

HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE B. ALCOHOL AND SUBSTANCE ABUSE PROGRAMS

CHAPTER 464. FACILITIES TREATING PERSONS WITH A CHEMICAL DEPENDENCY

SUBCHAPTER A. REGULATION OF CHEMICAL DEPENDENCY TREATMENT

FACILITIES

Sec. 464.001. DEFINITIONS. In this subchapter:

(1) "Chemical dependency" means:

- (A) abuse of alcohol or a controlled substance;
- (B) psychological or physical dependence on alcohol or a controlled substance; or
- (C) addiction to alcohol or a controlled substance.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(90), eff. April 2, 2015.

(3) "Controlled substance" has the meaning assigned by Chapter 481 (Texas Controlled Substances Act).

(3-a) "Department" means the Department of State Health Services.

(3-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Treatment" means a planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs.

(5) "Treatment facility" means:

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

(J) a halfway house;

(K) an ambulatory care facility; or

(L) any other facility that offers or purports to offer treatment.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1180, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1639(90), eff. April 2, 2015.

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

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

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

- (1) a facility maintained or operated by the federal government;
- (2) a facility directly operated by the state;
- (3) a facility licensed by the department under Chapter 241, 243, 248, 466, or 577;
- (4) an educational program for intoxicated drivers;
- (5) the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office;
- (6) an individual who personally provides counseling or support services to a person with a chemical dependency but does not offer or purport to offer a chemical dependency treatment program;

(7) a 12-step or similar self-help chemical dependency recovery program:

(A) that does not offer or purport to offer a chemical dependency treatment program;

(B) that does not charge program participants; and

(C) in which program participants may maintain anonymity;

(8) a juvenile justice facility or juvenile justice program, as defined by Section [261.405](#), Family Code; or

(9) a satellite office or location in which the person providing services is operating under the supervision of a licensed outpatient care facility and the services delivered at the satellite site fall within the scope of the licensure of the outpatient care facility.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1181, eff. April 2, 2015.

Acts 2017, 85th Leg., R.S., Ch. 747 (S.B. [1314](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1323 (H.B. [4298](#)), Sec. 1, eff. September 1, 2019.

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

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

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

(3) comply with the licensing standards.

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

(1) whose application meets the content requirements prescribed by the department and by department rules;

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

(3) who timely complies with the licensing standards.

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1182, eff. April 2, 2015.

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

(b) The department may require an inspection before renewing a license, unless the applicant submits an accreditation review from the Commission on Accreditation of Rehabilitation Facilities, The Joint Commission, or another national accreditation organization recognized by the department in accordance with Section [464.0055](#).

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

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

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1096 (S.B. [1449](#)), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1183, eff. April 2, 2015.

Sec. 464.0055. ACCREDITATION REVIEW TO SATISFY INSPECTION REQUIREMENTS.

(a) In this section, "accreditation commission" means the Commission on Accreditation of Rehabilitation Facilities, The Joint Commission, or another national accreditation organization recognized by the department.

(b) The department shall accept an accreditation review from an accreditation commission for a treatment facility instead of an inspection by the department for renewal of a license under Section 464.005, but only if:

(1) the treatment facility is accredited by that accreditation commission;

(2) the accreditation commission maintains and updates an inspection or review program that, for each treatment facility, meets the department's applicable minimum standards;

(3) the accreditation commission conducts a regular on-site inspection or review of the treatment facility according to the accreditation commission's guidelines; and

(4) the treatment facility submits to the department a copy of its most recent accreditation review from the accreditation commission in addition to the application, fee, and any report or other document required for renewal of a license.

(c) This section does not limit the department in performing any duties, investigations, or inspections authorized by this chapter, including authority to take appropriate action relating to a treatment facility, such as closing the treatment facility.

(d) This section does not require a treatment facility to obtain accreditation from an accreditation commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1096 (S.B. 1449), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1184, eff. April 2, 2015.

Sec. 464.006. INSPECTIONS. The department or its representative may without notice enter the premises of a treatment

facility at reasonable times, including any time treatment services are provided, to conduct an inspection or investigation the department considers necessary.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1185, eff. April 2, 2015.

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

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

(c) The department may not maintain unnecessary fund balances under this chapter.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1186, eff. April 2, 2015.

Sec. 464.008. APPLICABILITY OF OTHER LAW TO APPLICATION AND INSPECTION FEES. All application and inspection fees collected by the department under this subchapter are subject to Subchapter F, Chapter [404](#), Government Code.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1187, eff. April 2, 2015.

Sec. 464.009. RULES AND STANDARDS. (a) The department

shall license treatment facilities in a manner consistent with state and federal law and rules, including department licensing standards.

(b) The executive commissioner shall adopt rules for:

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

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

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

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

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

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

(4) the client records kept by a facility;

(5) the general physical plant requirements for a facility, including environmental considerations, fire protection, safety, and other conditions to ensure the health and comfort of the clients;

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

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

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

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

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

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1188, eff. April 2, 2015.

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

Added by Acts 2005, 79th Leg., Ch. 698 (S.B. 325), Sec. 5, eff. September 1, 2005.

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

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

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

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

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

(1) on court order;

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

(3) as provided by Section [464.011](#).

