



## **INTERLOCAL COOPERATION CONTRACT**

(CSCD AND CCSO/SCORE & VALOR)

**WHEREAS, THE COUNTY OF COLLIN, STATE OF TEXAS** (hereinafter "Performing Party") is a validly organized and constituted governmental entity properly established in accordance with Chapter 71, Local Government Code;

**WHEREAS, the Collin County Community Supervision and Corrections Department** (hereinafter "Department") is properly established in accordance with Chapter 76, Government Code;

**WHEREAS, Chapter 140, Local Government Code, permits the Department, as a "specialized local entity," to enter into contractual arrangements;**

**WHEREAS, Chapter 791, Government Code, authorizes local governments to increase their efficiency and effectiveness by contracting with one another and with agencies of the state;**

**THEREFORE, this Interlocal Cooperation Contract (hereinafter "contract") is made and entered into by and between the Performing Party and the Department.**

### **ARTICLE I SPECIFICATIONS**

#### **1.1 Terms and Conditions.**

A. The Performing Party shall, in accordance with the terms of this contract, provide all the necessary personnel, equipment, materials, supplies, facilities, and services (except as may be furnished by the Department as specified in writing in this contract) and do all things necessary for, or incidental to, the provision of the services listed as follows:

- a. **To provide forty-six (46) secure residential beds at the Collin County Detention Facilities for the purpose of housing offenders sentenced to a period of confinement pursuant to Article 42A.302 & 42A.601-607 of the Code of Criminal Procedure who will participate in the S.C.O.R.E. and V.A.L.O.R. programs.**

- b. To provide security for offenders sentenced to said facility commensurate with provisions and standards of security set by the Texas Commission on Jail Standards.**
- c. To provide adequate health, safety precautions, meals, clothing, recreation, medical, and other care for the offender as set forth by the standards of the Texas Commission on Jail Standards and the Texas Department of Criminal Justice – Community Justice Assistance Division.**
- d. To allow the Department to participate in the screening and admission of offenders into the S.C.O.R.E./V.A.L.O.R. Program**
- e. To provide the Department with offender status reports concerning inmate violations while in the custody of Collin County Sheriff's S.C.O.R.E. Program. This report will be made available to the Director of the Community Corrections Program within a reasonable time after the inmate's violation.**
- f. To provide the Department with monthly billing for the salary and fringe benefits for the four (4) detention officers that provide service for the S.C.O.R.E./V.A.L.O.R. Program.**
- g. Provide the Department a monthly report which includes inmate name and total number of days in said facilities.**
- h. To provide transportation for S.C.O.R.E./V.A.L.O.R. offenders to and from all work assignments, community service work and other occasions as needed.**
- i. To provide funds for the maintenance and operational expenditures of the S.C.O.R.E./V.A.L.O.R. farm projects.**
- j. To provide effective and meaningful community work for inmates serving confinement including but not limited to the maintenance and janitorial work in county facilities, S.C.O.R.E./V.A.L.O.R. farm project, cleaning roadsides and any other work that may be approved by the Sheriff's Office. The Sheriff's Office Personnel will supervise the work.**

**B.** The Performing Party shall provide and support personnel to meet all applicable state standards for staff to participant ratios.

**C.** All employees of the Performing Party providing services to Defendants shall have and maintain all required licenses, certifications, and other qualifications.

## **1.2 Compensation.**

The Department agrees to make payments to the Performing Party for the delivery of the services described in Article I, Paragraph 1.1, A. above.

- A. The department shall pay the sum not to exceed **\$25,834.17** per month (i.e., day sessions, hour) for salaries and fringe benefits for employment of four (4) detention officers assigned to the S.C.O.R.E./V.A.L.O.R. Programs.
- B. Invoices shall be presented to the Department by the **10<sup>th</sup>** day of each month.
- C. The total amount of payments to the Performing Party during the fiscal year shall not exceed **\$310,010.00**.
- D. The Performing Party and the Department agree that these payments fairly compensate the Performing Party for the services or functions performed under the contract. This contract is subject to the availability of funds as appropriated by the legislature and made available by the Texas Department of Criminal Justice - Community Justice Assistance Division. If such funds become reduced or unavailable, this contract shall be subject to immediate modification, reduction, or termination.

## **1.3 Contract Period.**

This contract is for a period of **one year** beginning on **September 1, 2021**, and ending on **August 31, 2022**. It may be renewed annually or terminated as hereinafter provided.

## **1.4 Performance Measures.**

The Performing Party shall comply with the performance measures at Exhibit A which are incorporated into this contract by reference.

## **ARTICLE II GENERAL CONDITIONS**

### **2.1 Duties and Obligations.**

The Performing Party shall:

- A. Provide the services outlined in Article I. Paragraph 1.1, in compliance with applicable federal and state laws, including all constitutional, legal, and court-ordered requirements;
- B. Comply with all applicable standards established by the Texas Board of Criminal Justice, copies of which have been attached to this contract as Exhibit B and are incorporated into this contract by reference;
- C. Comply with the HIV standards at Exhibit C, which are incorporated into this contract by reference;
- D. Furnish such semi-annual financial and program data as may reasonably be requested by the Department;
- E. Provide reasonable access to all records, books, reports, and other data and information needed to accomplish reviews of services and expenditures;
- F. Permit the Department, or Department's designee, to inspect, review, and audit its records and reports to review services and evaluate performance; and
- G. Permit the Department, or Department's designee, to conduct site visits at times mutually agreed upon between the parties.

### **2.2 Confidentiality.**

When applicable, records of identity, diagnosis, prognosis, or treatment of any Defendant through this contract shall be confidential and may be disclosed only in accordance with applicable laws.

- A. Absent specific statutory authority to the contrary, no confidential information may be released without the Defendant's written consent as documented by a signed release form that complies with the requirements of the applicable laws and regulations.
- B. All records prepared in conjunction with this contract or maintained on Defendants shall be the property of the Department. All records (electronic or paper) pertinent to this contract shall be retained by the Providing Party for a period of five years with the following qualification: if any audit, litigation or claim is initiated before the expiration of the five-year period, the records shall be retained until the audit, litigation or

claim has been resolved. The Providing Party shall request disposition instructions from the department at the end of the retention period.

C. The Performing Party shall promptly notify the Department in writing if any legal process requires disclosure of a defendant's record and shall obtain written acknowledgment of the Department's representative.

### **ARTICLE III MODIFICATION, RENEWAL, CANCELLATION, DEFAULT, AND TERMINATION**

#### **3.1 Modification.**

This contract may be modified at any time with the mutual consent of the Director of the Department and of the Performing Party. Any such modification must be documented in writing.

#### **3.2 Renewal.**

This contract may be renewed in one-year increments by the mutual consent of the Director of the Department and of the Performing Party. Any such renewal must be documented in writing.

#### **3.3 Cancellation.**

Payments must be made from current revenues available to the Department. This contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature.

#### **3.4 Termination for Convenience.**

Either party may terminate this contract for any reason, without cause, and at any time, by furnishing to the other party thirty (30) days prior written notice. Upon termination, the Department shall only be obligated to compensate the Performing Party for services performed and payments earned hereunder up to the date of the termination. The Performing Party shall be obligated to provide services until the date of the termination. Neither party shall be entitled to any other compensation based on this contract.

**3.5 Default, Cure Notice, Termination for Cause.**

**A. Default by the Performing Party.**

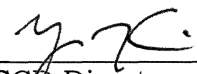
1. A material failure to keep, observe, perform, meet or comply with any term or provision of this contract by the Performing Party shall constitute an event of default.
2. Upon the occurrence of an event of default by the Performing Party, the department shall notify the Performing Party of such event of default by registered United States Mail, return receipt requested.
3. Upon receipt of a notice of an event of default, the Performing Party shall have thirty (30) days to cure the default.
4. If the Performing Party fails to cure the default, the Department may suspend payments, terminate the contract for cause, and pursue any remedy it may have at law or in equity.

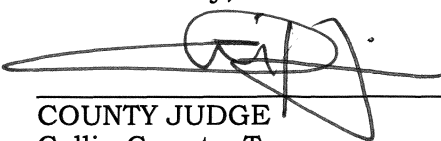
**B. Default by the Department.**

1. A failure by the Department to pay the Performing Party within thirty (30) days after such payment is due, provided such failure to pay is not the result of the Comptroller of the State of Texas withholding payments to the Department, shall constitute an event of default.
2. Upon the occurrence of an event of default by the Department, the sole remedy of the Performing Party is to terminate the agreement. Upon such termination, the Performing Party shall be entitled to receive payment from the Department for all services satisfactorily furnished up to and including the date of termination.

IN WITNESS WHEREOF, the parties hereto have caused this agreement, including the Exhibits attached hereto and incorporated herein by reference, to be executed as of the last date indicated below.

Executed this 16th day of August, 2021, in Collin County, Texas.

  
\_\_\_\_\_  
CSCD Director  
Collin County, Texas

  
\_\_\_\_\_  
COUNTY JUDGE  
Collin County, Texas

# **EXHIBIT A**

## **PERFORMANCE MEASURES**

**Strategy 1:** Provide security, adequate health, safety precautions, meals, clothing, recreation, medical, and other care for the offender as set forth by the standards of the Texas Commission on Jail Standards.

Measures: One hundred percent of the individuals served will be provided security, adequate health, safety precautions, meals, clothing, recreation, medical and other care required by the Texas Commission on Jail Standards and monitored at annual inspections by that Agency.

Adjustment: The Performing Party will provide the Department with a copy of the annual inspection report of the Minimum Security Facility within 30 days of receipt or reimburse the daily sum for each day past thirty days that the report is not provided to the Department.

**Strategy 2:** Provide the Department access to offender status reports via Odyssey concerning inmate violations while in the S.C.O.R.E./V.A.L.O.R. Programs.

Measures: One hundred percent (100%) of the individuals served will have violations documented in status reports. Status reports will be forwarded electronically to the Department on a daily basis.

Adjustment: The Performing Party will reimburse the sum of \$18.00 each day past ten (10) days that access to a status report is not provided to the Department.

**Strategy 3:** Provide the Department with information regarding Prison Rape Elimination Act (P.R.E.A.) assessments and reassessments on all individuals served.

