cultural, recreational, skill-building, and work-oriented substance-free activities. Activities under this strategy are designed to encourage and foster bonding with peers, family and community.

(21) **Chemical Dependency**--In addition to the statutory provisions defining chemical dependency as abuse of, dependence on, or addiction to alcohol or a controlled substance (as defined by TEX. HEALTH & SAFETY CODE ANN. ch. 481 (Vernon 2001) and related statutory provisions in TEX. HEALTH & SAFETY CODE ANN. chs. 461 and 464 (Vernon 2001 & Supp. 2004), the Commission also defines chemical dependency as substance-related disorders as that term is used in the most recent published edition of the Diagnostic and Statistical Manual of Mental Disorders (See DSM).

(22) **Chemical Dependency Counseling**--See Practice of Chemical Dependency Counseling.

(23) **Chemical Dependency Counselor**--See Licensed Chemical Dependency Counselor (LCDC).

(24) **Chemical Dependency Counselor Intern**--A person registered with the Commission who is pursuing a course of training in chemical dependency counseling at a registered clinical training institution.

(25) **Chemical Dependency Treatment**--A planned, structured, and organized chemical dependency program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs. It includes, but is not limited to, the application of planned procedures to identify and change patterns of behavior related to or resulting from substance-related disorders that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning.

(26) **Child**--For purposes of reporting abuse and neglect, a child is an individual under the age of 18 whose disabilities of minority have not been removed by marriage or judicial decree. For all other purposes in these rules, child shall mean an individual under the age of 13.

(27) **Child Abuse and Neglect**--Any act or omission that constitutes abuse or neglect of a child under the age of 18 by a person responsible for a child's care, custody, or welfare as defined in the TEX. FAM. CODE ANN. § 261.001 (Vernon 1996).

(28) **Client**--An individual who receives or has received services, including admission authorization or assessment or referral, from a chemical dependency treatment provider, counselor, counselor intern, or applicant for licensure as a counselor, or from an organization where the counselor, intern or applicant is working on a paid or voluntary basis.

(29) **Client Data Systems (CDS) Forms**--CDS forms consist of the admission/transfer admission report, discharge report, and follow-up report.

(30) **Clinical Evaluation**--A systematic approach to screening and assessment.

(31) **Clinical Training Institution (CTI)**--An individual or legal entity registered with the Commission to supervise a counselor intern.

(32) **Cognizant Agency**--The Federal or State agency responsible for reviewing, negotiating, and approving an organization's indirect cost rate. TCADA has not been designated as a cognizant agency.

(33) **Commission**--Texas Commission on Alcohol and Drug Abuse and its branches, divisions, departments, and employees.

(34) **Consenter**--The individual legally responsible for giving informed consent for a client. Unless otherwise provided by law, a legally competent adult is his or her own consenter and the consenter for an adolescent or child is the parent, guardian, or conservator. Texas law allows a person 16 or 17 years of age to consent to his or her own treatment.

(35) **Contested Case**--A proceeding, including but not restricted to licensing, in which the legal rights, duties, or privileges of a party are to be determined by the Commission after an opportunity for adjudicative hearing.

(36) **Contractor**--Person funded by the Commission to provide substance abuse services unless otherwise specified.

(37) **Cost Reimbursement**--A payment mechanism used for prevention and intervention services in which funds are provided to carry out approved activities based on an approved budget.

(38) **Counseling**--A collaborative process that facilitates the client's progress toward mutually determined treatment goals and objectives. Counseling includes methods that are sensitive to individual client characteristics and to the influence of significant others, as well as the client's cultural and social context. Competence in counseling is built upon the understanding of, appreciation of, and ability to appropriately use the modalities of care for individuals, groups, families, couples, and significant others.

(39) **Counselor**--A qualified credentialed counselor, graduate or counselor intern working towards licensure that would qualify them to be a qualified credentialed counselor (QCC).

(40) **Crisis Intervention**--Actions designed to intervene in situations which require immediate attention to avert potential harm to self or others. Services include face-to-face individual, family, or group interviews/interactions and/or telephone contacts to identify needs.

(41) **Days**--Calendar days, unless otherwise specified.

(42) **Digital Authentication Key**--Identification data (that includes user identification and a time stamp) that is digitally stamped on electronic documents identifying the specific user that created the document. The identification data shall be controlled by a unique user ID and an encrypted password.

(43) **Direct Care Staff**--Staff responsible for providing treatment, care, supervision, or other direct client services that involve face-to-face contact with a client.

(44) **Discharge**--Formal, documented termination of services.

(45) **Document** (noun)--A written or electronic record.

(46) **Diagnostic and Statistical Manual of Mental Disorders (DSM)**--The Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. The current version is the Fourth Edition, Text Revision (DSM-IV-TR). Any reference to DSM shall constitute a reference to the most recent edition then published.

(47) **Driving While Intoxicated (DWI)**--The offense of driving while intoxicated as defined in the TEX. PEN. CODE ANN. ch. 49 (Vernon 2003).

(48) **Elderly**--A person 65 years of age or older.

(49) **Emergency Behavioral Health Condition**--Any condition, without regard to the nature or cause of the condition, which in the opinion of a prudent lay person possessing an average knowledge of medicine and health, requires immediate intervention and/or medical attention without which an individual would present a danger to themselves or others or which renders individuals incapable of controlling, knowing or understanding the consequences of their actions.

(50) **Encryption**--A method that allows secure transmittal of information along the Internet by encoding the transmitted data using a mathematical formula that scrambles the data. Without a corresponding "decoder," the transmission would be unusable.

(51) **Executive Director**--The chief administrative officer or designee of the Texas Commission on Alcohol and Drug Abuse.

(52) **Exploitation**--The illegal or improper use of a client or participant, or their resources, for monetary or personal benefit, profit, or gain by provider personnel, a staff member, volunteer, or other individual working under the auspices of a provider or by a counselor, counselor intern or applicant for counselor licensure or any other act or omission classified as exploitation by Texas law including, but not limited to, TEX. FAM. CODE §261.001 (Vernon 1996) and TEX. HUM. RES. CODE § 48.002 (Vernon Supp. 2004).

(53) **Facility**--See Treatment Facility.

(54) **Family**--The children, parents, brothers, sisters, other relatives, foster parents, guardians, and/or significant others who perform the roles and functions of family members in the lives of clients or participants.

(55) **Fiscal Year**--The Commission's fiscal year, September 1-August 31, unless otherwise specified.

(56) **Gender Specific**--Therapy, education and/or program components that are designed to address emotional, developmental, rehabilitative, health and/or other issues that are specific to the gender of the client.

(57) **Graduate**--An individual who has successfully completed the 270 hours of education, 300 hour practicum, and 4,000 hours of supervised work experience and who is still registered with the Commission as a counselor intern.

(58) **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**--Pub. L. No. 104-191, 45 C.F.R. pts. 160 and 164.

(59) **Human Immunodeficiency Virus (HIV)**--The virus that causes Acquired Immune Deficiency Syndrome (AIDS). Infection is determined through a testing and counseling process overseen by the Texas Department of Health (TDH). Being infected with HIV is not necessarily equated with having a diagnosis of AIDS, which can only be diagnosed by a physician using criteria established by the National Centers for Disease Control and Prevention.

(60) **HIV Antibody Counseling and Testing**--A structured counseling session performed by Prevention Counseling and Partner Elicitation (PCPE) counselors registered with TDH. It promotes risk reduction behavior for those at risk of infection with HIV and other sexually transmitted diseases and offers testing for HIV infection.

(61) **HIV Early Intervention Services**--

(A) appropriate pretest counseling for HIV and AIDS;

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) appropriate post-test counseling; and

(D) providing the therapeutic measures described in subparagraph (B) of this paragraph.

(62) **Indicated Population**--The population who may already be experimenting with drugs or who exhibit other problem-related behaviors.

(63) **Individual Service Day**--A day on which a specific client receives services.

(64) **Intake**--The process for gathering information about a prospective client and giving a prospective client information about treatment and services.

(65) **Intervention**--The interruption of the onset or progression of chemical dependency in the early stages. Intervention strategies target indicated populations.

(66) **Intervention Counseling**--Interactions to assist individuals, families, and groups to identify, understand, and resolve issues and problems related to ATOD use within a specific number of sessions or within a certain time frame. It is intended to intervene in problem situations and high-risk behaviors, which, if not addressed, may escalate to substance abuse or cause communicable disease. Such interactions should not include determining whether a person is in need of treatment. The use of the term "counseling" does not carry the same meaning as defined in paragraph (38) of this section.

(67) **Key Performance Measures**--Measures that reflect the services that are critical to the program design and intended outcomes of the program. Key performance measures are specified for all Commission-funded programs.

(68) **Knowledge, Skills, and Attitudes (KSAs)**--The knowledge, skills, and attitudes of addictions counseling as defined by CSAT Technical Assistance Publication (TAP 21) "Addictions Counseling Competencies: the Knowledge, Skills, and Attitudes of Professional Practice."

(69) **License**--The whole or part of any agency permit, certificate, approval, registration, or similar form of permission authorized by law.

(70) **Licensed Chemical Dependency Counselor (LCDC)**--A counselor licensed by the Texas Commission on Alcohol and Drug Abuse pursuant to TEX. OCC. CODE ch. 504 (Vernon 2002 & Supp. 2003).

(71) **Licensed Health Professional**--A physician, physician assistant, nurse practitioner, registered nurse, or licensed vocational nurse authorized to practice in the State of Texas.

(72) **Licensee**--Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.

(73) **Licensing**--The agency process relating to the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(74) **Life Skills Training (Treatment)**--A structured program of training, based upon a written curriculum and provided by qualified staff designed to help clients with social competencies such as communication and social interaction, stress management, problem solving, decision making, and management of daily responsibilities.

(75) Mechanical Restraint--

(A) The application of a device restricting the movement of the whole or a portion of an individual's body to control physical activity. Only commercially available devices specifically designed for the safe and comfortable restraint of humans may be used as mechanical restraints.

(B) Despite their commercial availability, the following types of devices may not be used to implement restraint:

- (1) those with metal wrist or ankle cuffs;
- (2) those with rubber bands, rope, cord, or padlocks or key locks as fastening devices;
- (3) long ties (e.g., leashes); or
- (4) bed sheets.

(C) The following devices may be utilized to implement restraint.