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1189, eff. April 2, 2015.

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1190, eff. April 2, 2015.

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1191, eff. April 2, 2015.

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

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

(2) violates this subchapter or a department rule.

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

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

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

(2) an administrative appeal is requested.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 705, Sec. 3.06, eff. Sept. 1, 1993;

Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995;
Acts 1997, 75th Leg., ch. 577, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1192,
eff. April 2, 2015.

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1193,
eff. April 2, 2015.

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

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

(c) A district court, on petition of the department, the attorney general, or a district or county attorney, and on a finding by the court that a person or facility is violating or has violated this subchapter or a standard adopted under this subchapter, shall grant any prohibitory or mandatory injunctive relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) The court granting injunctive relief shall order the

person or facility to reimburse the department and the party bringing the suit for all costs of investigation and litigation, including reasonable attorney's fees, reasonable investigative expenses, court costs, witness fees, deposition expenses, and civil administrative costs.

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1194, eff. April 2, 2015.

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

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

(c) A person commits an offense if the person has reasonable grounds to suspect that abuse or neglect of a client may have occurred and does not report the suspected or possible abuse or neglect to the department as required by Section 464.010.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1195, eff. April 2, 2015.

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

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

(b) The department may:

- (1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section [464.015](#); or
- (2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief.

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

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

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

(f) Penalties collected under this section by the attorney general shall be deposited to the credit of the general revenue fund. Penalties collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1196, eff. April 2, 2015.

Sec. 464.018. NOTICE OF SUIT. Not later than the seventh day before the date on which the attorney general intends to bring suit on the attorney general's own initiative under Section 464.015 or 464.017, the attorney general shall provide to the department notice of the suit. The attorney general is not required to provide notice of a suit if the attorney general determines that waiting to bring suit until the notice is provided will create an immediate threat to the health and safety of a client. This section does not create a requirement that the attorney general obtain the permission of or a referral from the department before filing suit.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 3.09, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1197, eff. April 2, 2015.

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

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

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

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

(2) enforcement costs relating to the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

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

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

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

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

(h) If the person requests a hearing or fails to respond timely to the notice, an administrative law judge shall set a

hearing and the department shall give notice of the hearing to the person. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the department a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the department by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

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

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

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

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

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

(1) stay enforcement of the penalty by:

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

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

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

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

supersedeas bond; and

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

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

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

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

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

(2) is under the substantial evidence rule.

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

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

reduced, the court shall order the release of the bond after the person pays the amount.

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1198, eff. April 2, 2015.

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

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1112, Sec. 2, eff. June 18, 1999.

Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 29, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1199, eff. April 2, 2015.

SUBCHAPTER B. COUNTY CONTRACTS WITH ALCOHOLISM PROGRAMS AND CENTERS

Sec. 464.031. DEFINITIONS. In this subchapter:

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

(2) "Department" means the Department of State Health Services.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1200, eff. April 2, 2015.

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

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

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

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

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

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

(2) be licensed by the department.

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1201, eff. April 2, 2015.

Sec. 464.034. REVIEW OF CONTRACT APPLICATIONS; LIST.

(a) A regional alcoholism advisory committee shall:

(1) review each application received; and

(2) rank the applications using guidelines for reviewing funding applications established by the department in accordance with department rules.

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1202, eff. April 2, 2015.

Sec. 464.035. PAYMENT OF CONTRACT AMOUNTS. To pay for

services provided under a contract with an alcoholism program or center, the commissioners court by order may dedicate for payment to the program or center a percentage of the money received by the county as fines for alcohol-related offenses committed while operating a motor vehicle under Sections [49.04](#) and [49.07](#), Penal Code.

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

SUBCHAPTER C. FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAMS

Sec. 464.051. DEFINITIONS. In this subchapter:

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

(2) "Department" has the meaning assigned by Section [464.001](#).

(2-a) "Executive commissioner" has the meaning assigned by Section [464.001](#).

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

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

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1203, eff. April 2, 2015.

Sec. 464.052. EXEMPTION FOR FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAM. (a) Subchapter A does not apply to a

chemical dependency treatment program that:

- (1) is conducted by a religious organization;
- (2) is exclusively religious, spiritual, or ecclesiastical in nature;
- (3) does not treat minors; and
- (4) is registered under Section [464.053](#).

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1204, eff. April 2, 2015.

Sec. 464.053. EXEMPT PROGRAM REGISTRATION. The executive commissioner by rule shall establish a simple procedure for a faith-based chemical dependency treatment program to register the program's exemption under Section [464.052](#).

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1205, eff. April 2, 2015.

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

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

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

"The treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Department of State Health Services. This program offers only nonmedical treatment and recovery methods such

as prayer, moral guidance, spiritual counseling, and scriptural study."

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1206, eff. April 2, 2015.

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

"DECLARATION:

"I understand that:

(1) the treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Department of State Health Services; and

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

signed _____ date _____

(b) The program shall:

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1207, eff. April 2, 2015.

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

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

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

(3) the organization violates this subchapter or a

department rule adopted under this subchapter.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1208, eff. April 2, 2015.

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

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

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

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1209, eff. April 2, 2015.

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

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

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

program exempted under this subchapter.

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