Measures: One hundred percent (100%) of the individuals served in the S.C.O.R.E. and V.A.L.O.R. programs will have a P.R.E.A. assessment conducted within 72 hours of arrival. Additionally, one hundred percent (100%) of the individuals served in the programs will have a P.R.E.A. reassessment conducted no more than 30 days after intake.

Adjustment: The Performing Party will reimburse the sum of \$18.00 for each day past the deadline for an initial PREA assessment and reassessment.

## **EXHIBIT B**

### **163.39 Residential Services**

#### **(a) General Administration.**

(1) Purpose. Residential facilities and contract residential beds funded by the Texas Department of Criminal Justice - Community Justice Assistance Division (TDCJ-CJAD) shall provide the courts with a sentencing alternative for the purpose of:

(A) Confining offenders placed on community supervision and others who are eligible in accordance with statutes;

(B) Providing sanctions, services, and programs to modify criminal behavior, deter criminal activity, protect the public and restore victims of crime;

(C) Strengthening and expanding the options that are available to judges to impose alternatives other than imprisonment for offenders who violate court-ordered conditions of community supervision; and

(D) Reducing the offender's likelihood of a subsequent arrest, recidivism and technical violations.

(2) Feasibility Studies. A judicial district interested in establishing a residential Community Corrections Facility (CCF) shall first conduct and prepare a feasibility study in accordance with the TDCJ-CJAD Feasibility Study Guidelines-Community Corrections Facility. The product and results of such feasibility study shall be submitted to TDCJ-CJAD. After the receipt by TDCJ-CJAD of the initial feasibility study related to a proposed CCF, the Community Supervision and Corrections Department (CSCD) may be required to provide supplemental information or additional materials for further review and consideration.

(3) Notice of Construction or Operation of a CCF.

(A) If a CSCD or private vendor operating under a contract with a CSCD or judicial district proposes to construct or operate a CCF within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship, the CSCD shall prominently post an outdoor sign at the proposed location of the facility. The sign shall be at least 24 by 36 inches in size written in lettering at least two (2) inches in size. The sign shall state that a correctional or rehabilitation facility is intended to be located on the premises, and provide the name and business address of the CSCD. The municipality or county in which the CCF is to be located may require the sign to be both in English and a language other than English, if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

(B) The CSCD shall provide notice of the proposed location of the facility to the commissioners court of the county and/or governing body of the municipality where the facility is intended to be located not later than 60 days before the CSCD begins construction or operation of the facility. The notice shall contain the following:

(i) A statement of the entity's intent to construct or operate a correctional or rehabilitation facility in an area;

(ii) A description of the proposed location of the facility; and

(iii) A statement that Texas Local Government Code, Chapter 244 governs the procedure for notice of and consent to the facility.

(4) Public Meetings. A CSCD or private vendor having a contract with a CSCD or judicial district shall not establish a CCF unless the community justice council serving the CSCD has held a public meeting before the action is taken. In addition, a CSCD may not expend funds provided by the TDCJ-CJAD to lease or 34



purchase real property, construct buildings, or use a facility or real property acquired or improved with state funds for a CCF unless the community justice council serving the CSCD has held a public meeting before the action is taken. The public meeting shall be held at a site as close as practicable to the location at which the proposed action is to be taken. The meeting shall not be held on a Saturday, Sunday or legal holiday. The meeting shall begin after 6:00 p.m. More than 30 days before the date of the meeting, the department that the facility is to serve, or a vendor proposing to operate a facility, at a minimum shall:

(A) Publish by advertisement a notice that is not less than 3 1/2 inches by 5 inches of the date, hour, place and subject of the hearing as required in subsection (a)(4) of this rule in three (3) consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located. The notice shall specifically state the address of the facility or property on which a proposed action is to be taken and provide a description of the proposed action.

(B) Mail a copy of the notice to each police chief, sheriff, city council member, mayor, county commissioner, county judge, school board member, state representative and state senator who serves or represents the area, unless the proposed facility has been previously authorized to operate at a particular location by a community justice council.

(5) Maximum Resident Capacity and Facility Utilization. The maximum resident capacity of a CCF shall be defined as the total number of residents who can be housed at the facility at any given time as delineated by the operating agency in the most current community justice plan and approved by the TDCJ-CJAD director. CCFs funded through TDCJ-CJAD shall reach 90 percent capacity within the first six (6) months of operation and maintain a minimum of 90 percent thereafter, using appropriate and eligible placements only. Any revisions to the maximum and minimum resident capacities for the CCF shall be subject to the approval by the TDCJ-CJAD through the community justice plan amendment process.

(6) Contract Residential Services. Business entities, agencies or persons contracting with CSCDs or judicial districts for residential services shall comply with all applicable competitive bidding and other laws and regulations. CSCDs or judicial districts contracting with business entities, agencies or persons for residential services shall comply with any applicable competitive bidding and other laws and regulations. The CSCD director shall monitor, audit and inspect the performance and compliance of the service provider and vendor with the terms and conditions of the contract with the CSCD and with applicable laws and regulations.

(7) Mission Statement. The CSCD director and facility director shall prepare and maintain a mission statement that describes the general purposes and overall goals of the facility's programs.

(b) Personnel.

(1) Screening for Tuberculosis (TB) Infection. The CSCD director or facility director shall ensure that as soon as practicable but not later than seven (7) calendar days of assuming any duties within a CCF, all staff undergo a screening for TB infection. Follow-up screening for TB infection shall be conducted on all staff, at a minimum, once every year from the anniversary date of the initial screening. The results of all screenings shall be maintained on file.

(2) Required Personnel.

(A) Each facility with an employment component shall have a designated employment coordinator whose duties and responsibilities include assisting residents in obtaining/maintaining employment. The employment coordinator shall be responsible for addressing other employment issues for residents such as résumé development, interviewing skills/techniques and appropriate dress for job interviews.

(B) Every facility shall have a designated staff member whose duties and responsibilities include facilitating or ensuring the required cognitive and other facility programs are accomplished.

(3) Criminal Histories and Arrest Records. Prior to employment and on at least an annual or more frequent basis thereafter, criminal histories and arrest records shall be obtained from both the Texas Department of Public Safety (DPS) and National Crime Information Center NCIC on each of the CCF's employees, contract vendor staff (if applicable) and volunteers. This requirement shall apply to both vendor contract and the CSCD operated CCFs. Upon verification that no new conviction(s) have occurred, an entry documenting such shall be made in the personnel file. The criminal history document and/or other arrest record documentation shall then be destroyed. Employees who have access to criminal histories must meet the Texas Department of Public Safety (DPS) criteria for accessing the Texas Law Enforcement Telecommunication System (TLETS) operated by the DPS or files containing a copy of an employee's or resident's criminal history.

(4) Residential Officer Certification. Governed by §163.33(f) of this title.

(5) Residential Personnel Training. Initial Training Requirements and Defensive Driving are governed by §163.33(j) of this title. Training Requirements for Monitoring Self-Administration of Medications are set forth in subsection (n)(10) of this rule.

(c) Building, Safety, Sanitation and Health Codes.

(1) Compliance. The CSCD director and facility director shall ensure that the facility's construction, maintenance and operations complies with all applicable state, federal and local laws, building codes and regulations related to safety, sanitation and health. Records of compliance inspections, audits or written reports by internal and external sources shall be kept on file for examination and review by the TDCJ-CJAD and other governmental agencies and authorities from program inception forward. The CSCD director and facility director shall promptly notify the TDCJ-CJAD in writing of any circumstances wherein the facility or its operations do not maintain such compliance.

(2) Water Supply. The CSCD director or designee shall ensure that the facility's potable water source and supply is sanitary and approved by an independent, qualified agency or individual in compliance with the applicable governmental laws and regulations.

(3) Sanitation. The facility shall conform to the applicable sanitation and health regulations and codes.

(4) Waste. The liquid and solid wastes related to the facility shall be collected, stored and disposed of in accordance with a plan approved by the regulatory authority, agency or department.

(5) Physical Plant. The facility's buildings, including the improvements, fixtures, electric, heating, and air conditioning shall conform to all applicable building codes of federal, state and local laws, ordinances, regulations and minimum guidelines established by the TDCJ-CJAD for physical plants and facilities housing residents.

(6) Fires. The facility, its furnishings, fire protection equipment and alarm system shall comply with the regulations of the fire authority having jurisdiction. Fire drills are to be conducted at least quarterly. There shall be a written evacuation plan to be used in the event of a fire. The plan is to be certified by an independent qualified governmental agency or department or individual trained in the application of national and state fire safety codes. Such plan shall be reviewed annually, updated if necessary, and reissued to the local fire jurisdiction. The facility shall conduct fire inspections at least quarterly or at intervals approved by the fire authority having jurisdiction. Fire safety equipment located at the facility shall be tested as specified by the manufacturer or the fire authority, whichever is more frequent. An annual inspection of the facility shall be conducted by the fire authority having jurisdiction or other qualified person(s).

(7) Emergency Plan. There shall be a written emergency plan for the facility and its operations, which includes an evacuation plan, to be used in the event of a major flood, storm or other emergencies. This plan shall be reviewed annually and updated, if necessary. Evacuation drills shall be conducted at least three (3) times yearly. Each shift at least yearly shall conduct an evacuation drill when the majority of residents are present. All facility personnel shall be trained in the implementation of the written emergency plan. The evacuation plan shall specify preferred evacuation routes, subsequent dispositions and temporary housing of residents and provisions for access to medical care or hospital transportation for injured residents and/or staff. The facility's emergency plan shall be distributed to local authorities such as law enforcement, state police, civil defense, etc. to keep them informed of their roles in the event of an emergency. The emergency plan shall include the following:

(A) Location of buildings/room floor plan;

(B) Use of exit signs and directional arrows that are easily seen and read; and

(C) Location(s) of publicly posted plan.

(d) **Separate Offender Housing.** The CSCD director and facility director shall ensure that a facility that is part of or attached to a detention facility or a correctional institution shall house facility residents separately from the offenders incarcerated in the detention facility. At no time shall the CCF residents/offenders be co-mingled with these incarcerated offenders.

(e) **Program and Service Areas.**

(1) **Space and Furnishings.** The facility shall have space and furnishings to accommodate activities such as group meetings, private counseling, classroom activities, visitation and recreation.

(2) **Housekeeping and Maintenance.** The CSCD director and facility director shall ensure the facility is clean and in good repair, and a housekeeping and maintenance plan is in effect.