(1) Anklets--A cloth or leather band fastened around the ankle or leg and secured to a stationary object (e.g., bed or chair frame). Acceptable fasteners include Velcro and buckles. The device must not be secured so tightly as to interfere with vital functions, including circulation, or so loose as to permit chafing of the skin. Padding on the inside of the device, which aids in preventing chafing, is required.

(2) Belts--A cloth or leather band fastened around the waist. The belt may either be attached to a stationary object (e.g., chair frame) or used for securing the arms to the sides of the body. The device must not be secured so tightly as to interfere with vital functions, including breathing and circulation.

(3) Chair restraint--A well-padded stabilized chair that supports all body parts and prevents the individual's voluntary egress from the chair without assistance (e.g., table top chair, Geri-chair). Mechanical restraint devices (e.g., wristlets, anklets) are attached or may be easily attached to restrict movement. The devices must not be secured so tightly as to interfere with vital functions, including breathing and circulation.

(4) Ties--A length of cloth or leather used to secure approved mechanical restraints (i.e., mittens, wristlets, arm splints, belts, anklets, vests, etc.) to a stationary object (i.e., bed or wheelchair frame) or to other approved mechanical restraints. Ties must not be secured so tightly as to interfere with vital functions, including breathing and circulation.

(5) Wristlets--A cloth or leather band fastened around the wrist or arm and secured to a stationary object (e.g., bed or chair frame, waist belt). Acceptable fasteners include Velcro and buckles. The device must not be secured so tightly as to interfere with vital functions, including circulation or so loose as to permit chafing of the skin. Padding on the inside of the device, which aids in preventing chafing, is required.

(76) Medication Error--Medication not given according to the written order by the prescribing professional or as recommended on the medication label. Medication errors include without limitation, duplicate doses, missed doses, and doses of the wrong amount or drug.

(77) **Minor**--A person under the age of 18.

(78) **Neglect**--A negligent act or omission by provider personnel, a staff member, volunteer, or other individual working under the auspices of a provider, or by a counselor, applicant for counselor licensure, or counselor intern that causes or may cause death, physical injury, or substantial emotional harm to a participant or client. Examples of neglect include, but are not limited to:

- (A) failure to provide adequate nutrition, clothing, or health care;
- (B) failure to provide a safe environment free from abuse;
- (C) failure to maintain adequate numbers of appropriately trained staff;
- (D) failure to establish or carry out an appropriate individualized treatment plan; and
- (E) any other act or omission classified as neglect by the Texas law including, but not limited to, TEX. FAM. CODE §261.001 (Vernon 1996) and TEX. HUM. RES. CODE §48.002 (Vernon Supp. 2004).

(79) **Nurse Practitioner**--A registered nurse currently licensed in Texas who is approved by the Texas State Board of Nurse Examiners to engage in advanced practice.

(80) **Offender Education Program**--An Alcohol Education Program for Minors, Drug Offender Education Program, DWI Education Program, or DWI Intervention Program approved by the Commission under 40 TEX. ADMIN. CODE ch. 453 of this title (relating to Offender Education Programs).

(81) **OMB**--United States Office of Management and Budget.

(82) **On Duty**--Present, ready, awake and able to perform job duties at the physical locations where services are provided.

(83) **Outcome**--The results of a service on clients or participants or the service delivery system itself.

(84) **Outreach**--Activities directed toward finding individuals who might not use services due to lack of awareness or active avoidance.

(85) **Participant**--An individual who is receiving prevention or intervention services.

(86) **Party**--A person or agency formally named or admitted as a party.

(87) **Person**--An individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(88) **Personal Restraint**--Physical contact to control or restrict an individual's physical movement or actions. See also Mechanical Restraint.

(89) **Personnel**--The members of the governing body of a provider and, without limitation, its staff, employees, contractors, consultants, agents, representatives, volunteers, or other individuals working for or on behalf of the provider through a formal or informal agreement.

(90) **Pleading**--A written document submitted by a party, or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.

(91) **Practice of Chemical Dependency Counseling Services**--Providing or offering to provide chemical dependency counseling services involving the application of the principles, methods, and procedures of the chemical dependency counseling profession as defined by the activities listed in the domains of TAP 21 "Addictions Counseling Competencies: the Knowledge, Skills, and Attitudes of Professional Practice" published by CSAT.

(92) **Prevention**—A proactive process that uses multiple strategies to preclude the illegal use of alcohol, tobacco and other drugs and to foster safe, healthy, drug-free environments.

(93) **Private Practice**--The individual practice of a private, licensed health care practitioner who personally renders individual or group services within the scope of the practitioner's license and in the practitioner's offices. To qualify to be engaged in private practice, the individual licensed health care practitioner must not hold him/herself out as an organized program, or a part thereof, that provides counseling or treatment. This definition does not prohibit the sharing of office space or administrative support staff.

(94) **Program**--A specific type of service delivered to a specific population, at a specific location.

(95) **Proprietary School**--An organization approved and regulated by the Texas Workforce Commission under 40 TEX. ADMIN. CODE ch. 807 (2003) (relating to Proprietary Schools) that offers a course of study in chemical dependency counseling.

(96) **Protective Factors**--Characteristics within individuals and social systems which may inoculate or protect persons against risk factors and strengthen their determination to reject or avoid substance abuse.

(97) **Provider**--A person that performs or offers to perform substance abuse services. The term includes but is not limited to, a qualified credentialed counselor, applicant for counselor licensure, and counselor intern.

(98) **Qualified Credentialed Counselor (QCC)**--A licensed chemical dependency counselor or one of the practitioners listed below who is licensed and in good standing in the State of Texas:

- (A) licensed professional counselor (LPC);
- (B) licensed master social worker (LMSW);
- (C) licensed marriage and family therapist (LMFT);

- (D) licensed psychologist;
- (E) licensed physician;
- (F) licensed physician's assistant;
- (G) certified addictions registered nurse (CARN); or
- (H) nurse practitioner recognized by the Board of Nurse Examiners as a clinical nurse specialist or nurse practitioner with a specialty in psych-mental health (APN-P/MH).

(99) **Qualified Mental Health Professional**--A qualified mental health professional as defined in the 25 TEX. ADMIN. CODE § 401.583 (15) (2003).

(100) **Recovery Maintenance**--A level of treatment designed to maintain and support a client's continued recovery.

(101) **Referral**--The process of identifying appropriate services and providing the information and assistance needed to access them.

(102) **Residential Site**--A physical location owned, leased, or operated by a provider where clients reside in a supervised treatment environment.

(103) **Respondent**--A person against whom the Commission seeks an administrative, civil or criminal remedy for non-compliance with law and rules governing substance abuse services.

(104) **Restraint**--See Personal and Mechanical Restraint.

(105) **Retaliate**--Actions taken to punish or discourage a person, including a participant or client, who reports a violation of these rules or cooperates with an investigation, inspection, or intimidation proceeding by the Commission. Such actions include, but are not limited to, suspension or termination of employment, demotion, discharge, transfer, discipline, abuse, neglect, restriction of privileges, harassment, or discrimination.

(106) **Risk Factor**--A characteristic or attribute of an individual, group, or environment associated with an increased probability of certain disorders, addictive diseases, or behaviors.

(107) **Risk Management**--The process of identifying, evaluating and taking steps to minimize the risk associated with any activity, function, or process.

(108) **Rules**--An agency statement of general applicability that implements, or prescribes law or policy by defining general standards of conduct, rights, or obligations of persons, or describes the procedure or practice requirements that prescribe the manner in which public business before an agency may be initiated, scheduled, or conducted, or interprets or clarifies law or agency policy. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and does not affect private

rights or procedures. This definition includes regulations. Any reference to the rules herein shall mean Commission rules currently in effect unless otherwise specified.

(109) **Screening**--The process through which a qualified staff, client or participant, and available significant others determine the most appropriate initial course of action, given the individual's needs and characteristics and the available resources within the community. In a treatment program, screening includes determining whether an individual is appropriate and eligible for admission to a particular program.

(110) **Seclusion**--Confinement of an individual for a period of time in a hazard-free room or other area in which direct observation can be maintained and from which egress is prevented.

(111) **Selective Program**--A prevention program designed to target subsets of the total population that are deemed to be at higher risk for substance abuse by virtue of membership in a particular population segment. Risk groups may be identified on the basis of biological, psychological, social or environmental risk factors, and targeted groups may be defined by age, gender, family history, place of residence, or victimization by physical and/or sexual abuse. Selective prevention programs target the entire subgroup regardless of the degree of individual risk.

(112) **Services**--Substance abuse services.

(113) **Service Coordination**--Administrative, clinical, and evaluative activities that bring the client, treatment services, community agencies, and other resources together to focus on issues and needs identified in the treatment plan. Service coordination, which includes care management and client advocacy, establishes a framework of action for the client to achieve specified goals. It involves collaboration with the client and significant others, coordination of treatment and referral services, liaison activities with community resources and managed care systems, client advocacy, and ongoing evaluation of treatment progress and client needs.

(114) **Sexual Exploitation**--A pattern, practice, or scheme of conduct by provider personnel or other individual working under the auspices of a provider, or by a counselor, intern, or applicant that involves a client or participant and can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with, a part of or, a condition of receiving services. It is not a defense to sexual exploitation of a client, or participant if it occurs:

- (A) with consent of the client or participant;
- (B) outside of the delivery of services; or
- (C) off of the premises used for the delivery of substance abuse services; or
- (D) after the client or participant is no longer receiving services, unless it occurred two years after the client or participant stopped receiving services.

(115) **Signature**--Authentication of a record that meets the criteria established in §448.507 of this title (relating to General Documentation Requirements).

(116) **Staff**--Individuals working for a person in exchange for money or other compensation.

(117) **State Office of Administrative Hearings (SOAH)**--The agency to which contested cases are referred by the Commission.

(118) **Substance Abuse**--A maladaptive pattern of substance use leading to clinically significant impairment or distress, as defined by the most recently published version of the DSM.

(119) **Substance Abuse Education**--A planned, structured presentation of information provided by qualified staff, which is related to substance abuse or substance dependence, allows for discussion of the material presented and is relevant to the client or participant's goals.

(120) **Substance Abuse Services (Services)**--A comprehensive term intended to describe activities undertaken to address any substance-related disorder as well as prevention activities. The term includes the provision of screening, assessment, referral, treatment for chemical dependency and chemical dependency counseling.

(121) **Substance-Related Disorders**--Defined by the most recently published version of the DSM.