(3) **Other Physical Environment and Facilities Issues.** In each facility:

(A) Space shall be provided for janitor closets which are equipped with cleaning implements;

(B) There shall be storage areas in the facility for clothing, bedding and cleaning supplies;

(C) There shall be clean, usable bedding, linens and towels for new residents with provision for exchange or laundering on at least a weekly basis;

(D) On an emergency or indigent basis, the facility shall provide personal hygiene articles;

(E) There shall be adequate control of vermin and pests;

(F) There shall be timely trash and garbage removal; and

(G) Sanitation and safety inspections of all internal and external areas and equipment shall be performed and documented on a routine basis to protect the health and safety of all residents, staff and visitors.

(f) **Supervision.**

(1) **Operations Manual.** An operations manual shall be prepared for and used by each CCF which shall contain information and specify procedures and policies for resident census, contraband, supervision, physical plant inspection and emergency procedures, including detailed implementation instructions. The operations manual shall be accessible to all employees and volunteers. The operations manual shall include, at a minimum, the matters set forth in the Guidelines for the Policies and Procedures of the TDCJ-CJAD Funded Residential Facilities. The operations manual shall be submitted to the TDCJ-CJAD director for review and approval. The manual shall be approved by the TDCJ-CJAD director at least 60 days prior to the acceptance of any residents into the facility. The CSCD director and facility director shall ensure that the operations manual is reviewed at least every two (2) years, and new or revised policies and procedures are made available, including all changes, to designated staff and volunteers prior to implementation. This manual shall be submitted to the TDCJ-CJAD upon request or for auditing purposes.

(2) **Staffing Availability.** The CSCD director and facility director shall ensure that the facility has the staff needed to provide coverage of designated security posts, surveillance of residents and to perform ancillary functions. The facility shall have at least one (1) staff member on duty that is the same gender as the resident population.

(3) **Activity Log.** The CSCD director and facility director shall ensure that CCF staff maintain an activity log and prepare shift reports that record, at a minimum, emergency situations, unusual situations and incidents and all absences of residents from a facility.

(4) **Use of Force.** The CSCD director and facility director shall ensure that a CCF has written policies, procedures and practices that restrict the use of physical force to instances of self-protection, protection of residents or others or prevention of property damage. In no event shall the use of physical force against a resident be justifiable as punishment. A written report shall be prepared following all uses of force, and promptly submitted to the CSCD director and facility director for review and follow-up. The application of restraining devices, aerosol sprays, chemical agents, etc. shall only be accomplished by an individual who is properly trained in the use of such devices and only in an emergency situation for self-protection, protection of others or other circumstances as described previously.

(5) **Use of Firearms.** The CSCD director and facility director shall ensure that the possession of firearms by staff is banned and the use of firearms is prohibited in or on facility property except in the execution of official duties by certified peace officers or other duly licensed law enforcement personnel.

(6) **Access to Facility.** The facility shall be secured to prevent unrestricted access by the general public or others without proper authorization.

(7) **Control of Contraband/Searches.** All facilities shall incorporate into the facility operations manual a list of authorized items offenders are allowed to possess while a resident of the facility. All incoming residents shall receive a copy of this list during the intake/orientation process, along with a written explanation of the provisions of Texas Penal Code, Section 38.114, which states that any resident found to possess any item not provided by, or authorized by the facility director, or any item authorized or provided by the facility

that has been altered to accommodate a use other than the originally intended use, may be charged with a Class C misdemeanor. Any employee or volunteer who provides contraband to a resident of a CCF may be charged with a Class B misdemeanor. There shall also be policies defining facility shakedowns, strip searches and pat searches of residents to control contraband and provide for its disposal.

(8) Levels of Security. The CSCD director and facility director shall ensure that appropriate levels of security are maintained for the population served by the facility at all times. These levels of security shall create, as a minimum, a monitored and structured environment in which a resident's interior and exterior movements and activities can be supervised by specific destination and time. At the discretion of the facility director or designee, residents may be granted exterior movements. Exterior movements include, but are not limited to employment programs, community service restitution, support/treatment programs and programmatic incentives. The following minimum requirements shall be met for all exterior movements:

- (A) The facility director or designee approves the exterior movement;
- (B) A staff member orally advises the resident of the conditions and limitations of the exterior movement;
- (C) The resident acknowledges in writing an understanding of the conditions and limitations of the exterior movement; and
- (D) Exterior movements involving programmatic incentives may only be granted if the following additional requirements are met:

- (i) The resident meets all established requirements for the programmatic incentive, as determined by the supervisor of the program, and submits a written request for the exterior movement;
- (ii) The requested absence will not exceed 72 hours unless there are unusual circumstances;
- (iii) The resident provides an itinerary for the absence including method of travel, departure and arrival times and locations during the exterior movement;
- (iv) The facility director or designee approves the itinerary and establishes the conditions of the exterior movement involving programmatic incentives; and
- (v) A staff member shall make random announced or unannounced personal or telephone contacts with the resident to verify the location of the resident during the exterior movement.

(9) Emergency Furloughs. At the discretion of the facility director or designee, a resident may be granted an emergency furlough for the purpose of allowing a resident to attend a funeral, visit a seriously ill person, obtain medical treatment or attend to other exceptional business. Emergency furloughs may only be granted if the following conditions are met:

- (A) The resident submits a written request for the emergency furlough;
- (B) The facility director or designee verifies through an independent source including, but not limited to a physician, Red Cross representative, minister, rabbi, priest or other spiritual leader that the presence of the resident is appropriate;
- (C) The resident provides a proposed itinerary including method of travel, departure and arrival times and locations during the emergency furlough;
- (D) The requested absence shall not exceed 72 hours unless there are unusual circumstances;
- (E) The court of original jurisdiction approves the travel if the resident will depart the State of Texas;
- (F) The facility director or designee approves the itinerary and establishes the conditions of the emergency furlough; and
- (G) The facility director or designee provides by e-mail or fax the approved itinerary to the CSCD director of the court of the original/sending jurisdiction prior to the date that the emergency furlough is approved to begin.

(10) Supervision Process. Governed by § 163.5(c) of this title.

(11) The CCF shall ensure that Spanish language assistance and the translation of selected documents are provided for Spanish-speaking residents who cannot speak or read English.

(g) Resident Abuse, Neglect and Exploitation. The facility shall protect the residents from abuse, neglect and exploitation. In accordance with the Prison Rape Elimination Act of 2003 (Public Law 108-79), all CCFs shall establish a zero tolerance standard for the incidence of sexual assault. Each facility shall make prevention of offender sexual assault a top priority. The CCFs shall have policies and procedures in accordance with national standards published by the Attorney General of the United States. These policies and procedures shall include, but not be limited to the following:

- (1) Detection, prevention, reduction and punishment of offender sexual assault;
- (2) Standardized definitions to record accurate data regarding the incidence of offender sexual assault; and
- (3) A disciplinary process for facility staff who fail to take appropriate action to detect, prevent and reduce

sexual assaults, to punish residents guilty of sexual assault and to protect the Eighth Amendment rights of all facility residents.

(h) Rules and Discipline. There shall be documentation of program rule violations and the disciplinary process.

(1) Rules of Conduct. All incoming residents and staff shall receive written rules of conduct which specify acts prohibited within the facility and penalties that can be imposed for various degrees of violation.

(2) Limitations of Corrective Actions. Specific limits on corrective actions and summary punishment shall be established and strictly adhered to in an effort to reduce the potential of staff participating in abusive behavior towards participants. Limits shall include:

(A) No physical contact by staff shall be made on a resident;

(B) No profanity, sexual or racial comments shall be directed at residents by staff;

(C) Residents shall not be used to impose corrective actions on other residents;

(D) The severity of the corrective action shall be commensurate with the severity of the infraction; and

(E) The duration of corrective action shall be limited to the minimum time necessary to achieve effectiveness.

(3) Grievance Procedure. A grievance procedure shall be available to all residents in a CCF. The grievance procedure shall include at least one (1) level of appeal and shall be evaluated at least annually to determine its efficiency and effectiveness.

(4) Spanish translations of the disciplinary rules and procedures shall be provided for Spanish-speaking residents who cannot speak or read English.

(i) Incident Notification. Within 24 hours of occurrence, the CSCD director and facility director shall notify and report by telephone or fax all serious or unusual events pertaining to the facility's operations and staff to the district judge who sits on the Community Justice Council or, if applicable, the judge designated to perform administrative duties for the district courts trying criminal cases, the TDCJ Emergency Action Center (EAC) in Huntsville, Texas (Phone Number (936) 437-6600; Fax Number (936) 437-8996) and if applicable, the CSCD director of the original/sending jurisdiction if the incident involves a resident from that sending jurisdiction. The TDCJ-EAC shall be responsible for notifying the TDCJ-CJAD director and appropriate CJAD management staff. Such serious and unusual events for this purpose shall include, but are not limited to the following:

(1) The death of a resident or staff member while at the facility;

(2) Any incident which results in life threatening or serious bodily injury to a resident or staff member while at the facility or on assignment (including emergency furloughs or programmatic incentives) away from the facility;

(3) Major disturbance or riot at the facility or in its vicinity; and

(4) Any incident involving serious misconduct by facility staff, which may result in the filing of criminal charges or civil action;

(5) Any incidence of absconding by a resident convicted of an offense as identified in Title 5 of the Texas Penal Code (Title 5) and placed in the facility for such offense; and

(6) Any incidence of absconding by a resident who is suspected of committing a felony offense during the course of absconding from the facility or within 24 hours after leaving the facility.

(j) Residents' Rights. Residents shall be granted access to courts and any attorney licensed in the United States or a legal aid society (an organization providing legal services to residents or other persons) contacting the resident in order to provide legal services. Such contacts include, but are not limited to: confidential telephone communications, uncensored correspondence and confidential visits.

(k) Resident Eligibility. A CSCD or other governmental entity that operates a residential facility, contracts for the operation of a residential facility or contracts for beds/services shall define a specific target population of medium to high risk/needs offenders to be served. Placement of offenders in a CCF shall only be by an order of the court, which may include a pre-trial agreement signed by the judge presiding over an established drug court. Applicable screening shall be conducted to include screening for substance abuse, medical and mental health issues and shall meet minimum eligibility criteria as outlined in this rule.

(1) CCFs shall accept only those offenders who meet the target population criteria as defined by the facility and are physically and mentally capable of participating in any program offered at the facility, if participation in the program is required of all residents in the facility. Exceptions to this requirement:

(A) Placement is prohibited by statute;

(B) The offender matches the profile of offenders historically committed to county jail/prison from the jurisdiction; or the offender has high risk/needs, who, if supervised at a lower supervision level would have an increased likelihood of violating the conditions of community supervision; and

(C) The local jurisdiction may house offenders convicted under Title 5 and in accordance with statute, in the CCF if Title 5 offenders are included in the facility's program proposal within the community justice plan that is submitted by the jurisdiction's community justice council and approved by the local judiciary. In currently operating facilities where the jurisdiction desires to add Title 5 offenders to the target population, a public meeting shall be held, in accordance with the law and TDCJ-CJAD standards and policy, to advise the public of the types of offenders/offenses who will potentially be placed in the facility. Public support shall be considered by the TDCJ-CJAD for final approval of the change in offender population to be targeted. If a jurisdiction has documentation that this requirement was previously met, it can provide that documentation to the TDCJ-CJAD for review and possible exemption from having an additional public meeting. If a facility is approved to house Title 5 offenders, the CSCD director and the facility director shall comply with all applicable provisions contained in the Texas Government Code, §76.016, Victim Notification, the Texas Code of Criminal Procedure (TCCP) Chapter 56, Rights of Crime Victims and TCCP art. 42.21, Notice of Release of Family Violence Offenders.

(D) Prior or within ten 10 days after admission to the facility, the offender shall undergo a screening process to include a substance abuse screening instrument to determine the offender's appropriateness for placement. The process shall be documented and maintained in the supervision case file. Should the offender not meet the facility defined eligibility criteria, the offender may be referred back to the court of original jurisdiction.

(2) Courtesy Supervision. CCFs shall, on a space available basis, accept eligible adult offenders needing the residential services on courtesy supervision from other jurisdictions. CSCDs that manage CCFs are responsible for the direct supervision of all residents in the CCF while in the residential placement.

(l) Denying Admission or Continued Placement. If an offender is placed into a CCF as a condition of community supervision and the offender is an inappropriate placement, by statute or standard, or does not meet eligibility criteria of the facility as approved by the TDCJ-CJAD, the CSCD or facility director shall notify, in writing, the court of original jurisdiction of these circumstances. If a CCF facility has reached capacity at the time of the eligible offender's placement to that facility, such offender may be placed on a waiting list for that facility and returned to the court of original jurisdiction for further instructions or an alternative sanction.

(m) Food Service. The food preparation and dining area shall provide space for meal service based on the population size and need.

(1) Dietary Allowances. Meals shall be approved and reviewed annually by a registered dietician, licensed nutritionist, registered nurse with a minimum of a Bachelor of Science degree in nursing, physician assistant, or physician to ensure that the meals meet the nationally recommended allowances for basic nutrition.

(2) Special Diets. Each facility shall provide special diets as prescribed by appropriate medical or dental personnel.

(3) Food Service Management. Food service operations shall be supervised by a staff member who is experienced in institutional food preparation or mass food management. Food services staff, including residents assigned to work in the facility kitchen, shall meet all requirements established by the local health authorities.

(4) Exclusion as Discipline. The use of food as a disciplinary measure is prohibited.

(5) Meal Requirements. The CSCD director or facility director shall ensure that at least three (3) meals (including two (2) hot meals) are provided during each 24-hour period. Variations may be allowed based on weekend and holiday food service demands, or in the event of emergency or security situations, provided basic nutritional goals are met.

(n) Health Care.

(1) Access to Care.

(A) Residents shall have unimpeded access to health care and to a system for processing complaints regarding health care.

(B) The facility shall have a designated health authority with responsibility for health care pursuant to a written agreement, contract or job description. The health authority may be a physician, health administrator or health agency. In the event that the designated health authority is a free community health clinic (one which provides services to everyone in the community regardless of ability to pay), then the

CCF is not required to enter into a written contract or agreement. A copy of the mission statement of the free community health clinic and a copy of the criteria for admission shall be on file in lieu of a contract between the two (2) agencies.

(C) Each CCF shall have a policy defining the level, if any, of financial responsibility to be incurred by the resident who receives the medical or dental services.

(2) Emergency Health Care.

(A) Twenty-four hour emergency health care shall be provided for residents, to include arrangements for the following:

- (i) On site emergency first aid and crisis intervention;
- (ii) Emergency evacuation of the resident from the facility;
- (iii) Use of an emergency vehicle;
- (iv) Use of one (1) or more designated hospital emergency rooms or other appropriate health facilities;
- (v) Emergency on-call services from a physician, advanced practice nurse, or physician assistant, a dentist and a mental health professional when the emergency health facility is not located in a nearby community; and

(vi) Security procedures providing for the immediate transfer of residents, when appropriate.

(B) A training program for direct care personnel shall be established by a recognized health authority in cooperation with the facility director that includes the following:

- (i) Signs, symptoms and action required in potential emergency situations;
- (ii) Administration of first aid and cardiopulmonary resuscitation (CPR);
- (iii) Methods of obtaining assistance;
- (iv) Signs and symptoms of mental illness, retardation and chemical dependency; and
- (v) Procedures for patient transfers to appropriate medical facilities or health-care providers.

(C) First aid kits shall be available in designated areas of the facility. Contents and locations shall be approved by the health authority.

(3) Health Screening and Medical Examinations. Medical, dental and mental health screening shall be performed by health-trained or qualified health-care personnel on all offenders within ten (10) days prior to or after admission to the facility. The purpose of the screening is to determine if the offender has any disease, illness or condition that precludes admission. The health screening shall include the following:

(A) Questionnaires for health screening shall be established to document inquiries into and observations of the following:

- (i) Current illness and health problems, including venereal diseases and other infectious diseases;
- (ii) Dental problems;
- (iii) Mental health problems, including suicide attempts or ideation;
- (iv) Use of alcohol and other drugs, which includes types of drugs used, mode of use, amounts used, frequency of use, date or time of last use and a history of problems that may have occurred after ceasing use (for example, convulsions);
- (v) Other health problems designated by the responsible health authority;
- (vi) Tuberculosis (TB) screening of residents shall be completed within seven (7) calendar days of admission into the residential facility and repeated annually thereafter. If a resident was confined in a jail or other correctional facility immediately prior to admission to a CCF, a TB screening test that was completed no more than 30 days prior to transfer to a CCF may be accepted, provided that a TB questionnaire is completed and filed with the TB screening test results.

(B) Observation by qualified healthcare personnel of:

- (i) Behavior, which includes state of consciousness, mental status, appearance, conduct, tremor and sweating;
- (ii) Body deformities, ease of movement and so forth; and
- (iii) Conditions of skin, including trauma markings, bruises, lesions, jaundice, rashes and infestations and needle marks or other indications of drug abuse.

(C) Medical Examinations.

(i) A new resident admitted to the facility who was not transferred from a jail or other correctional facility shall have a medical history and physical examination completed within ten (10) days prior to or after admission to the facility.

(ii) TB screening of residents shall be completed within seven (7) calendar days of admission into the residential facility and repeated annually thereafter. If a resident was confined in a jail or other correctional facility immediately prior to admission to a CCF, a TB screening test that was completed no more than 30

days prior to transfer to a residential facility may be accepted, provided that a TB questionnaire is completed and filed with the TB screening test results.

(iii) Medical examinations shall be conducted for any employee or resident suspected of having a communicable disease.

(4) Serious and Infectious Diseases.

(A) The facility shall provide for the management of serious and infectious diseases.

(B) The CCFs shall have policies and procedures to direct actions to be taken by employees concerning residents who have been diagnosed with human immunodeficiency virus (HIV), including, at a minimum, the following:

(i) When and where residents shall be tested;

(ii) Appropriate safeguards for staff and residents;

(iii) Staff and resident training;

(iv) Issues of confidentiality; and

(v) Counseling and support services.

(5) Dental Care. Access to dental care shall be made available to each resident.

(6) Medications--General Guidelines.

(A) Staff who dispense medication shall be properly credentialed and trained. Staff that supervise self-administration of medication shall be appropriately trained to perform the task.

(B) Policy and procedure shall direct the possession and use of controlled substances, prescribed medications, supplies and over-the-counter (OTC) drugs. Prescribed medications shall be dispensed according to the directions of the prescribing physician, advanced practice nurse or physician assistant.

(C) Each residential facility shall have a written policy in place that sets forth required procedural guidelines for the administration, documentation, storage, management, accountability of all resident medication, inventory, disposal of medications, handling medication errors and adverse reactions.

(D) If medications are distributed by facility staff, records shall be maintained and audited monthly and shall include, but not be limited to the date, time, name of the resident receiving the medication and the name of the staff distributing the medication.

(E) Each facility shall ensure that the phone number of a pharmacy and a comprehensive drug reference source is readily available to the staff.

(7) Medication Storage.

(A) Prescription and OTC medications shall be kept in locked storage and accessible only to staff who are authorized to provide medication. Syringes, needles and other medical supplies shall also be kept in locked storage.

(B) All controlled/scheduled drugs shall be stored under double lock and key.

(C) Each facility shall ensure that all medications, syringes and needles are stored in the original container.

(D) Medications labeled as internal and external only shall not be stored together in the same medication box or medication drawer.

(E) Sample prescription medications provided by physicians shall be stored with proper labeling information that includes the name of the medication; name of the prescribing physician, advanced practice nurse or physician assistant; date prescribed; and dosage instructions.

(F) Medications that require refrigeration shall be stored in a refrigerator designated for medications only. A thermometer shall be maintained inside the refrigerator with the temperature checked and recorded daily on a temperature log.

(G) Medications that are discontinued, have expired dates or are no longer in use shall be stored in a separate locked container or drawer until destroyed.

(H) Facilities that allow residents to keep medications in the resident's possession shall have written guidelines specific for keep-on-person (KOP) medications. Staff shall ensure that authorized residents keep medication on their person or safely stored and inaccessible to other residents.

(8) Medication Inventory and Disposal.

(A) Facility staff shall conduct an inventory count of all controlled/scheduled prescription medications daily (at a minimum, once per 24 hour period). The count shall be conducted and witnessed by one (1) other staff member. Documentation of inventory counts shall be maintained for a minimum period of three (3) years.