(122) **TCADA**--Texas Commission on Alcohol and Drug Abuse

(123) **Texas Public Information Act**—TEX. GOV'T CODE ANN. ch. 552 (Vernon 2000 & Supp. 2004).

(124) **Therapeutic Services for Women**--Education, services and/or therapy to address: parenting, reproductive and general health, self-esteem, physical and sexual abuse, mental health, child development and self-sufficiency.

(125) **Toxic Inhalant**--A gaseous substance that is inhaled by a person to produce a desired physical or psychological effect and that may cause personal injury or illness to the inhaler.

(126) **Treatment**--See Chemical Dependency Treatment.

(127) **Treatment Facility**--

- (A) a public or private hospital;
- (B) a detoxification facility;
- (C) a primary care facility;
- (D) an intensive care facility;
- (E) a long-term care facility;
- (F) an outpatient care facility;
- (G) a community mental health center;

- (H) a health maintenance organization;
- (I) a recovery center;
- (J) a halfway house;
- (K) an ambulatory care facility; or
- (L) any other facility that offers or purports to offer treatment.

(128) **Treatment Planning**--A collaborative process through which the provider and client develop desired treatment outcomes and identify the strategies for achieving them. At a minimum, the treatment plan addresses the identified substance use disorder(s), as well as issues related to treatment progress, including relationships with family and significant others, employment, education, spirituality, health concerns, and legal needs.

(129) **Unethical Conduct**--Conduct prohibited by the ethical standards adopted by state or national professional organizations or by rules established by a profession's state licensing agency.

(130) **Unit Rate**--A payment mechanism in which a specified rate of payment is made in exchange for a specified unit of service.

(131) **Universal Population**--Universal prevention programs are delivered to large groups without any prior screening for substance abuse risk. A prevention program designed to address an entire population with messages and programs aimed at preventing or delaying the use and abuse of alcohol, tobacco, and other drugs.

(132) **Utilization Review**--The process of evaluating the necessity, appropriateness and efficiency of the use of chemical dependency treatment services, procedures and facilities.

(133) **Youth**--Individuals between the ages of 13 through 17. See also Young Adult in chapters 447 and 448 of this title (relating to Contract Program Requirements and Standard of Care).

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§450.101. License Required.

(a) An individual identified to the public as a chemical dependency counselor must be licensed or exempt under this chapter. Except as provided by this section, individuals who are not licensed chemical dependency counselors (LCDCs) shall not:

- (1) offer or provide chemical dependency counseling services other than education;
- (2) represent themselves as chemical dependency counselors; or
- (3) use any name, title, or designation that implies licensure as a chemical dependency counselor.

(b) The following people are exempt from this chapter when they are acting within the scope of their authorized duties:

- (1) counselors employed by Federal institutions;
- (2) school counselors certified by the Texas Education Agency;
- (3) licensed physicians, licensed psychologists, licensed professional counselors (LPC), licensed marriage and family therapists (LMFT), and licensed master social workers (LMSW);
- (4) religious leaders of congregations providing pastoral counseling within the scope of their congregational duties and people who are working for or providing counseling with a program exempted under TEX. HEALTH & SAFETY CODE ANN. §§ 464.051-.061 (Vernon 2001 & Supp. 2004);
- (5) students who are participating in a practicum as part of a supervised course of clinical training at a regionally accredited institution of higher education or a proprietary school; and
- (6) counselor interns who are registered with the Commission and working under the auspices of a registered clinical training institution.

(c) Residents of other states are exempt if they:

- (1) are legally authorized to provide chemical dependency counseling in those states; and
- (2) do not offer or provide chemical dependency counseling in Texas for more than 30 days in any 12-month period.

(d) A person who qualifies for an exemption but chooses to get a license from the Commission is subject to the same rules and disciplinary actions as other licensees.

§450.102. Scope of Practice.

(a) A licensed chemical dependency counselor (LCDC) is licensed to provide chemical dependency counseling services involving the application of the principles, methods, and procedures of the chemical dependency profession as defined by the profession's ethical standards and the Knowledge, Skills, and Abilities (KSAs) as defined in 40 TEX. ADMIN. CODE ch. 141 of this title (relating to General Provisions). The license does not qualify an individual to provide services outside this scope of practice.

(b) The scope of practice for a chemical dependency counselor includes services that address substance abuse/dependence and/or its impact on the service recipient subject to the following:

- (1) the counselor is prohibited from using techniques that exceed his or her professional competence;
- (2) the service recipient may only be the user, family member or any other person involved in a significant relationship with an active user;

- (3) LCDCs may diagnose substance disorders, but anything other than a mental health diagnostic impression must be determined by a qualified professional; and
- (4) LCDCs are not qualified to treat individuals with a mental health disorder or provide family counseling to individuals whose presenting problems do not include chemical dependency.

§450.103. Commission Review.

Pursuant to a Commission inquiry regarding an alleged violation of the its rules or the law, a person licensed, registered, or approved under this chapter shall produce records, documents and other evidence related to the license, registration, or approval to the Commission, upon request, unless otherwise prohibited by law. A person licensed, registered or approved under this chapter, shall not interfere with the Commission's access to clients, witnesses or other parties.

§450.104. Fees.

(a) The schedule for fees is:

- (1) initial application fee--\$25;
- (2) initial licensure fee--\$75;
- (3) renewal fees:
 - (A) renewal application fee--\$25;
 - (B) license renewal fee--\$75;
 - (C) late renewal penalty fee (up to 90 days after the license expiration date) - \$37.50;
 - (D) late renewal penalty fee (between 91 days and one year after the license expiration date)--\$75;
- (4) background investigation fee--\$40;
- (5) inactive status fee--\$50;
- (6) certificate replacement or duplication fee--\$25.

(b) The Commission charges a \$25 fee for a printed list of licensed counselors or a set of mailing labels.

(c) The Commission may contract with an outside organization to administer the licensure examination, and the fee charged by the contract organization is subject to change. The current fee shall be printed in the registration form. Examination fees shall be paid directly to the contract organization administering the examination.

(d) Licensure fees paid to the Commission are not refundable.

(e) Fees shall be paid in full with a cashier's check, commercial check, or money order. If online application is available, the fee may be paid with a credit card and is subject to a surcharge by the online vendor.

§450.105. Licensure Application Standards and Registration.

(a) Every person seeking licensure shall register with the Commission by submitting the following items in a form acceptable to the Commission:

- (1) the application fee and the background investigation fee;
- (2) the Commission's current application form which has been completed, signed, dated, and notarized;
- (3) a recent full-face wallet-sized photograph of the applicant;

- (4) two sets of fingerprints completed according to Commission instructions with cards issued by the Commission;
- (5) documentation that the applicant has successfully completed intern registration requirements in §450.106 of this title (relating to Requirements for Counselor Intern Registration).
- (b) An applicant shall:
- (1) read the Commission rules (40 TEX. ADMIN. CODE ch. 450 (2004));
 - (2) follow all laws and rules, including the ethical standards;
 - (3) allow the Commission to seek any additional information or references necessary; and
 - (4) notify the Commission in writing within 30 days of a change in address.
- (c) Application materials become the property of the Commission.
- (d) An application packet will not be accepted unless it is complete.
- (1) Incomplete documents will be returned to the sender. The Commission will hold the remaining documents, but will not accept the application until all outstanding documents have been completed and approved.
 - (2) The application and background fee is not refundable and will not be returned. When resubmitting documents that were returned to the sender as incomplete, a second application fee is not required.
- (e) A document may be considered incomplete if it does not conform to the following standards.
- (1) All documents must be complete, signed, and dated. Signatures shall include credentials. If the documentation relates to past activity, the date of the activity shall also be recorded.
 - (2) Documentation shall be permanent and legible.
 - (3) When it is necessary to correct a document, the error shall be marked through with a single line, dated, and initialed by the writer. Correction fluid shall not be used.
- (f) An applicant must receive written notice of registration from the Commission before accumulating any supervised work experience or taking the examination or providing chemical dependency services.
- (g) Within 45 days of receipt of the application, the Commission shall notify the applicant that the application is complete or specify the additional information required.
- (h) By signing the application, the applicant accepts responsibility for remaining knowledgeable of licensure rules, including revisions.
- (1) Current rules are published in the Texas Administrative Code and posted on the Secretary of State's web site and the Commission's web site.
 - (2) Proposed rule changes are published in the Texas Register and posted on the Secretary of State's web site and the Commission's web site.

§450.106. Requirements for Counselor Intern Registration.

To be eligible for a counselor intern registration under this chapter, a person must:

- (1) be at least 18 years of age;
- (2) have a high school diploma or its equivalent;
- (3) successfully complete 270 classroom hours of chemical dependency curricula as described in §450.107 of this title (relating to Standards for 270 Educational Hours) or meet the educational waiver contained in §450.109 of this title (relating to Education and Experience Exemptions/Waivers);

- (4) complete 300 hours of approved supervised field work practicum as described in §450.108 of this title (relating to Practicum Standards) or meet the educational waiver contained in §450.109 of this title (relating to Education and Experience Exemptions/Waivers);
- (5) pass the criminal history standards described in §450.115 of this title (relating to Criminal History Standards);
- (6) sign a written agreement to abide by the ethical standards contained in §450.121 of this title (relating to Ethical Standards); and
- (7) be worthy of the public trust and confidence as determined by the Commission.

§450.107. Standards for 270 Educational Hours.

- (a) At least 135 (nine semester hours) of the education hours must be specific to substance use disorders and their treatment. The remaining 135 hours may be specific or related to chemical dependency counseling. Related education hours may include courses in psychology, upper division sociology, counseling, mental health, behavioral science, psychiatric nursing, ethics, and rehabilitation counseling.
- (b) The education shall be provided by a proprietary school, or an accredited institution of higher education.
- (c) Continuing education and extended learning courses offered by institutions of higher education are not acceptable unless the curriculum follows the Workforce Education Curriculum Manual and meets the standards equivalent to a credit course.
- (d) Educational hours obtained at a proprietary school must follow the curriculum for Transdisciplinary Foundations for Addictions Professional outlined in the KSAs:
 - (1) Understanding Addiction;
 - (2) Treatment Knowledge;
 - (3) Application to Practice; and
 - (4) Professional Readiness.
- (e) The Commission shall not accept hours unless documented with a passing grade on an official transcript from the school. The applicant shall submit additional information requested by the Commission if needed to verify the content of a course.

§450.108. Practicum Standards.

- (a) The practicum shall be completed under the administration of a proprietary school or an accredited institution of higher education.
- (b) The applicant must complete the practicum under the administration of a single school.
- (c) The Commission shall not accept a practicum without an official transcript from the school and a letter from the school's educational coordinator or chair verifying that the practicum was completed in the field of substance abuse.
- (d) Practicum hours may be paid or voluntary.
- (e) The practicum shall be delivered according to a written training curriculum that provides the student with an orientation to treatment services and exposure to treatment activities in each of the KSA dimensions. The practicum must include the intern observing treatment delivery and the intern providing services under direct observation. The practicum shall include at least 20 hours of experience in each of the KSA dimensions.
- (f) All training shall be provided by qualified credentialed counselors (QCCs).

§450.109. Education and Experience Exemptions/Waivers.

(a) Applicants holding a degree in chemical dependency counseling, sociology, psychology, or any other degree approved by the Commission are exempt from the 270 hours of education and the 300 hour practicum. The applicant must submit an official college transcript with the official seal of the college and the signature of the registrar. Degree programs approved by the Commission include baccalaureate, masters, or doctoral degrees with a course of study in human behavior/development and service delivery.

(b) The Commission may waive the 4,000 hours of supervised work experience for individuals who hold a masters or doctoral degree in social work or a masters or doctoral degree in a counseling-related field with 48 semester hours of graduate-level courses. Counseling related degrees shall be reviewed on a case-by-case basis. The applicant shall submit an official college transcript with the official seal of the college and the signature of the registrar, and any other related documentation requested by the Commission.

§450.110. Requirements for Licensure.

To be eligible for a license under this chapter, a person must:

- (1) complete the application related to §450.105 of this title (relating to Licensure Application Standards and Registration);
- (2) meet the requirements to be a counselor intern in §450.106 of this title (relating to Requirements for Counselor Intern Requirements);
- (3) hold an associate degree or more advanced degree with a course of study in human behavior/development and service delivery, with the exception of:
 - (A) those applicants who meet the requirements for intern registration and submit an application to the Commission by September 1, 2004, and
 - (B) those counselors who are renewing a continuous license.
- (4) complete 4,000 hours of approved supervised experience working with chemically dependent persons as described in §450.111 of this title (relating to Standards for Supervised Work Experience);
- (5) pass the written chemical dependency counselor examination approved by the Commission;
- (6) submit an acceptable written case presentation to the test administrator;
- (7) pass an oral chemical dependency counselor examination approved by the Commission; and
- (8) submit two letters of recommendation from LCDCs.

§450.111. Standards for Supervised Work Experience.

(a) An applicant must be registered with the Commission as described in §§450.105 and 450.106 of this title (relating to Licensure Application Standards and Registration and Requirements for Counselor Intern Registration) before accumulating supervised work experience.

(b) All supervised work experience obtained in Texas must be completed at a registered clinical training institution (CTI).

(c) Work experience must be documented on the Commission's supervised work experience documentation form and signed by the agency's CTI coordinator.

- (1) All hours included in the documented supervised work experience must be performed within the KSA dimensions.

- (2) The supervised work experience form must be accompanied by the intern's job description reflecting duties in the KSA dimensions.
- (d) Out-of-state work experience will be accepted only if the following conditions are met.
- (1) The applicant is either certified or licensed or in the process of seeking licensure or certification in the other state.
 - (2) The standards for clinical supervision of work experience must meet or exceed Texas standards and be outlined in the governing agency's rules or standards. A copy of the governing rules or standards must be submitted with the other required documentation of supervised work experience.
 - (3) The supervised work experience must be documented on the Commission's supervised work experience form or a comparable form used by the governing agency of the other state.
- (e) Supervised work experience may be paid or voluntary.
- (f) An intern must complete all supervised work experience, pass the written and oral examination and complete an approved associate degree within five years from the date of registration.
- (g) A person who has completed the 4,000 hours of supervised work experience and is currently eligible to take or retake the examination is a graduate intern and may continue to provide chemical dependency services under the auspices of a registered clinical training institution during the five-year registration period.
- (h) It is the applicant's responsibility to verify that the training institution is registered with the Commission. The Commission shall not accept hours from an unregistered provider. A list of registered CTIs is available on the Commission's web site.

§450.112. Examination.

- (a) To be eligible for examination, an applicant shall:
- (1) be registered with the Commission as an intern;
 - (2) submit an acceptable case study to the test administrator; and
 - (3) pay the examination fee to the test administrator.
- (b) All required documentation and fees must be submitted to the test administrator by the specified deadlines. It is the applicant's responsibility to obtain testing information.
- (c) An applicant may only take the examination four times, and all testing must be completed within five years from the date of registration. An applicant must take the written and oral portions of the examination together unless the applicant has already passed one part of the examination.
- (d) If an applicant does not pass both parts of the examination within five years of the date of registration, does not complete the approved associate degree and/or does not complete the required 4,000 hours of supervised work experience, the Commission shall deny the application.
- (1) A person whose license application has been denied is no longer an intern or a graduate and cannot provide chemical dependency counseling services under the auspices of a clinical training institution.
 - (2) A person whose application has been denied under this section may reapply for licensure only after completing 24 semester hours of course work pre-approved by the Commission at an institution of higher education. The new application shall not be considered complete without an official college transcript documenting the required coursework.
 - (3) If the Commission accepts the new application, the person must complete the remaining requirements for licensure and may take only the failed portion(s) of the examination an

additional three times. Transition standards will not apply. The additional tests must be completed within three years of the new date of registration. During this period, the applicant may provide chemical dependency counseling services as an intern under the auspices of a registered clinical training institution.

§450.113. Issuing Licenses.

- (a) When the applicant has met all requirements for licensure and paid the licensure fee, the Commission will issue a license within 45 days.
- (b) LCDCs shall keep current versions of the certificate of licensure and the Commission's public complaint notice prominently displayed in their place of business.
- (c) A licensee shall not duplicate the licensure certificate to obtain a second copy of the license. A licensee can obtain an official duplicate certificate from the Commission by submitting a written request and the fee specified in §450.104 of this title (relating to Fees).
- (d) The Commission will replace a lost or damaged certificate if the licensee provides:
 - (1) the remnants of the original license (if damaged);
 - (2) the original license and copy of legal documents (for a name change);
 - (3) the original license (for printing error); or
 - (4) a notarized statement if the license has been lost, stolen, or destroyed.
- (e) A license replaced because of a printing error or mail damage will be replaced without cost, but all other license replacements require a fee, as specified in §450.104 of this title (relating to Fees). The fee shall be paid in advance with a money order, commercial check, or cashier's check.
- (f) LCDCs shall notify the Commission in writing within 30 days of a change in name or address.
- (g) The licensee shall return the license if it is suspended or revoked.
- (h) The licensee shall remain knowledgeable of the current rules in this chapter, including rule changes.

§450.114. Licensure through Reciprocity.

- (a) A person seeking application through reciprocity shall submit:
 - (1) a copy of the reciprocal license or certification;
 - (2) the Commission's current reciprocity application which has been completed, signed, dated, and notarized;
 - (3) two sets of fingerprints on cards issued by the Commission;
 - (4) a recent full-face wallet-sized photograph of the applicant;
 - (5) two letters of recommendation; and
 - (6) the application fee and the background investigation fee.
- (b) The applicant shall meet the criminal history standards described in §450.115 of this title (relating to Criminal History Standards).
- (c) The Commission may issue a license based on reciprocity if the individual is currently licensed or certified by another state as a chemical dependency counselor.
- (d) The Commission shall not issue a license based on reciprocity unless it finds that the licensing or certification standards of the state of origin are at least substantially equivalent to the requirements for licensure of this chapter.
- (e) An applicant who does not qualify for reciprocity may apply for licensure through examination and is subject to the same standards as other applicants.

§450.115. Criminal History Standards.

(a) The Commission reviews the criminal history of every applicant for licensure. Reviews are conducted when:

- (1) an applicant registers with the Commission as an intern;
- (2) a LCDC applies for license renewal; and
- (3) the Commission receives information that a counselor or intern has been charged, indicted, placed on deferred adjudication, community supervision, or probation, or convicted of an offense described in subsection (d) of this section.

(b) An applicant shall disclose and provide complete information about all misdemeanor and felony charges, indictments, deferred adjudications, episodes of community supervision or probation, and convictions. Failure to make full and accurate disclosure will be grounds for immediate application denial, disciplinary action, or license revocation.

(c) The Commission obtains criminal history information from the Texas Department of Public Safety, including information from the Federal Bureau of Investigations (FBI).

(d) The Commission determines whether an offense is directly related to the duties and responsibilities of a LCDC. The Commission has identified the following related offenses and categorized them according to the seriousness of the offense. If an offense is not listed in one of these categories and the Commission determines that it is directly related to chemical dependency counseling, the Commission shall determine the appropriate category.

(1) Category X includes:

- (A) capital offenses;
- (B) sexual offenses involving a child victim;
- (C) felony sexual offenses involving an adult victim who is a client (single count);
- (D) multiple counts of felony sexual offenses involving any adult victim; and
- (E) homicide 1st degree.

(2) Category I includes:

- (A) kidnapping;
- (B) arson;
- (C) homicide lesser degrees;
- (D) felony sexual offenses involving an adult victim who is not a client (single count); and
- (E) attempting to commit crimes in Category I or X.

(3) Category II includes felony offenses that result in actual or potential harm to others and/or animals not listed separately in this section.

(4) Category III includes:

- (A) class A misdemeanor alcohol and drug offenses;
- (B) class A misdemeanor offenses resulting in actual or potential harm to others or animals;
- (C) felony alcohol and drug offenses; and
- (D) other felony offenses that do not result in actual or potential harm to others and/or animals.

(5) Category IV includes:

- (A) class B misdemeanor alcohol and drug offenses; and
- (B) class B misdemeanor offenses resulting in actual or potential harm to others or animals.

(e) The Commission shall deny the initial or renewal license application of a person who has been convicted or placed on community supervision in any jurisdiction for a:

- (1) category X offense during the person's lifetime;
- (2) category I offense during the 15 years preceding the date of application;
- (3) category II offense during the ten years preceding the date of application;
- (4) category III offense during the seven years preceding the date of application; or
- (5) category IV offense during the five years preceding the date of application.