(B) The facility shall conduct a monthly inventory of all prescription and OTC drugs provided to or purchased by the resident. The monthly audit shall be conducted by a staff person who is not responsible for conducting the daily inventory counts.



(C) A monthly audit shall be conducted of all medication administration records to verify the accuracy of recorded information. The monthly audit of medication administration records shall be conducted by a staff person who is not responsible for the documentation of medication administration records.

(D) When a discrepancy is noted between the medication administration record and the monthly inventory count, documentation explaining the reason for the discrepancy and action taken to correct it shall be recorded. In the event an inventory count reveals unaccounted for controlled/scheduled medication, an investigation shall be conducted and a summary report written detailing the steps taken to resolve the matter. Until the discrepancy is resolved, an inventory count shall be conducted three (3) times daily (after each shift). The summary report shall be maintained for a minimum period of three (3) years. If misapplication, misuse or misappropriation of controlled/scheduled medication leads to an investigation by law enforcement, such information shall be reported pursuant to subsection (i) of this rule.

(E) Discontinued and outdated medications shall be removed from the current medication storage, stored in a separate locked container and disposed of within 30 days. The drugs designated for disposal shall be recorded on a drug disposal form.

(F) Methods used for drug disposal shall prevent medication from being retrieved, salvaged or used in any way. The disposal of drugs shall be conducted, documented and the process witnessed by one (1) other staff member. The documentation shall include:

- (i) Name of the resident and date of disposal;
- (ii) Name and strength of the medication;
- (iii) Prescription number, sample or OTC lot numbers;
- (iv) Amount disposed, reason for disposal and the method of disposal; and
- (v) Signatures of the two (2) staff members that witnessed the disposal.

(9) Administration of Medication for Non-Medical Model Facilities.

(A) Prescription medications shall be dispensed only by licensed nurses or other staff who are trained and have the appropriate documented medication certification to dispense medications while under the supervision of a physician or registered nurse. Facilities that do not have licensed nurses or other credentialed staff to dispense medications (non-medical model facilities) shall implement the practice of self-administration of medications.

(B) If medications are dispensed through the practice of self-administration in a non-medical model program, staff trained by a qualified health professional to supervise residents in the self-administration of medications shall monitor the residents during the self-administration process.

(C) Each dose of prescription medication received by the resident shall be documented on the prescription medication administration record and maintained in the resident's medical file. The prescription medication record shall include:

- (i) Name of the resident receiving the medication;
- (ii) Drug allergies or the absence of known drug allergies;
- (iii) Name, strength of medication and route of administration;
- (iv) Instructions for taking the medication, the amount taken and the route of administration;
- (v) Date and time the medication was provided;
- (vi) Prescription number (or lot number for sample drugs) and the initial amount of medication received;
- (vii) Prescribing physician, advanced practice nurse or physician assistant and the name of the pharmacy;
- (viii) Signature of the resident receiving the medication and the staff person supervising the self-administration of medication;
- (ix) The remaining amount of medication after each dose dispensed; and
- (x) Comment section for recording a variance, discrepancy or change.

(D) Each dose of OTC medication received by the resident shall be documented on the OTC medication administration record and maintained in the resident's medical file. The OTC drugs purchased by the resident or supplied for the resident in quantities larger than single dose packages shall be recorded on the OTC drug record. The OTC drug record shall include:

- (i) The resident's name;
- (ii) The name and strength of the medication dispensed;
- (iii) Drug allergies or the absence of known drug allergies;
- (iv) The dosage instructions and route of administration;
- (v) The initial amount received, OTC lot number and the expiration date;
- (vi) The date and time the medication was dispensed;
- (vii) The amount dispensed and the ending count after each dose;

- (viii) Comment section for recording reason for OTC drug or other notations; and
- (ix) The signature of the resident and the employee who supervised each dose dispensed.
- (E) Facility Stock OTC Drugs. Multiple OTC stock drugs supplied in single dose packaging may be recorded on the same form. The medication drug record for facility stock OTC drugs shall include:
  - (i) The resident's name;
  - (ii) The name, strength and route of administration;
  - (iii) Drug allergies or the absence of known drug allergies;
  - (iv) The date, time, amount dispensed and the lot number on the container;
  - (v) Comment section to record the reason the OTC drug was requested; and
  - (vi) The signature of the resident and the employee who supervised each dose dispensed.
- (10) Training for Monitoring Self-Administration of Medications. All residential employees responsible for supervising residents in self-administration of medication, who are not credentialed to dispense medication, shall complete required training before performing this task.
  - (A) The initial training for new employees shall be four (4) hours in length.
  - (B) Employees shall complete a minimum of two (2) hours of review training annually thereafter.
  - (C) The training shall be provided by a physician, pharmacist, physician assistant or registered nurse before supervising self-administration of medications. A licensed vocational nurse (LVN) or paramedic (under supervision) may teach the course from an established curriculum. Topics to be covered shall include:
    - (i) Prescription labels;
    - (ii) Medical abbreviations;
    - (iii) Routes of administration;
    - (iv) Use of drug reference materials;
    - (v) Monitoring/observing insulin preparation and administration;
    - (vi) Storage, maintenance, handling and destruction of medication;
    - (vii) Transferring information from prescription labels to the medication administration record and documentation requirements, including sample medications; and
    - (viii) Procedures for medication errors, adverse reactions and side effects.
- (11) Female Residents. If female residents are housed, access to pregnancy management services shall be available.
- (12) Mental Health. Access to mental health services shall be available to residents.
- (13) Suicide Prevention. Each facility shall have a written suicide prevention and intervention program reviewed and approved by a qualified medical or mental health professional. All staff with resident supervision responsibilities shall be trained in the implementation of the suicide prevention program.
- (14) Personnel.
  - (A) If treatment is provided to residents by health-care personnel other than a physician, psychiatrist, dentist, psychologist, optometrist, podiatrist or other independent provider, such treatment shall be performed pursuant to written standing or direct orders by personnel authorized by law to give such orders.
  - (B) If the facility provides medical treatment, personnel who provide health-care services to residents shall be qualified and appropriately licensed. Verification of current credentials and job descriptions shall be on file in the facility. Appropriate state and federal licensure, certification or registration requirements and restrictions apply.
- (15) Informed Consent. If the facility provides medical treatment, the facility shall ensure residents are provided information to make medical decisions with informed consent. All informed consent standards in the jurisdiction shall be observed and documented for resident care.
- (16) Participation in Research. Residents shall not participate in medical, pharmaceutical or cosmetic experiments. This does not preclude individual treatment of a resident based on resident's need for a specific medical procedure that is not generally available.
- (17) Notification. Individuals designated by the resident shall be notified in case of serious illness or injury.
- (18) Health Records.
  - (A) If medical treatment is provided by the facility, accurate health records for residents shall be maintained separately and confidentially.
  - (B) If medical treatment is provided by the facility, the method of recording entries in the records, the form and format of the records, and the procedures for maintenance and safekeeping shall be approved by the health authority.

(C) If medical treatment is provided by the facility, for the residents being transferred to other facilities, summaries or copies of the medical history record shall be forwarded to the receiving facility prior to or at arrival.

(o) Discharge From Residential Facilities.

(1) Victim Notification. The CSCD director and facility director shall ensure there are procedures, policies and practices that comply with Texas Government Code §76.016, TCCP art. 42.21(a) and other applicable laws as to the notifications made to certain crime victims of offenders who are residents in its facilities or subject to its programs.

(2) Discharge. Discharge from residential facilities shall be based on the following criteria:

(A) The resident has made sufficient progress towards meeting the objectives of the supervision plan and program requirements;

(B) The resident has satisfied a sentence of confinement;

(C) The resident has satisfied a period of placement as a condition of community supervision or satisfied the conditions of a pre-trial agreement signed by a judge presiding over an established drug court;

(D) The resident has demonstrated non-compliance with program criteria or court order;

(E) The resident manifests a non-emergency medical problem that prohibits participation and/or completion of the residential program requirements;

(F) The resident displays symptoms of a psychological disorder that prohibits participation and/or completion of the residential program requirements; or

(G) The resident is identified as inappropriate or ineligible for participation in the residential program as defined by facility eligibility criteria, statute or standard.

(3) Discharge Report. The CSCD director and facility director shall ensure a report is prepared at the termination of program participation that reviews the resident's performance. A copy of the report shall be provided to the receiving CSCD community supervision officer (CSO).

(p) Basic Services and Programs.

(1) Each facility shall, at a minimum, provide programs in the following areas which shall include, but not be limited to:

(A) Education programs;

(B) Rehabilitation programs based on the mission of the facility;

(C) Community service restitution/work detail;

(D) Recreational programs; and

(E) Cognitive based programs.

(2) Facilities serving other jurisdictions shall have a procedure in place designed to assist the resident in obtaining employment in the jurisdiction to which the resident will be released. At a minimum, an aftercare/supervision plan shall be provided to the original jurisdiction and shall outline aftercare/supervision strategies best designed to sustain progress.

(3) Each facility shall have a family support program designed to educate family members in the goals of the facility and resident, as well as to incorporate family assistance during and after residency.

(4) Each facility incorporating an employment component shall provide an initial programming phase of not less than 30 days prior to work release. A longer period of programming shall be provided depending upon documented risk/needs assessment and/or program progress.

(q) Mail, Telephone and Visitation. The CSCD director and facility director shall have written policies which govern the facility's mail, telephone and visitation privileges for residents, including mail inspection, public phone use and routine and special visits. The policies shall address compelling circumstances in which a resident's mail both incoming and outgoing may be opened, but not read, to inspect for contraband.

(r) Religious Programs.

(1) The CSCD director and facility director shall have written policies that govern religious programs for residents. The policies shall provide that residents have the opportunity to voluntarily practice the requirements of a resident's religious faith, have access to worship/religious services and the use or contact with community religious resources, when appropriate.

(2) Under Texas Civil Practice & Remedies Code, Chapter 110, a CSCD or CCF may not substantially burden a resident's free exercise of religion except with the least restrictive measures in furtherance of a compelling interest. Pursuant to Texas Government Code §76.018, there is a presumption that a policy or practice that applies to a resident in the custody of a CCF is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. The presumption may be rebutted with evidence provided by the resident.