(f) The Commission shall deny the intern registration application of a person who has been convicted or placed on community supervision in any jurisdiction for a:

- (1) category X offense during the person's lifetime;
- (2) category I offense during the ten years preceding the date of application;
- (3) category II offense during the five years preceding the date of application;
- (4) category III offense during the two years preceding the date of application; or
- (5) category IV offense during the year preceding the date of application.

(g) The Commission shall defer action on the application of a person who has been charged, indicted, or placed on deferred adjudication, community supervision, or probation for an offense described in subsection (d) of this section. The person may reapply when:

- (1) the charges are dropped or the person is found not guilty; or
- (2) the timeframes established in subsection (d) of this section have been met.

(h) The Commission shall suspend a counselor's license or an intern's registration if the Commission receives notice from the Texas Department of Public Safety or another law enforcement agency that the individual has been charged, indicted, placed on deferred adjudication, community supervision, or probation, or convicted of an offense described in subsection (d) of this section.

(1) The Commission shall send notice stating the grounds for summary suspension by certified mail to the license holder at the address listed in the Commission's records. The suspension is effective five days after the date of mailing.

(2) The Commission shall restore the person's license upon receipt of official documentation that the charges have been dismissed or the person has been found not guilty.

(i) A person whose license has been denied or suspended under this section may only appeal the action if:

- (1) the person was convicted or placed on community supervision; and
- (2) the appeal is based on the grounds that the timeframes defined in subsection (d) of this section have been met.

§450.116. License Expiration and Renewal.

(a) A license issued under this chapter is valid for two years, or until the expiration date printed on the license. The licensee is responsible for renewing the license in a timely manner. The Commission shall send the licensee a renewal notice, but failure to receive notice from the Commission does not waive or extend renewal deadlines.

(b) To renew a license, the counselor shall:

- (1) send a complete renewal application to the Commission;
- (2) pay the renewal application fee, the license fee, and the background investigation fee;

- (3) submit two sets of fingerprints completed according to Commission instructions with cards issued by the Commission (if the counselor has not previously submitted fingerprint cards for initial licensure through examination or licensure renewal);
 - (4) meet the criminal history standards described in §450.115 of this title (relating to Criminal History Standards); and
 - (5) complete all required continuing education as described in section §450.117 of this title (relating to Continuing Education Standards).
- (c) A LCDC who is also licensed as an LMSW, LMFT, LPC, physician, or psychologist in the State of Texas shall complete at least 24 hours of continuing education during each two-year licensure period. The 24 hours of education must include the specific courses required in subsection (f) and, if applicable, in subsection (g). The individual must submit a copy of the active non-LCDC licensure certificate to be eligible for this provision.
- (d) A LCDC who does not meet the criteria in subsection (c) of this section must complete at least 60 hours of continuing education.
- (e) Continuing education hours must include at least three hours of ethics training and at least six hours of training (total) in HIV, Hepatitis C, and sexually transmitted diseases.
- (f) If an individual's job duties include clinical supervision, required hours of continuing education must include three hours of clinical supervision training.
- (g) Renewal fees are due on or before the expiration date. A licensee who submits a late renewal application shall pay a penalty fee in addition to the renewal application and licensure fees, as provided in §450.104 of this title (relating to Fees).
- (h) A license cannot be renewed more than one year after the date of expiration. To obtain a new license, the person shall comply with the requirements and procedures for obtaining an initial license. Everyone who applies for a new license under this subsection must pass the written and oral examinations, with one exception. If the person was licensed in Texas, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application, the person may renew an expired license without reexamination. The person must pay a fee that is equal to two times the required renewal fee.
- (i) A person whose license has expired cannot offer or provide chemical dependency counseling services as defined by the KSAs, represent himself or herself as an LCDC, or act in the capacity of a QCC.
- (j) A licensee who teaches a qualifying continuing education course shall receive the same number of hours as students attending the course. Only one set of hours can be accrued for a single curriculum and no more than 30 hours of CE credit will be granted for courses taught by the applicant.

§450.117. Continuing Education Standards.

- (a) The Commission will accept continuing education (CE) hours that meet the criteria in this section. Hours that do not meet these criteria may be evaluated on a case-by-case basis.
- (b) Subject to Commission review, the Commission will accept continuing education credits from:
- (1) recognized State boards, including, but not limited to the Texas State Boards of Social Work and Professional Counselor Examiners;
 - (2) the National Association of Alcohol and Drug Abuse Counselors; and
 - (3) the Texas Certification Board for Addiction Professionals.

- (c) All continuing education hours must be specific to substance use disorders and their treatment or related to chemical dependency counseling as defined by the KSA dimensions. Related education hours may include courses in psychology, sociology, counseling, mental health, behavioral science, psychiatric nursing, ethics, and rehabilitation counseling.
- (d) For counselors who live out of state, the Commission will also accept continuing education hours approved by other state and Federal agencies.
- (e) Continuing education certificates must contain:
- (1) applicant's name and license number;
 - (2) date CE hours were completed;
 - (3) number of CE hours assigned to each course;
 - (4) CE course title;
 - (5) educational provider number, if applicable;
 - (6) sponsoring agency name; and
 - (7) signature of instructor or coordinator.
- (f) The Commission will also accept education hours from an accredited college or university.
- (1) College transcripts must contain the official seal of the college and the signature of the registrar.
 - (2) One hour of college credit is equivalent to 15 CE hours.
- (g) Independent study or distance learning courses must be guided and monitored by the instructor and include an evaluation of performance and/or participation verification. In addition, the course must be structured so that students have access to faculty or instructors for questions and assistance in the completion of such course work.
- (h) If a counselor earns more than the required number of hours during a two-year licensure period, up to one third of the required hours may be carried forward into the following licensure period.

§450.118. Inactive Status.

- (a) A licensee may request to have his or her license placed on inactive status by submitting a written request and paying the inactive fee before the license expires. Inactive status shall not be granted unless the license is current and in good standing, with no pending investigations or disciplinary actions.
- (b) A person on inactive status cannot perform activities outlined in the KSA dimensions, represent himself or herself as an LCDC, or act in the capacity of a QCC. A person is subject to investigation and action during the period of inactive status.
- (c) Inactive status shall not exceed two years.
- (d) To return to active status, the person shall submit a written request to reactivate the license, a completed renewal application form, the renewal application fee and the license renewal fee, and documentation of 30 hours of continuing education within the inactive status period.
- (e) An inactive license will automatically expire at the end of the two-year period.

§450.119. Documentation.

- (a) The rules in this section apply only to counseling records of a counselor's private practice.
- (b) The counselor shall establish and maintain a record for every client at the time of initial service delivery. The client record shall include:
- (1) client identifying information;
 - (2) assessment results, including a statement of the client's problems and/or diagnosis;

- (3) plan of care;
 - (4) documentation of all services provided, including date, duration, and method of delivery; and
 - (5) a description of the client's status at the time services are discontinued.
- (c) The counselor shall maintain a record of all charges billed and all payments received.
- (d) All entries shall be permanent, legible, accurate, and completed in a timely manner.
- (e) All documents and entries shall be dated and authenticated. Authentication of electronic records shall be by a digital authentication key.
- (f) When it is necessary to correct a record, the error shall be marked through with a single line, dated, and initialed by the counselor.
- (g) The counselor shall protect all client records and other client-identifying information from destruction, loss, tampering, and unauthorized access, use or disclosure. Electronic client information shall be protected to the same degree as paper records and shall have a reliable backup system.
- (h) The counselor shall not deny clients access to the content of their records except as provided by TEX. HEALTH & SAFETY CODE ANN. §611.0045 (Vernon 2001 & Supp. 2004).
- (i) Client records shall be kept for at least six years. Records of adolescent clients shall be kept for at least five years after the client turns 18.

§450.120. Counseling Through Electronic Means.

- (a) The rules in this section apply only to a counselor in private practice using the Internet or counseling by telephone.
- (b) The counselor must reside in and perform the services from Texas.
- (c) The Commission maintains its authority to regulate the counselor regardless of the location of the client.
- (d) The counselor is subject to the statutes of other states and countries where the client may reside or receives services by electronic means. Such statutes may limit the counselor's practice.
- (e) The counselor's provision of services by electronic medium must comply with 42 C.F.R. pt. 2 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- (f) The counselor must be able to verify the identification of the client and ensure the client's appropriate age.
- (g) If a counselor uses the Internet as the electronic means by which counseling is provided or transfers data through the Internet, the counselor must comply with the following:
- (1) data may only be transferred using at least a 128-encryption;
 - (2) e-mail communication is restricted relating to client information and documentation; and
 - (3) the counselor must provide technical backup for system problems by providing a phone number to the client to call for technical support and a contingency plan for the client when a technical problem occurs.
- (h) The counselor must provide services using audio and video in real time.
- (i) The counselor must provide a description of all services offered to the client in writing and describe who is appropriate for the services. The description must include:
- (1) a grievance procedure and provide a link to the Commission for filing a complaint when using the Internet and the toll-free number for the Commission when counseling by telephone;
 - (2) the counselor's credentials, education level, and training;

- (3) a link to the licensure verification page when using the Internet and the toll-free number for the Commission when counseling by telephone;
 - (4) the difference between electronic counseling and traditional counseling; and
 - (5) the potential risk regarding clinical issues, security and confidentiality.
- (j) Services may only be offered by licensed counselors. Counselor interns may not provide counseling by electronic medium.
- (k) The counselor must provide an emergency contact person and phone number and emergency procedures to the client in writing.

§450.121. Ethical Standards.

- (a) All applicants and LCDCs shall comply with these ethical standards.
- (b) The LCDC shall not discriminate against any client or other person on the basis of gender, race, religion, age, national origin, disability, sexual orientation, or economic condition.
- (c) The LCDC shall maintain objectivity, integrity, and the highest standards in providing services to the client.
- (d) The LCDC shall:
- (1) promptly report to the Commission any suspected, alleged, or substantiated incidents of abuse, neglect, or exploitation committed by self or other LCDCs or registered counselor interns;
 - (2) promptly report to the Commission violations of TEX. OCC. CODE ANN. ch. 504 (Vernon 2004), or rules adopted under the statute, including violations of this section by self or others, unless making such a report would violate Federal confidentiality regulations found in 42 C.F.R. pt. 2;
 - (3) recognize the limitations of his or her ability and shall not offer services outside the counselor's scope of practice or use techniques that exceed his or her professional competence. In the course of treating the substance abuse/dependence issues of a client, the LCDC may independently address family issues, co-occurring mental health issues and physical and sexual abuse issues of a client if the counselor demonstrates:
 - (A) 45 hours of education in each area, and
 - (B) 2,000 hours of clinically supervised post licensure work experience by a qualified professional; and
 - (4) try to prevent the practice of chemical dependency counseling by unqualified or unauthorized persons.
- (e) The LCDC shall not engage in the practice of chemical dependency counseling if impaired by, intoxicated by, or under the influence of chemicals, including alcohol.
- (f) The LCDC shall uphold the law and refrain from unprofessional conduct. In so doing, the LCDC shall:
- (1) comply with all applicable laws and regulations;
 - (2) not make any claim, directly or by implication, that the counselor possesses professional qualifications or affiliations that the counselor does not possess;
 - (3) include their current credentials when signing all professional documents;
 - (4) not mislead or deceive the public or any person; and
 - (5) refrain from any act which might tend to discredit the profession.