Source Note: The provisions of this §163.39 adopted to be effective April 15, 1997, 22 TexReg 3436; amended to be effective October 4, 1998, 23 TexReg 9775; amended to be effective June 11, 2000, 25 TexReg 5379; amended to be effective June 20, 2002, 27 TexReg 5220; amended to be effective April 17, 2003, 28 TexReg 3065; amended to be effective February 12, 2008, 33 TexReg 1120

#### **§163.40 Substance Abuse Treatment**

(a) Definitions. These words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) "Admission" is the administrative process and procedure performed to accept an offender into a treatment program or facility.
- (2) "Aftercare" is the counseling and community based support services that are designed to provide continued support for treatment delivered in a residential or outpatient program.
- (3) "Aftercare Caseloads" is the supervision of and support services for offenders who have completed a substance abuse treatment program.
- (4) "Assessment" is a process conducted by a qualified credentialed counselor or counselor intern trained to administer a structured interview to determine the nature and extent of an offender's chemical abuse, dependency, or addiction, and to assist in making an appropriate referral. Other criminogenic risks and needs will be assessed and incorporated into the individual treatment plan.
- (5) "Best Practices" are evidence based substance abuse treatment programs that address concepts such as criminogenic risks and needs, responsivity, and cognitive behavioral treatment, and programs that possess the following hallmarks:
  - (A) Validated treatment assessments that include criminogenic risks and need factors;
  - (B) A treatment regimen that focuses on changing criminogenic risks and needs, behaviors, and thinking patterns;
  - (C) A treatment regimen that includes a specific, cognitive behavioral program that has been recognized in professional criminal justice journals;
  - (D) Responsivity in addressing offenders' needs and employment of qualified staff; and
  - (E) Measurable outcomes to reduce substance abuse, dependency, or addiction as well as other criminogenic risks and needs.
- (6) "Chemical Dependency" is a substance related disorder as defined in the most recent published edition of the *Diagnostic and Statistical Manual of Mental Disorders*.
- (7) "Continuum of Care" is a system that provides for the uninterrupted provision of essential services from initial assessment through completion of treatment.
- (8) "Counseling" is face-to-face interaction between offenders and counselors to help offenders identify, understand, and resolve personal issues and problems related to their substance abuse or chemical dependency. Counseling may take place in groups or in individual meetings.
- (9) "Counselor" is a graduate or counselor intern working towards licensure that would certify the individual to be a qualified credentialed counselor.
- (10) "Counselor Intern" (CI) is a person seeking a license as a chemical dependency counselor who is registered with the Texas Department of State Health Services (DSHS) and pursuing a course of training in chemical dependency counseling at a registered clinical training institute or under the supervision of a certified supervisor.
- (11) "Criminogenic Risk and Needs" are dynamic risk factors that are directly related to crime production, such as antisocial peers; antisocial beliefs, values, and attitudes; substance abuse, dependency, or addiction; anger or hostility; poor self-management skills; inadequate social skills; poor attitude toward work or school; and poor family dynamics.
- (12) "Detoxification" is chemical dependency treatment designed to systematically reduce the amount of alcohol and other toxic chemicals in an offender's body, manage withdrawal symptoms, and encourage the offender to continue ongoing treatment for chemical dependency.
- (13) "Direct Care Staff" is staff responsible for providing treatment, care, supervision, or other direct client services that involve face-to-face contact with an offender.
- (14) "Discharge" is formal documented termination of services.
- (15) "Discharge Summary" is a written report of the offender's progress and participation while in treatment, including a discharge plan that provides an aftercare or supervision plan designed to sustain progress for offenders successfully completing treatment.

- (16) "Education" is instruction; a planned, structured presentation of information that is related to substance abuse or chemical dependency. Education is not considered counseling.
- (17) "Emergency" is a situation requiring immediate attention and action to treat or prevent physical or emotional harm or illness.
- (18) "Evaluation" is a process conducted by a community supervision officer (CSO) trained to administer the Texas Department of Criminal Justice Community Justice Assistance Division (TDCJ CJAD) Substance Abuse Evaluation instrument to determine the nature and extent of an offender's chemical abuse, dependency, or addiction to assist in making an appropriate referral. Other criminogenic risks and needs will be assessed and incorporated into the individual treatment plan.
- (19) "Facility" is the physical location of the treatment program operated by, for, or with funding from the TDCJ CJAD. Some locations may be secured facilities for inpatient treatment; other programs may be offered at locations as outpatient treatment.
- (20) "Graduate" is an individual who has successfully completed, or been exempted from, supervised work experience and who is still registered with the DSHS as a CI, as defined by the DSHS.
- (21) "Grievance" is a formal complaint limited to matters affecting the complaining offender personally and limited to matters that the facility or program has the authority to remedy.
- (22) "Intake" is the process of gathering information to determine if an offender is eligible and appropriate for services as well as providing information to the offender about a program's services and rules.
- (23) "Intensive Outpatient Treatment" is an outpatient treatment program that delivers no less than six hours per week of chemical dependency counseling.
- (24) "Life Skills Training" is a structured program of training, based upon a written curriculum and provided by qualified staff designed to help offenders with social competencies, such as communication and social interaction, stress management, problem solving, decision making, and management of daily responsibilities.
- (25) "Primary Counselor" is an individual working directly with and responsible for the treatment of the offender.
- (26) "Qualified Credentialed Counselor (QCC)" is a licensed chemical dependency counselor or one of the practitioners listed below who is licensed and in good standing in the state of Texas as defined by the DSHS:
- (A) Licensed professional counselor;
  - (B) Licensed master social worker;
  - (C) Licensed marriage and family therapist;
  - (D) Licensed psychologist;
  - (E) Licensed physician (MD or DO);
  - (F) Licensed physician's assistant;
  - (G) Certified addictions registered nurse; or
  - (H) Licensed psychological associate; and
  - (I) Nurse practitioner recognized by the Board of Nursing as a clinical nurse specialist or nurse practitioner with specialty in psyche-mental health.
- (27) "Responsivity" is matching the characteristics of the offender with the program modality, and the knowledge, skills, and abilities of the staff. It includes offender's learning style and readiness for treatment; the quality of the treatment relationship; and the staff's therapeutic approach, cultural competency, use of reinforcement, and modeling.
- (28) "Screening" is the initial stage of a process when it is determined whether an offender has a chemical dependency problem that may require further assessment or evaluation.
- (29) "Senior Counselor, Unit Manager, or Unit Supervisor" is a supervisory staff member who directs, monitors, and oversees the work performance of subordinate staff members.
- (30) "Special Needs Populations" are offenders who have significant problems in the areas of mental health, diminished intellectual capacity, or medical needs.
- (31) "Structured Activity" is a planned, interactive, scheduled event that is overseen by staff in which participants actively take part in an activity related to recovery, health, life skills, or interpersonal skills.
- (32) "Supportive Outpatient Treatment" is an outpatient treatment program that delivers no less than two hours per week of chemical dependency counseling.
- (33) "Treatment" is a planned, structured, and organized program, either residential or nonresidential, designed to initiate and promote an offender's chemical free status or to maintain the offender 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 chemical dependency that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning lost due to chemical dependency.

(34) "Treatment Team" is the team consisting of at least the offender, the offender's counselor, and a CSO or residential CSO when appropriate.

(b) Compliance. Compliance with TDCJ CJAD substance abuse treatment standards is required of all programs that provide substance abuse treatment and are funded directly or indirectly or managed by the TDCJ CJAD. Programs and facilities providing only substance abuse education are not subject to these standards.

(c) Accreditation of Personnel and Staff Development. The employer shall ensure that employees acquire and maintain any credentials, licensing, certifications, or continuing education required to perform their duties, with copies kept in their personnel files.

(d) Admissions and Removals.

(1) Eligibility. Programs shall have written eligibility criteria specific to the services and mission of the program. Offenders may be admitted into a program only by order of the court and only if they meet the minimum eligibility criteria as outlined in the program policies, licensure, or CJAD approved program design. Offenders found to be ineligible for admission within 10 days of arrival at the program shall not be counted in program admissions.

(2) Specific admission criteria and procedures shall be documented. Offenders are eligible for substance abuse treatment programs if:

(A) There is responsivity between the treatment services provided by the program and the offender's criminogenic risks and needs;

(B) A court orders the offender into the program and the subsequent assessment indicates the need for treatment services; or

(C) The program allows readmissions and the offender meets the admission criteria.

(3) For offenders placed in treatment programs who do not meet admission or eligibility criteria, a mechanism or procedure shall be developed for offender removal. A review and justification explaining the reason the offender does not meet admission criteria shall be required with copies kept in the offender's file. Offenders who do not meet eligibility criteria will be considered ineligible and shall not be counted as discharged.

(e) Intake. There shall be written policies and procedures establishing an intake process to determine eligibility for offenders entering a substance abuse treatment program. The intake process must be completed within 10 working days of an offender's arrival in a program.

(f) Initial Assessment Procedures. Acceptable and recognized assessment tools shall be used in all substance abuse treatment programs within 10 working days from date of admission. Assessment policies and procedures shall require the use of approved clinical measurements and screening tests. If the screening identifies a potential mental health problem, the facility shall obtain a mental health assessment and seek appropriate mental health services when resources for mental health assessments and services are available internally or through referral at no additional cost to the program. Assessment procedures shall include the following:

(1) Identification of strengths, abilities, needs, and substance preferences of the offender;

(2) Summarization and evaluation of each offender to develop individual treatment plans; and

(3) Assessments completed by a QCC or a CI. If the assessor is a CI, the documentation must be reviewed and signed by a QCC.

(g) Assessments. The assessment shall include:

(1) A summary of the offender's alcohol or drug abuse history including substances used, date of last use, date of first use, patterns and consequences of use, types of and responses to previous treatment, and periods of sobriety;

(2) Family information, including substance use and abuse by family members and supportive or dysfunctional relationships;

(3) Vocational and employment status, including skills or trades learned, work record, and current vocational plans;

(4) Health information, including medical conditions that present a problem or that might interfere with treatment;

(5) Emotional or behavioral problems, including a history of psychiatric treatment;

(6) Educational achievement level;

- (7) Intellectual functioning level;
- (8) Responsivity analysis; and
- (9) A diagnostic summary signed and dated by a QCC.
- (h) Orientation. Each program shall establish written policies and procedures for the orientation process. Orientation shall be provided at the onset of treatment and in accordance with the level of treatment to be provided. The orientation shall relay information concerning program rules, the grievance procedure, and the steps necessary for offenders to complete treatment successfully.
- (i) Offender Rights. The offender's basic rights shall be respected and protected, free from abuse, neglect, exploitation, and discrimination. Each provider shall have written policies and procedures to ensure protection of the offender's rights according to federal and state guidelines.
- (j) Release of Information. There shall be written policies and procedures for protecting and releasing offender information that conforms to federal and state confidentiality laws. The staff shall follow written policies and procedures for responding to oral and written requests for information that identifies an offender.
- (k) Offender Records. There shall be written policies and procedures regarding the content of offender treatment records. Residential programs shall maintain separate individual treatment records for defendants. Case records, whether residential or outpatient, shall include the following information at a minimum:
  - (1) Court order placing the offender into the program;
  - (2) Initial intake information form;
  - (3) Referral documentation;
  - (4) Case information from referral source, if applicable;
  - (5) Release of information forms;
  - (6) Relevant medical information;
  - (7) Case history and assessment including risk and needs assessment and Strategies for Case Supervision, if required;
  - (8) Individual treatment plan;
  - (9) Evaluation and progress reports; and
  - (10) Discharge summary.
- (l) Offender Records Review Policy. There shall be written policies and procedures to govern the access of offenders to their own substance abuse treatment records in accordance with Texas Health and Safety Code and 42 Code of Federal Regulations Part 2. This access does not apply to criminal justice records. Restrictions on access to treatment records shall be specified and explained to offenders upon request. Exceptions may be made if providing the records to the offender has the potential to harm the offender or others.
- (m) Treatment Planning and Review. Initial individual treatment plans shall be completed by the counselor collaborating with the offender within 10 working days from the date of admission to a community corrections facility (CCF), county correctional center, or any other substance abuse treatment program or through a similar process approved by the community supervision and corrections department (CSCD). Substance abuse treatment shall be based on substance abuse, chemical dependency or addiction, and other criminogenic risks and needs identified through assessments and revised according to the offender's successful resolution of those substance abuse, chemical dependency, addiction, and other criminogenic risks and needs. Treatment plans shall include criteria for discharge that are based on the achievement of treatment plan goals and shall be reviewed at timely intervals with a minimum of once each month or when major changes occur such as a change in stage. The treatment planning and review process shall ensure that:
  - (1) The primary counselor meets with the offender as needed to review the treatment plan, evaluating goal progress and revisions;
  - (2) All revised treatment plans are signed and dated by the counselor and the offender; and
  - (3) Results of the review are documented and placed in the treatment file, with a copy to the CSO.
- (n) Treatment Progress Notes. There shall be written policies and procedures to require all programs to record and maintain progress notes on all offender case records, document counseling sessions, and summarize significant events that occur throughout the treatment process. Progress notes shall be documented at a minimum of once each week.
- (o) Changes in Treatment Stages. Each treatment program shall develop written criteria based on achievement of treatment plan goals for an offender to advance or regress from a stage of treatment. An offender must meet the criteria for a change in the stage of treatment before such a change or a discharge is

implemented. The treatment team shall confer when the offender is subject to a major setback in the program and prior to discharge.

(p) Discharges from Treatment. Discharge from a program shall be according to one of the following criteria:

(1) Completion of Program. The offender has made sufficient progress towards meeting the requirements, or the offender has satisfied a period of placement as a condition of community supervision;

(2) Inappropriate Placement or Unable to Participate. The offender is removed:

(A) By order of the court;

(B) By operation of law for conduct occurring prior to admission into the program; or

(C) Because the program did not address the risk and needs of the offender.

(3) Violation of Program. The offender has demonstrated noncompliance with the program criteria or court order, including absconding from the program; or

(4) Other. The offender manifests a medical or psychological problem, including death, which prohibits participation or completion of the program requirements.

(q) Discharge Plan. The treatment team shall adopt a discharge plan for each offender prior to successful discharge. The discharge plan shall be sent to the offender's CSO within seven days after discharge and provide a summary of:

(1) Clinical problems at the onset of treatment and original diagnosis;

(2) The problems or needs and strengths or weaknesses identified on the master treatment plan;

(3) The goals and objectives established;

(4) The course of treatment;

(5) The outcomes achieved; and

(6) A continuum of care and relapse plan for aftercare treatment, which must be prepared with the offender and a family member or significant other, if appropriate and available.

(r) Discharge Summary. A discharge summary shall be prepared, within 30 days, for all offenders who leave the program successfully. The summary shall include elements (1) - (5) of the discharge plan.

(s) General Program Services Provisions. Specific services shall be required of all substance abuse treatment programs. Written policies and procedures shall ensure the following standards are met:

(1) All substance abuse services shall be delivered according to a written treatment plan that has been developed from the offender's assessment.

(2) Group counseling sessions are limited to a maximum of 16 offenders. Group education and life skills training sessions are limited to a maximum of 35 offenders. These limits do not apply to multi family educational groups, seminars, outside speakers, or other events designed for a large audience.

(3) All programs shall employ a QCC.

(4) All counselor interns shall work under the direct supervision of a QCC.

(5) Chemical dependency counseling shall be provided by a QCC, graduate, or counselor who has the specialized education, training, or expertise in that subject matter. Chemical dependency education shall be provided by counselors or individuals who have the specialized education, training, or expertise in that subject matter.

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

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

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

(9) The program shall include a culturally diverse curriculum applicable to the population served and shall be evidenced through demonstrated, appropriate counseling, and instructional materials.

(10) Members of the offender treatment team shall demonstrate effective communications and coordination, as evidenced in staffing, treatment planning, and case management documentation.

(11) There shall be written policies and procedures regarding the delivery and administration of prescription and nonprescription medication that provide for:

(A) Conformity with state regulations; and

(B) Documentation of the administration of medications, medication errors, and drug reactions.

(12) Chemical dependency education and life skills training shall follow a course outline that identifies lecture topics and major points to be discussed. All educational sessions shall include offender participation and discussion of the material presented.

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



- (14) The program shall provide human immunodeficiency virus (HIV), Hepatitis B and C, and tuberculosis education based on the Model Workplace Guidelines for Direct Service Providers developed by the DSHS.
- (15) Offenders shall have access to HIV counseling and testing services directly or through referral, as follows:
- (A) HIV services shall be voluntary, anonymous, and not limited by ability to pay.
  - (B) Counseling shall be based on the model protocol developed by the DSHS.
  - (C) In all TDCJ CJAD funded facilities, testing, as well as pre- and post-test counseling, shall be provided by the medical department or contracted medical provider.
- (16) The program shall make testing and information for tuberculosis and sexually transmitted diseases available to all offenders, unless the program has access to test results obtained during the past year, as follows:
- (A) Services may be made available directly or through referral.
  - (B) If an offender tests positive for tuberculosis or a sexually transmitted disease, the program shall refer the offender to an appropriate health care provider and take appropriate steps to protect offenders and staff.
  - (C) A CCF shall report to the local health department the release of an offender who is receiving treatment for tuberculosis.
- (17) The program shall:
- (A) Refer pregnant offenders who are not receiving prenatal care to an appropriate health care provider and verify services were received; and
  - (B) Refer offenders to ancillary services, such as mental health services, necessary to meet treatment goals.
- (18) CSCDs that contract for services shall give preference to available programs that include the following elements of best practices in criminal justice treatment. CSCDs that conduct their own programs are required to incorporate the following elements of best practices in criminal justice treatment:
- (A) Validated treatment assessments that include substance abuse, dependency, or addiction, and other criminogenic risks and needs factors;
  - (B) A treatment regimen that focuses on changing substance abuse, dependency or addiction, and other criminogenic risks and needs, behaviors, and thinking patterns;
  - (C) A treatment regimen that includes a specific, cognitive behavioral program that has been recognized in professional criminal justice journals; and
  - (D) Responsivity in addressing offenders' needs and in employment of qualified staff.
- (19) CSCDs that place offenders in substance abuse treatment programs shall ensure that offenders are referred to available aftercare services, giving preference to programs that incorporate best practices elements.
- (t) Stages of Treatment. All CCFs providing substance abuse treatment shall designate in the current facility's Community Justice Plan program proposal stages of treatment to be provided as described in subsections (v) - (y) of this rule.
- (u) Detoxification. Offenders being referred to detoxification services shall be referred to licensed service providers.
- (v) Intensive Residential Treatment. Written policies and procedures shall ensure the following:
- (1) All offenders admitted to intensive residential treatment shall have written justification to support their admission, be medically stable, and able to participate in treatment.
  - (2) The program shall provide adequate staff for close supervision and individualized treatment with counselor caseloads not to exceed 10 offenders.
  - (3) There shall be direct care staff alert and on site during all hours of operation. There shall be an appropriate number of direct care staff to provide all required program services, maintain an environment that is conducive to treatment, and ensure the safety and security of the offenders, according to the design of the facility and with the approval of the funding source.
  - (4) Program counselors shall complete a comprehensive offender assessment and individual treatment plan within 10 working days of admission.
  - (5) The facility shall deliver not less than 25 hours of structured activities per week for each offender, including:
    - (A) Ten hours of chemical dependency counseling using a cognitive behavioral approach with no less than one hour of individual counseling;
    - (B) Ten hours additional education, counseling, life skills, or rehabilitation activities; and
    - (C) Five hours of structured social or recreational activities.
  - (6) Counseling and education schedules shall be submitted to the funding entity for approval.