(g) The LCDC shall:

- (1) report information fairly, professionally, and accurately to clients, other professionals, the Commission, and the general public;
- (2) maintain appropriate documentation of services provided; and
- (3) provide responsible and objective training and supervision to interns and subordinates under the counselor's supervision. This includes properly documenting supervision and work experience and providing supervisory documentation needed for licensure.

(h) In any publication, the LCDC shall give written credit to all persons or works which have contributed to or directly influenced the publication.

(i) The LCDC shall respect a client's dignity, and shall not engage in any action that may injure the welfare of any client or person to whom the counselor is providing services. The LCDC shall:

- (1) make every effort to provide access to treatment, including advising clients about resources and services, taking into account the financial constraints of the client;
- (2) remain loyal and professionally responsible to the client at all times, disclose the counselor's ethical code of standards, and inform the client of the counselor's loyalties and responsibilities;
- (3) not engage in any activity which could be considered a professional conflict, and shall immediately remove himself or herself from such a conflict if one occurs;
- (4) terminate any professional relationship or counseling services which are not beneficial, or is in any way detrimental to the client;
- (5) always act in the best interest of the client;
- (6) not abuse, neglect, or exploit a client;
- (7) not have sexual contact with or enter into a personal or business relationship with a client (including any client receiving services from the counselor's employer) for at least two years after the client's services end;
- (8) not request a client to divulge confidential information that is not necessary and appropriate for the services being provided; and
- (9) not offer or provide chemical dependency counseling or related services in settings or locations which are inappropriate, harmful to the client or others, or which would tend to discredit the profession of chemical dependency counseling.

(j) The LCDC shall protect the privacy of all clients and shall not disclose confidential information without express written consent, except as permitted by law. The LCDC shall remain knowledgeable of and obey all State and Federal laws and regulations relating to confidentiality of chemical dependency treatment records, and shall:

- (1) inform the client, and obtain the client's consent, before tape-recording the client, allowing another person to observe or monitor the client;
- (2) ensure the security of client records;
- (3) not discuss or divulge information obtained in clinical or consulting relationships except in appropriate settings and for professional purposes which clearly relate to the case;
- (4) avoid invasion of the privacy of the client;
- (5) provide the client his/her rights regarding confidentiality, in writing, as part of informing the client in any areas likely to affect the client's confidentiality; and
- (6) ensure the data requested from other parties is limited to information that is necessary and appropriate to the services being provided and is accessible only to appropriate parties.

(k) The LCDC shall inform the client about all relevant and important aspects of the professional

relationship between the client and the counselor, and shall:

- (1) in the case of clients who are not their own consenters, inform the client's parent(s) or legal guardian(s) of circumstances which might influence the professional relationship;
 - (2) not enter into a professional relationship with members of the counselor's family, close friends or associates, or others whose welfare might be jeopardized in any way by such relationship;
 - (3) not establish a personal relationship with any client (including any individual receiving services from the counselor's employer) for at least two years after the client's services end;
 - (4) neither engage in any type or form of sexual behavior with a client (including any individual receiving services from the counselor's employer) for at least two years after the client's services end nor accept as a client anyone with whom they have engaged in sexual behavior; and
 - (5) not exploit relationships with clients for personal gain.
- (l) The LCDC shall treat other professionals with respect, courtesy, and fairness, and shall:
- (1) refrain from providing or offering professional services to a client who is receiving chemical dependency treatment from another professional, except with the knowledge of the other professional and the consent of the client, until treatment with the other professional ends;
 - (2) cooperate with the Commission, professional peer review groups or programs, and professional ethics committees or associations, and promptly supply all requested or relevant information unless prohibited by law; and
 - (3) ensure that his/her actions in no way exploit relationships with supervisees, employees, students, research participants or volunteers.
- (m) Prior to treatment, the LCDC shall inform the client of the counselor's fee schedule and establish financial arrangements with a client. The counselor shall not:
- (1) charge exorbitant or unreasonable fees for any treatment service;
 - (2) pay or receive any Commission, consideration, or benefit of any kind related to the referral of a client for treatment;
 - (3) use the client relationship for the purpose of personal gain, or profit, except for the normal, usual charge for treatment provided; or
 - (4) accept a private professional fee or any gift or gratuity from a client if the client's treatment is paid for by another funding source, or if the client is receiving treatment from a facility where the counselor provides services (unless all parties agree to the arrangement in writing).

§450.122. Actions Against a License.

- (a) Actions against a license include:
- (1) refusal to issue or renew a license;
 - (2) suspension or revocation of a license;
 - (3) placing a counselor on probation if the counselor's license has been suspended; and
 - (4) reprimand of a license holder.
- (b) The Commission shall take action against a license for:
- (1) violating or assisting another to violate the statute or these rules;
 - (2) circumventing or attempting to circumvent the statute or these rules;
 - (3) participating, directly or indirectly, in a plan to evade the statute or these rules;

- (4) engaging in false, misleading, or deceptive conduct as defined by TEX. BUS. & COM. CODE ANN. §17.46 (Vernon 2002 & Supp. 2004);
 - (5) engaging in conduct that discredits or tends to discredit the profession of chemical dependency counseling;
 - (6) revealing or causing to be revealed, directly or indirectly, a confidential communication made to the LCDDC by a client or recipient of services, except as required by law;
 - (7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the Commission finds would constitute a violation of this chapter;
 - (8) refusing to perform an act or service for which the person is licensed to perform under this chapter on the basis of the client's or recipient's sex, race, religion, age, national origin, or handicaps; or
 - (9) committing an act for which liability exists under TEX. CIV. PRAC. & REM. CODE ANN. ch. 81 (Vernon 1997 & Supp. 2004).
- (c) The Commission will determine the length of the probation or suspension. The Commission may hold a hearing at any time and revoke the probation or suspension.
- (d) The Commission may impose an administrative penalty against a licensee who violates TEX. OCC. CODE ANN. ch. 504 (Vernon 2004) or a rule or order adopted under the statute.
- (e) Surrender or expiration of a license does not interrupt an investigation or disciplinary action. The individual is not eligible to regain the license until all outstanding investigations, disciplinary actions, or hearings are resolved.
- (f) An individual whose license has been revoked is not eligible to apply for licensure until two years have passed since the date of revocation. During the period of revocation, the individual cannot become a counselor intern. The individual is not eligible to reapply for licensure unless he/she petitions the Commission and demonstrates that sufficient time has elapsed to allow the events leading to revocation to no longer serve as a basis for denial of application. The Commission may require certain conditions be met, before it grants an individual's petition for re-licensure.
- (g) The Commission shall deny, suspend, and/or refuse to renew the license of a person based on criminal history as provided in §450.115 of this title (relating to Criminal History Standards).
- (h) The Commission shall implement a final order to suspend the license of a counselor for failure to pay child support as provided by the TEX. FAM. CODE ANN. ch. 232 (Vernon 1996).

§450.123. Clinical Training Institution (CTI) Registration.

- (a) To become a registered clinical training institution (CTI), an organization shall:
- (1) provide activities in an array of the KSA dimensions, including assessment and counseling;
 - (2) serve a predominantly substance-abusing population;
 - (3) employ a full time QCC as the CTI coordinator;
 - (4) be in good standing with applicable licensing and regulatory agencies;
 - (5) agree to comply with applicable rules in this chapter; and
 - (6) submit a complete application.
- (b) The program shall receive the registration letter and training program number before training begins. Approval allows the organization to provide clinical training at any of its programs or sites with relevant services.

- (c) The approval is valid for two years. The CTI shall reapply every two years by submitting a completed application form. The Commission may mail a courtesy notice, but it is the program's responsibility to reapply at least 45 days before the expiration date.
- (d) The CTI shall notify the Commission in writing within 30 days of the following changes:
- (1) a change in the CTI coordinator;
 - (2) a change in the organization's name or mailing address; and
 - (3) closure of the training program.
- (e) The Commission may withdraw approval if the CTI fails to comply with all applicable Commission rules.

§450.124. Clinical Training Institution (CTI) Standards.

- (a) The training program shall appoint a single training coordinator who is a qualified credentialed counselor (QCC). The training coordinator shall oversee all training activities and ensure compliance with Commission requirements and rules.
- (b) The Clinical Training Institution (CTI) shall establish admission criteria. No applicant shall be admitted without:
- (1) documentation that the applicant is registered with the Commission; and
 - (2) a signed ethics agreement which is consistent with the LCDC ethical standards in §450.121 of this title (relating to Ethical Standards).
- (c) The CTI shall establish the following level system to classify interns according to hours of supervised work experience:
- (1) Level I: 0-1,000 hours of work experience;
 - (2) Level II: 1,001-2000 hours of work experience;
 - (3) Level III: 2,001-4,000 hours of work experience; and
 - (4) Graduate Status: over 4,000 hours of work experience.
- (d) The CTI shall have an organizational structure that includes all intern levels. The CTI shall designate each intern's level in writing and provide the intern with a copy of the documentation.
- (e) All interns must be under the direct supervision of a QCC as described in §450.125 of this title (related to Direct Supervision of Interns).
- (f) The CTI shall provide each Level I, II, and III intern with reading assignments and training activities for the supervised work experience that includes material in each KSA dimension.
- (g) The CTI shall use the Commission's KSA evaluation tool to structure the intern's 4,000 hours of supervised work experience.
- (1) The clinical supervisor and the intern shall set weekly objectives based on areas targeted for improvement.
 - (2) The supervisor shall provide reading, computer, and/or video assignments that address areas needing improvement. The CTI shall allow the intern two hours per month to complete these assignments.
 - (3) The clinical supervisor shall monitor the intern's progress and provide verbal and written feedback during weekly supervision meetings.
 - (4) The intern shall complete a written KSA self-evaluation during the first 50 hours of work experience.
 - (5) The clinical supervisor and the intern shall complete and discuss a written KSA evaluation at the completion of each level of experience (after 1,000 hours, 2,000 hours, and 4,000 hours).