- (7) Each offender shall have an opportunity to participate in physical recreation at least weekly.
- (8) Program staff shall offer chemical dependency education or services to identified significant others.
- (9) The program shall provide each offender with opportunities to apply knowledge and practice skills in a structured, supportive environment. Cognitive behavioral programs shall have a published curriculum identified by the authors to contain cognitive, social, and behavioral elements. Anyone facilitating a cognitive curriculum shall be trained in that specific curriculum. All direct care staff shall receive training on the principles of a cognitive behavioral model as it relates to their job duties. This curriculum shall be approved by the TDCJ CJAD and implemented as designed. Components of the cognitive program shall include, at a minimum:
  - (A) Ways to identify thinking patterns; and
  - (B) A social skills training component.
- (w) Supportive Residential Treatment. Written policies and procedures shall ensure the following:
  - (1) All offenders admitted to supportive residential treatment shall have written justification to support their admission, be medically stable, be able to function with limited supervision and support, and be able to participate in work release or community service and restitution programs.
  - (2) The program shall have adequate staff to meet treatment needs within the context of the program description, with counselor caseloads not to exceed 20 offenders, unless the program can provide research based evidence in writing to justify a higher caseload size based on the program design, characteristics and needs of the population served, and any other relevant factors.
  - (3) There shall be direct care staff alert and on site during all hours of operation. There shall be an appropriate number of direct care staff to provide for the safety and security of the offenders, according to the design of the facility and with the approval of the funding source.
  - (4) Counselors shall complete a comprehensive offender assessment and individualized treatment plan within 10 working days of admission for each offender.
  - (5) The program shall deliver no less than six hours per week of chemical dependency counseling with a cognitive behavioral approach for each offender, of which one hour per month shall be individual counseling.
  - (6) Counseling and education schedules shall be submitted to the funding entity for approval.
  - (7) The program design and application shall include increasing levels of responsibility for offenders and frequent opportunities for offenders to apply knowledge and practice skills in structured and unstructured settings. Cognitive behavioral programs shall have a published curriculum identified by the authors to contain cognitive, social, and behavioral elements. This curriculum shall be approved by the TDCJ CJAD and implemented as designed. Anyone facilitating a cognitive curriculum shall be trained in that specific curriculum. All staff shall receive training on the principles of a cognitive behavioral model as it relates to their job duties. Components of the cognitive program shall include, at a minimum:
    - (A) Ways to identify thinking patterns; and
    - (B) A social skills training component.
- (x) Outpatient Treatment. Written policies and procedures shall ensure the following:
  - (1) All offenders admitted to outpatient treatment programs shall be medically stable, and have appropriate support systems in the community to live independently with minimal structure.
  - (2) The program shall have adequate staff to provide offenders support and guidance to ensure effective service delivery, safety, and security. Staffing patterns shall be submitted to the funding entity.
  - (3) The program shall set limits on counselor caseload size to ensure effective, individualized treatment and rehabilitation. Criteria used to set the caseload size shall be documented and approved by the funding entity.
  - (4) Didactic groups shall not exceed 35 offenders per group.
  - (5) Therapeutic groups shall not exceed 16 offenders per group.
  - (6) For offenders in supportive outpatient programs, counselors shall complete a comprehensive offender assessment within 30 calendar days of admission.
  - (7) For offenders in intensive outpatient programs, counselors shall complete a comprehensive offender assessment within 10 calendar days of admission.
  - (8) Intensive outpatient programs shall deliver no less than six hours per week of chemical dependency
  - (9) Supportive outpatient programs shall deliver no less than two hours per week of chemical dependency counseling.
  - (10) Each offender's progress shall be assessed regularly by clinical staff to help determine the length and intensity of the program.

- (11) Counseling and education schedules shall be submitted to the funding entity for approval.
- (12) The program design and application shall include increasing levels of responsibility for offenders and frequent opportunities for offenders to apply knowledge and practice skills in structured and unstructured settings.
- (13) The outpatient treatment stages may be used for residents in the work release phase of any residential substance abuse treatment program.
- (y) Special Needs Populations. Written policies and procedures shall ensure the following:
- (1) Programs that address the special mental health, intellectual capacity, or medical needs of offenders shall provide appropriate treatment either by program staff or through contracted services.
- (2) Admission to a special needs program shall be based on a documented mental health, intellectual capacity, or medical need.
- (3) When the assessment process indicates that the offender has coexisting disabilities and disorders, the treatment plan shall specifically address those issues that might impact treatment, recovery, relapse, and recidivism.
- (4) Personnel qualified in the treatment of coexisting disabilities and disorders shall be available as needed.
- (5) Within 96 hours of admission to a special needs residential program, an offender shall be administered a medical and psychological evaluation.
- (6) Within 10 days of admission to a residential program for special needs offenders, the program administrator or designee shall contact the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) regarding the offender's status. As soon as a discharge date is projected, TCOOMMI shall be notified in writing of plans for a continuum of care after discharge, regardless of whether or not the discharge is for successful completion of the program.
- (7) Residential facilities providing services for special needs populations shall have procedures to provide access to health care services, including medical, dental, and mental health services, under the control of a designated health authority. When this authority is other than a physician, final medical judgments shall rest with a single designated responsible physician licensed by the state.
- (A) Services and treatment shall be directed toward maximizing the functioning and reducing the symptoms of offenders.
- (B) There shall be written policies and procedures regarding the delivery and administration of prescription and nonprescription medication that provide for:
- (i) Conformity with state regulations;
- (ii) Documentation of the rationale for use and goals of service and treatment consistent with the individual treatment plan;
- (iii) Documentation of the administration of medications, medication errors, and drug reactions; and
- (iv) Procedures to follow in case of emergencies.
- (8) There shall be procedures for documenting that the offender has been informed of medication management procedures.
- (9) Offenders shall be actively involved in decisions related to their medications.
- (10) Programs for special needs offenders shall follow the same staffing for treatment levels as the levels for other offenders, except all residential programs shall maintain caseloads of no greater than 16 offenders for each counselor.
- (11) Programs operating in residential facilities shall ensure that offenders have no less than 10 days of appropriate medication for use after discharge.
- (z) Use of Force. The CSCD director and facility director shall ensure that a residential treatment program has written policies, procedures, and practices that restrict the use of physical force to instances of self protection, protection of offenders or others, or prevention of property damage. The use of physical force against an offender is never justifiable as punishment. A written report shall be prepared following all uses of force, and all such written reports shall be promptly submitted to the CSCD director and facility director for review and follow-up. Only an individual who is properly trained in the use of such devices may use restraining devices, aerosol sprays, and chemical agents. These devices shall only be used in an emergency by such an individual in self protection, protection of others, or other circumstances as described previously.

**Source Note:** The provisions of this § 163.40 adopted to be effective October 4, 1998, 23 TexReg 9775; amended to be effective June 20, 2002, 27 TexReg 5220; amended to be effective April 17, 2003, 28

TexReg 3065; amended to be effective April 21, 2005, 30 TexReg 2234; amended to be effective September 11, 2011, 36 TexReg 569362

**EXHIBIT C**  
**TDCJ-CJAD §163.41 MEDICAL**  
**AND PSYCHOLOGICAL INFORMATION**

**AND**

**HEALTH AND SAFETY CODE STATUTE,**  
**CHAPTER 85. ACQUIRED IMMUNE DEFICIENCY SYNDROME AND**  
**HUMAN**  
**IMMUNODEFICIENCY VIRUS INFECTION**

**TEXAS ADMINISTRATIVE CODE. Title 37. PUBLIC SAFETY AND CORRECTIONS**

**Part VI. TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

Chapter 163. COMMUNITY JUSTICE ASSISTANCE DIVISION  
STANDARDS

**§163.41 MEDICAL AND PSYCHOLOGICAL INFORMATION**

**(a) HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) POLICIES.** CSCD directors shall develop and implement policies relevant to HIV in accordance with guidelines established by the Texas Department of Health and adopted by the TDCJ-CJAD. These policies will be incorporated in the CSCD's administrative manuals and shall include, but not be limited to, the following:

- (1)** education/training;
- (2)** confidentiality;
- (3)** workplace guidelines; and
- (4)** supervision of individuals with HIV or AIDS infection.

**(b) EMPLOYEE TRAINING.** In accordance with statute, each employee of the CSCD shall attend an HIV-AIDS training program, within the first year of employment. Education programs for employees shall include information and training relating to infection control procedures.

**(c) HIV CONFIDENTIALITY.** Information regarding HIV-AIDS testing and results is confidential. HIV-AIDS information shall be maintained in a safe and secure manner with access to this confidential information restricted to only those persons who have been authorized to receive this information

by law or with a duly executed release and waiver of confidentiality. The CSCD may disclose HIV-AIDS information relating to special offenders in accordance with Texas Health and Safety Code, Chapter 614 and the other statutes and authorities set forth in TDCJ-CJAD's Community Supervision and Corrections Department Records manual (October 10, 2000), as amended from time to time.

**(d) MEDICAL AND PSYCHOLOGICAL INFORMATION.** All records and other information concerning an offender's physical or mental state, including all information pertaining to an offender's HIV-AIDS status, are confidential in accordance with the statutes and other authorities set forth in the above-referenced TDCJ-CJAD's Community Supervision and Corrections Department Records manual. Medical and psychological information shall be maintained in a safe and secure manner with access to this confidential information restricted to only those persons who have been authorized to receive this information by law or with a duly executed release and waiver of confidentiality from the offender. The CSCD may disclose medical and psychological information relating to special needs offenders in accordance with Texas Health and Safety Code, Chapter 614 and the other statutes and authorities identified in the aforementioned TDCJ-CJAD manual.

### **Human Immunodeficiency Virus Services**

1. HIV Counseling and Education. The Providing Party shall:

- a. provide information to its staff and offenders concerning basic HIV information concerning risk factors, risk reduction strategies, routes of transmission, and HIV antibody counseling and testing;
- b. provide risk assessments on all offenders entering treatment; and
- c. have a documentable procedure in place for making available, at the offender's request, pretest and post test counseling and anonymous HIV testing.

The Providing Party shall not carry out any testing for the etiologic agent for Acquired Immunodeficiency Syndrome (AIDS) unless such testing is accompanied by appropriate pretest counseling and post test counseling. The Providing Party shall obtain the offender's voluntary consent prior to conducting an HIV test.

2. HIV Workplace Guidelines. In accordance with Subtitle D, Title 2. Health and Safety Code, Section 85.113, the Providing Party shall adopt and implement workplace guidelines concerning persons with AIDS and HIV infections. The Providing Party's guidelines shall be consistent with guidelines published by the Texas Department of Health and all other applicable regulations, policies and procedures.

3. HIV Confidentiality Guidelines. In accordance with Subtitle D, Title 2. Health and Safety Code, Section 85.113, the Providing Party shall develop and implement guidelines

regarding confidentiality of AIDS and HIV-related medical information for employees of the Providing Party and for offenders. The guidelines must be consistent with guidelines published by the Texas Department of Health and with state and federal laws and regulations. If the Providing Party does not adopt confidentiality guidelines as required by this attachment, the Providing Party shall not be eligible to receive payments through this contract until the guidelines are developed and implemented.

**This provision does not prohibit the exchange of offender information for Treatment and rehabilitative purposes required by Texas Health and Safety Code, §614.017.**