(h) The CTI shall not allow a Level I, II, or III intern to accrue more than 40 hours of work experience per week.

(i) A person who has completed the 4,000 hours of supervised work experience and is currently eligible to take or retake the examination is a graduate intern and may continue to provide chemical dependency counseling services at a registered clinical training institution during the five-year registration period.

(j) The CTI coordinator shall send the following documents directly to the Commission and provide the intern with copies within ten working days from the date the intern completes the required 4,000 hours or leaves the agency:

- (1) the supervised work experience form signed by the CTI Coordinator; and
- (2) a copy of the intern's job description showing job responsibilities within the KSAs.

(k) All activities counted towards the intern's supervised work experience shall be within the scope of chemical dependency counseling services as defined by the KSAs.

(l) The CTI shall not approve hours for which the intern fails to substantially complete related activities and supervision assignments. Any failure to complete assignments shall be documented on the weekly supervision form.

(m) The CTI shall give each student the Commission's student CTI assessment form with instructions to complete the assessment and mail it directly to the Commission's counselor licensure department.

(n) The CTI shall use all current forms mandated by the Commission.

(o) The CTI shall ensure that each clinical supervisor obtains three hours of continuing education in clinical supervision every two years.

(p) The CTI shall inform students of testing requirements and procedures, as well as testing schedules and information provided by the Commission.

(q) The CTI shall ensure that interns designate their status by using "intern" or "CI" when signing client record entries.

(r) The CTI shall maintain the following documentation for four years in the student files, to include:

- (1) letter of registration;
- (2) ethics agreement signed by the student;
- (3) copies of KSA evaluations;
- (4) documentation of all supervision activities;
- (5) documentation of intern levels and accumulated hours; and
- (6) copy of the supervised work experience form.

(s) The CTI shall give the student a copy of all information contained in the intern file when the intern completes the required supervised work experience and/or leaves the agency.

§450.125. Direct Supervision of Interns.

(a) Direct supervision is oversight and direction of a counselor intern provided by a QCC that complies with the provisions in this section.

(b) The QCC shall assume responsibility for the actions of the intern within the scope of the intern's clinical training.

(c) If the intern has less than 2,000 hours of supervised work experience, the supervisor must be on site when the intern is providing services. If the intern has at least 2,000 hours of documented supervised work experience, the supervisor may be on site or immediately accessible by telephone.

(d) During an intern's first 1,000 hours of supervised work experience (Level I), the CTI coordinator or QCC designee shall:

- (1) be on duty at the program site where the intern is working;
- (2) observe and document the intern performing assigned activities at least once every two weeks (or 80 hours);
- (3) provide and document one hour of face-to-face individual or group supervision each week; and
- (4) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the intern.

(e) During an intern's second 1,000 hours of supervised work experience (Level II), the CTI coordinator or QCC designee shall:

- (1) be on duty at the program site where the intern is working;
- (2) observe and document the intern performing assigned activities at least once every month (160 hours);
- (3) provide and document one hour of face-to-face individual or group supervision each week; and
- (4) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the intern.

(f) During an intern's last 2,000 hours of required supervised work experience (Level III), the CTI coordinator or QCC designee shall:

- (1) be available by phone while the intern is working;
- (2) observe and document the intern performing assigned activities as determined necessary by the CTI coordinator;
- (3) provide and document one hour of face-to-face individual or group supervision each week; and
- (4) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the intern.

(g) After an intern achieves graduate status, the CTI coordinator or QCC designee shall:

- (1) be available by phone while the graduate intern is working;
- (2) provide and document one hour of face-to-face individual or group supervision each week; and
- (3) sign off on all clinical assessments, treatment plans, and discharge summaries completed by the graduate intern.

(h) A supervisor's schedule must allow an average of two hours of supervision-related activity per week per intern.

§450.126. Intern Violations.

(a) The CTI shall investigate all allegations that an intern has violated the ethical standards described in §450.121 of this title (relating to Ethical Standards).

(b) If the allegation is substantiated, the CTI shall take appropriate action. Action may include denying some or all of the intern's supervised work experience hours.

(c) The CTI shall submit a written report to the Commission with 48 hours of substantiating that an intern has:

- (1) abused, neglected, or exploited a service recipient;

- (2) committed an ethical violation that results in actual or potential harm to a service recipient;
 - (3) engaged in illegal activity;
 - (4) falsified or destroyed documentation; or
 - (5) established a close personal or business relationship with a client outside the counseling relationship.
- (d) The CTI shall deny all supervised work experience hours for an intern with a substantiated ethical violation described in subsection (c) of this section.

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§442.101. Definitions.

The words and terms used in this Chapter shall have meanings set forth in 40 TEX. ADMIN. CODE ch. 441 of this title (relating to General Provisions), unless the context clearly indicates otherwise.

§442.102. Complaints and Investigations.

(a) A person alleging that a provider or licensee has violated Commission statute or rules may file a complaint with the Commission. All complaints shall be in writing. Complaints about licensed counselors must be submitted in writing and under oath.

(b) The Commission accepts oral or written reports concerning acts of abuse or neglect of children, the elderly, or the disabled relating to persons funded or licensed by the Commission.

(1) When it receives a report of abuse or neglect of a child, the Commission also notifies the appropriate State or local law enforcement agency.

(2) When it receives such a report, the Commission notifies any other known agencies which license or fund the alleged perpetrator if permitted by law.

(c) The Commission may initiate an investigation or disciplinary action against a provider if it receives information that a violation has or may have occurred.

(d) The Commission documents, evaluates, and prioritizes complaints based on the seriousness of the alleged violation and the level of client or participant risk.

(e) The Commission will refer complaints outside its jurisdiction to the appropriate agency for action as needed.

(f) The Commission will conduct a prompt and thorough investigation of all complaints that pose a threat of harm to the health and safety of clients or participants, including all allegations of abuse, neglect, and exploitation or allegations of fraud and misuse of State funds.

(g) The Commission will evaluate complaints that do not pose a risk of harm to clients or participants. Based on the nature and severity of the alleged incident, the Commission will determine whether to investigate the complaint directly or require the provider to conduct an internal investigation and submit its findings to the Commission. The results of a provider's internal investigation will be reviewed and may result in additional investigation by the Commission.

(h) The Commission shall inform the person in writing of the nature of the complaint unless it would jeopardize the investigation.

(i) The person under investigation shall provide Commission staff access to all documents, evidence, and individuals related to the alleged violation, including the results of any internal investigations.

(j) Until the case is resolved, the Commission shall send quarterly written status reports to all parties and the complainant.

(k) The Commission shall prepare a complete written report of its investigative findings and conclusions.

(l) The Commission shall inform the person under investigation and the complainant of the results of the investigation.

(1) If the Commission has found evidence that a child may have been abused or neglected, it shall report the evidence to the appropriate State or local law enforcement agency.

(2) If the investigation reveals that an elderly or disabled person has been abused, neglected or exploited by another person in a manner that constitutes a criminal offense under any law, including TEX. PEN. CODE ANN. §22.04 (Vernon 2003 & Supp. 2004), the Commission shall submit a copy of the investigative report to the appropriate State or local law enforcement agency as permitted by law.

§442.103. Procedure for Contested Cases for Counselor and Facility Licenses.

(a) At any stage of a disciplinary case, the Commission and a respondent may resolve the case by entering into an agreed order.

(b) The Commission has the right to discovery at any stage of the disciplinary action process.

(c) The Commission, upon investigation/inspection and development of information indicating that grounds may exist to take disciplinary action, shall issue a notice of intent notifying the respondent of the proposed action.

(1) The notice letter shall be sent via regular first-class and certified mail to the respondent's address of record.

(2) The notice shall specify:

(A) the statutes, rules, or orders allegedly violated;

(B) the factual basis of the alleged violations;

(C) the disciplinary action the Commission intends to take; and

(D) notice of an opportunity for a hearing to be held under Subchapter C of the TEX. GOV'T CODE ANN. ch. 2001 (Vernon 2000 & Supp. 2004) (Administrative Procedures Act--APA).

(3) If the Commission is seeking an administrative penalty, the letter shall also inform the respondent of the amount of the recommended penalty and of the opportunity for a hearing on the violation, the amount of the penalty, or both.

(4) The letter shall also include the following notices.

(A) If the respondent does not request a hearing on or before the 20th day after notice is effective, the allegations will be deemed true and the Commission will issue a default final order implementing the proposed action.

(B) If the respondent requests a hearing but fails to appear at the scheduled hearing, the allegations will be deemed true and the State Office of Administrative Hearings (SOAH) will recommend a default proposal for decision to implement the proposed action.

(C) Notice is effective five days after the date of mailing.

(d) A respondent must submit a timely written request for a hearing to avoid having the allegations in the notice letter deemed true and a default order implementing the proposed action issued by the Commission. The request for hearing is timely if filed with the Commission or postmarked on or before the 20th day after the notice is effective.

(e) If the respondent fails to request a hearing on or before the 20th day after effective notice, the factual allegations of the notice letter may be deemed true and shall form the basis of a default final order implementing the proposed action.

(f) The Commission may offer the respondent an opportunity to dispose of the case through an agreed order, or proceed to hearing under the APA and SOAH Rules of Procedure, 1 TEX. ADMIN. CODE ch. 155 (2003).

(g) The Commission shall send written notice of the hearing to the respondent's address of record at least ten days before the date of the hearing. The notice shall include:

- (1) the date, time, place and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and rules involved;
- (4) a short, plain statement of the matters asserted; and
- (5) a statement that if the respondent does not appear at the hearing, the allegations will be deemed true and the action proposed in the notice of hearing may be granted by default.

(h) If the respondent fails to appear at a scheduled SOAH hearing after being given proper notice of the hearing, SOAH shall issue a proposal for decision recommending the proposed action.

(i) If the case is not resolved through agreed order, default decision and goes forward to administrative hearing, the hearing shall be conducted by an administrative law judge employed by SOAH and shall comply with the requirements of the APA and SOAH Rules of Procedure, 1 TEX. ADMIN. CODE ch. 155 (2003).

(1) At the hearing, parties in attendance shall be allowed to present evidence, to examine witnesses, to cross-examine adverse witnesses, to make argument, and to submit legal authority.

(2) After the hearing, the administrative law judge shall issue a proposal for decision containing a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.

(3) Exceptions to the proposal for decision, if filed, must be filed with the administrative law judge within 20 days after the date the proposal for decision is mailed. Replies to the exceptions, if any, must be filed with the administrative law judge within 30 days after the date the proposal for decision is mailed.

(j) The Commission's board will consider the proposal for decision in all matters other than an administrative penalty for a licensed chemical dependency counselor at a public meeting and issue an order.

(k) The executive director will consider the proposal for decision regarding an administrative penalty for a licensed chemical dependency counselor.

(l) A motion for rehearing, if filed, must be filed in accordance with the APA. When a motion for rehearing is directed at a default final order, the motion must be supported by evidence and address the following factors:

(1) failure to answer or appear at the hearing was due to an accident or mistake and was not intentional or the result of a conscious indifference;

(2) the respondent can present a meritorious defense to the fact findings and legal conclusions in the order; and

(3) granting the rehearing will not work any injury to the Commission or its mission.

(m) The respondent appealing a final order shall pay to the Commission the cost of preparing the original or a certified copy of the record that is to be transmitted to the reviewing court at rates approved by the Texas Building and Procurement Commission.

§442.104. Administrative Penalties for Licensed Facilities and Counselors and Offender Education Programs.

(a) Violations are categorized according to the seriousness of the violation and the actual or

potential harm to the health, safety, and welfare of the public. The Commission has established guidelines for assigning penalties. These guidelines show how various offenses are categorized, but do not limit the Commission's authority to categorize any particular offense that is not already included in the guidelines, to modify those offenses already categorized, to assess a different penalty or propose another form of disciplinary action. These guidelines are available for review on the Commission's web site (www.tcada.state.tx.us) and at the Commission's administrative offices at 9001 North IH 35, Suite 105, Austin, Texas, 78753-5233.

(b) The assessment of administrative penalties against an offender education program is governed by 40 TEX. ADMIN. CODE §453.108 of this title (relating to Offender Education Programs).

(c) Administrative penalties are not assessed for the most serious violations. Instead, the Commission will seek to deny, refuse to renew, revoke or suspend the license, certification or approval.

(d) The base administrative penalty for a first time offense is \$500, \$200 or \$40 dollars, depending on the severity of the violation.

(1) The base administrative penalty is doubled for a second-time violation and tripled for a third-time violation. If the same violation is identified four times, the Commission may seek to revoke or suspend the license, certification or approval or assess an administrative penalty of four times the base amount.

(2) If the total dollar value of administrative penalties assessed during a single inspection or investigation is over \$5,000 for a facility or \$2,000 for a counselor, the Commission may seek to revoke or suspend the license instead of imposing an administrative penalty.

(e) When administrative penalties are recommended, the executive director or designee shall report staff findings and recommendations to the board, including the amount of the recommended penalty.

(f) The executive director shall give written notice to the licensee adversely affected. The notice will be by certified mail. The notice shall include:

(1) a brief summary of the alleged violations;

(2) a statement of the amount of the recommended penalty; and

(3) a notification that the licensee has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) A request for hearing must be filed in writing within 20 days of the effective date of notice. Notice is effective five days after mailing.

(h) Section 442.103 of this title (relating to Procedure for Contested Cases for Counselor and Facility Licenses) applies to these proceedings.

(i) Failure to pay an administrative penalty will result in suspension of the license. A licensee who has not paid final administrative penalties is not eligible for licensure renewal.

(j) If approved by the Commission, a licensee may surrender the license in lieu of paying administrative penalties. The licensee may reapply for licensure if:

(1) administrative penalties are paid prior to application; and

(2) two years have passed since the date of surrender.

FORMS

Licensed Chemical Dependency Counselor Intern Registration Application Check List

- Completed application (2 pages), signed, dated and notarized with a recent full face wallet sized photo.
- Application and Background Investigation fee of \$65.00 (cashier's check or money order); Payable to DSHS.

Applications will not be processed without the total fee of \$65.00

- Two sets of fingerprints completed on FBI cards issued by DSHS. Complete all personal information on both cards.
- Documentation of a high school diploma, its equivalent (GED) or a copy of college transcript.
- Documentation of the 270 education hours. Documentation can be one of the following:
 - An official transcript (**no photocopies**);
 - Copies of classroom certificates (**only if completed through continuing education at a college or university**);
 - An official college transcript showing an approved degree, which will waive the education requirements.
- Documentation of a 300-hour practicum. Documentation can be one of the following:
 - An official college transcript (**no photocopies**) showing the completed practicum course **with** a letter from the school's department chair/coordinator stating the practicum was completed in the field of chemical dependency;
 - A copy of the classroom certificate (**only if completed through continuing education at a college or university**) **with** a letter from the department chair/coordinator stating the practicum was completed in the field of chemical dependency;
 - An official college transcript showing an approved degree, which will waive the practicum requirements.

Instructions for Completing Licensed Chemical Dependency Counselor Intern Registration Application

Note: Do not abbreviate in any section of this application.

Section I Please print all requested information. Documents cannot be altered in anyway.

Section II A copy of GED Certificate or high school diploma must accompany application unless an official college transcript is being submitted.

Documentation must be provided to support completion of the 270 education hours and the 300 hour practicum unless you hold a qualifying degree. For a list of qualifying degrees, please refer to the section 450.109 (b) and (c).

Official transcripts must be original and contain an official seal and registrar's signature.

Section III Criminal history - Two sets of fingerprints completed on FBI cards issued by DSHS.

Section IV Read the Statement of Understanding before signing and notarizing application.

Instructions for Subsequent Registration (refer to paragraph 450.112 (d))

- Completed application (2 pages), signed, dated and notarized with a recent full face wallet sized photo.
- Application fee and Background Investigation fee of \$65.00 (cashier's check or money order); Payable to DSHS.

Applications will not be processed without the total fee of \$65.00

- Two sets of fingerprints completed on cards issued by DSHS
- Official college transcript containing 24 semester hours of approved coursework
Courses approved by DSHS are those that study addictions, counseling theories and techniques, dual diagnosis assessments and treatment, and **upper division** courses in the study of human behavior/development or service delivery. Other courses may be considered on a case by case bases by submitting the course description or syllabus.

If you failed your 4th exam more than three years ago, you may be ask to provide proof of 270 education hours, 300 hour practicum, 4000 hours supervised work experience and two letters of recommendation.

Examination Information

Test Administer - Texas Certification Board of Addiction Professionals (TCBAP)
(512) 708-0629 or www.tcbap.org

Examination dates, locations, fees and deadlines, as well as information on submitting your case presentation may be obtain by contacting the Texas Certification Board of Addiction Professionals (TCBAP)

Written Test - This test is 150 multiple choice questions (3 1/2 hours) You will be asked to mark the best answer for each question.

Oral Case Presentation Review - This portion of the testing process will be over your case presentation (45 minutes). You will be asked one question from each core function.

Written and Oral Study Guides - may be ordered by contacting TCBAP at (512) 708-0629 or the International Certification & Reciprocity Consortium (IC&RC) at (919) 572-6823.

Additional Oral Study Guide - "The Twelve Core Functions of the Substance Abuse Counselor" by John Herdman, may be ordered by contacting TCBAP at (512) 708-0629 or you can purchase it at a local bookstore. When calling the bookstore, ask for Reference ISBN #1556912048.

Licensed Chemical Dependency Counselor Intern Registration Application

For Official Use Only
Budget #ZZ743
Fund #191
#: _____ \$: _____

Mail to:

Texas Department of State Health Services
Professional Licensing and Certification Unit – MC1982
1100 West 49th Street Austin, TX 78756-3199

PHOTO

IN THIS SPACE SECURELY
ATTACH PHOTO TAKEN
WITHIN THE PAST YEAR

Please write your name and date of
birth on back of this photo

Initial Registration

Subsequent Registration

(refer to paragraph 450.112 (d))

Section I

Social Security Number	Last Name	First Name	Middle Initial

Mailing Address

City	State	ZIP Code	County

()	Female <input type="checkbox"/>	Male <input type="checkbox"/>
Home Phone	Gender	

()	
Work Phone	Date of Birth

Are You Bilingual? Yes No

If Yes please specify: _____

Section II

High School Graduate

GED

College

Name of College _____

Degree _____ (Associates, Bachelors, etc.)

Major _____ Minor _____

Ethnic Origin: African American Asian Caucasian
 Hispanic Native American Other

Section III Criminal History

Chapter 450.115 requires that every counselor intern submit to DSHS two sets of fingerprint cards for the purpose of obtaining a criminal history check from both the Department of Public Safety (DPS) and the Federal Bureau of Investigations (FBI)

- * Complete all personal information section on the top of the cards except for the signature boxes
- * The signature boxes will be signed in the presence of the fingerprint technician or law enforcement officer
- * The DPS and the FBI are the sole judges of fingerprint quality and rejection
- * Failure to submit acceptable prints could result in the rejection of the fingerprints by either law enforcement agency thus requiring you to submit another set and pay an additional fee

This application will be denied if you fail to submit acceptable prints

Section IV Statement of Understanding

I hereby authorize any organization(s), entities or person(s) named in this application to release to the Texas Department of State Health Services (DSHS) any information they may have regarding me.

I understand that licensure depends on my meeting the requirements and criteria established by DSHS.

I understand that all information provided on this application is true and correct to the best of my knowledge.

I understand that intentionally false or misleading statements on this application will result in my being declared ineligible for licensure.

I understand that data from my application may be used for statistical purposes.

I understand that the licensure documentation will become the property of DSHS.

I understand that all application and licensure fees are non-refundable.

I agree to abide by the ethical standards contained in Chapter 450.121 of the LCDC Handbook.

By signing this application I have read Title 25, Texas Administrative Code, Chapter 450 and accept responsibility for remaining knowledgeable of licensure rules, including revisions.

Applicant's Signature

Date

Subscribed and sworn to before me this _____ **day of** _____ **20**_____

Notary Public in and for _____ **County, state of Texas.**

My certificate expires _____

Notary Public



DSHS Publication #02-12215
Rev. 05/2005